

THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) (NO. 4) REGULATIONS 2022
REPORT UNDER SECTION 18 OF THE SANCTIONS AND ANTI-MONEY
LAUNDERING ACT 2018 IN RELATION TO CRIMINAL OFFENCES

A: INTRODUCTION

1. This is a report under section 18 of the Sanctions and Anti-Money Laundering Act 2018 ("**the Act**") in relation to the Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2022 ("**the Regulations**").
2. Section 18(2) of the Act requires a report to be laid in Parliament where regulations made under section 1 of the Act create offences for the purposes of enforcing any prohibitions or requirements imposed by those regulations, or for the purposes of preventing the circumvention of those prohibitions or requirements.
3. In accordance with section 18, this report: sets out the offences created by the Regulations (see Part B); explains why there are good reasons for the relevant prohibitions or requirements in the Regulations to be enforceable by criminal proceedings (Part C); and sets out the maximum terms of imprisonment that apply to those offences and why there are good reasons for those maximum terms (Part D).

B: THE OFFENCES

4. The Regulations amend the Russia (Sanctions) (EU Exit) Regulations 2019 ("the 2019 Regulations").
5. A report under section 18 of the Act was laid before Parliament to accompany the 2019 Regulations on 11 April 2019.
6. The Regulations amend Part 6 (Ships) of the 2019 Regulations and introduce measures of prohibitions on port entry, the power to make directions prohibiting entry to ports in the United Kingdom, the power to make port entry directions and movement directions, and the power to make detention directions, and makes it an offence to contravene these.
7. The Regulations create criminal offences in relation to the new prohibitions. Details of each of the offences extended, created or maintained by the Regulations, and the prohibitions and requirements to which those offences relate are set out in the table in **Annex A** to this report.
8. The offences created by the Regulations are:

- a. Failing to comply with requirements relating to the prohibition of access to UK ports;
- b. Failing to comply with a port barring direction given by the Secretary of State or harbour authority;
- c. Failure to comply with a port entry direction or movement direction given by the Secretary of State;
- d. Failure to comply with a detention direction given by the Secretary of State;
- e. Disclosing confidential information.

C: REASONS FOR CREATING THE OFFENCES

9. In order to fulfil the stated purpose of the 2019 Regulations (as amended) the prohibitions and requirements created in these Regulations need to be properly enforced.
10. Having the ability to take enforcement action through criminal proceedings is appropriate for several reasons. The offences act as a deterrent in relation to the commission of serious acts and omissions which would undermine the purpose of the regime. They also allow the UK Government to take a proportionate response where the severity of the act or omission warrants it.
11. The ability to enforce transport sanctions through these offences is an important deterrent. The vast majority of global trade in goods is carried on board ships. Maritime sanctions are therefore crucial in achieving the objectives of the Russian sanctions regime and they are designed to cause significant short term disruption to Russian shipping, thereby restricting their economic interests and further holding the Russian government to account.
12. Importantly, the offences created by the Regulations are consistent with the other offences contained in the 2019 Regulations. Special care has been taken to ensure that offences are consistent with existing offences while not duplicating any offences that already exist.

Breaches of the Prohibition on Port Entry, Movement of Ships or Detention

13. The Regulations amend Part 6 of the 2019 Regulations; 57A and 57B of the Regulations prohibit a Russian or specified ship from entering a UK port, and enable the Secretary of State or a harbour authority to issue a direction prohibiting ships connected to Russia from entering a UK port. Regulation 57C of the Regulations enables the Secretary of State to issue a port entry direction or a movement direction and regulation 57D enables the Secretary of State or a harbour authority to issue a detention direction.
14. Failure to uphold the shipping sanctions is a serious matter because such actions undermine the purposes of the sanctions regime. Breaches of the shipping sanctions would reduce the pressure exerted on the Government of Russia to change its behaviour and enable it to continue activities that the sanctions regime is intended to deter - namely undermining and threatening the territorial integrity, sovereignty and independence of Ukraine.

15. The ability to institute criminal proceedings in relation to these matters serves as an effective deterrent. It also enables the UK government to take a proportionate response which corresponds to the severity of the breach.
16. The offences created by the Regulations are consistent with, but do not duplicate, existing sanctions offences included in the sanctions regulations made under the Act.

D: REASONS FOR MAXIMUM PENALTIES

17. The penalties imposed by the Regulations are set out in Annex A. The offences for breaches of the shipping sanctions provided for by the Regulations are consistent with the penalties already created for breaches of the principal prohibitions in the 2019 Regulations. In all cases the penalties are consistent with similar offences in other regulations made under the Act.
18. In relation to sanctions, the government committed in the White Paper consultation on sanctions¹ to ensure consistency of offences and penalties for sanctions contained across domestic legislation. In accordance with that commitment, the Regulations provide for penalties consistent with those provided for in the Policing and Crime Act 2017². The government considers the maximum penalty provides an effective deterrent and is proportionate compared to other serious crime penalties.

E: CONCLUSIONS

19. As set out in this report:
 - a. There are good reasons for each of the prohibitions and requirements set out in the Regulations to be enforceable by criminal proceedings. The ability to enforce these measures by criminal proceedings is an effective deterrent, it is consistent with existing legislation and it enables the government to take a proportionate response to potentially serious acts and omissions which would undermine the purpose of the sanctions regime.
 - b. There are also good reasons for the maximum terms of imprisonment that attach to those offences: the maximum penalties are consistent with penalties for similar

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/635101/consultation-uk-future-legal-framework-sanctions-government-response.pdf

² The maximum terms of imprisonment for indictable offences under Schedule 3 to the Anti-terrorism, Crime and Security Act 2001 and Schedule 7 to the Counter-Terrorism Act 2008 were increased from two years to a maximum of seven years and, for summary offences under those provisions, the maximum terms of imprisonment were increased from three months to 12 months (this being six months for offences committed before paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force).

offences in other existing legislation; they are an effective deterrent; and they are proportionate to the seriousness of the types of offences to which they relate.

The Rt. Hon. James Cleverly MP

Minister of State for Foreign, Commonwealth and Development Affairs

Annex A: Table of offences

Type of sanction offences	Specific offence	Relevant prohibition or requirement (or other legislation)	Maximum penalty
Breach of shipping sanction	Providing the ships described in regulation 57A (5) with access to a port, or causing or permitting such ships to enter any port, knowing or having reasonable cause to suspect that the ship is a ship to which the prohibition applies.	57A (4)	<p>Liable on summary Conviction</p> <p>To imprisonment for a term not exceeding 12 months (or, in relation to an offence committed before [paragraph 24(2) of Schedule 22 to the Sentencing Act 2020] comes into force 6 months) or a fine (or both) in England and Wales.</p> <p>To imprisonment for a term not exceeding 12 months, or a fine not exceeding the statutory maximum (or both) in Scotland.</p> <p>To imprisonment for a term not exceeding 6 months, or a fine not exceeding the statutory maximum (or both) in Northern Ireland.</p> <p>Liable on indictment To imprisonment for a term not exceeding 7 years, or a fine, (or both).</p>
Failure to comply with detention direction	Causing a ship to proceed to sea (or being party or privy to the ship proceeding to sea) when a detention direction has been served, before the ship	57D	<p>Liable on summary Conviction</p> <p>To a fine in England and Wales.</p> <p>To a fine not exceeding</p>

	<p>has been released by a competent authority.</p> <p>Failing to comply with any requirement imposed by a detention direction</p>		<p>£50,000 in Scotland and Northern Ireland.</p> <p>Liable on indictment To a fine.</p>
Failure to comply with directions	<p>Failing to comply with a port barring direction given under regulation 57B (1).</p> <p>Failing to comply with a port entry direction or a movement direction given under regulation 57C (1).</p>	57B 57C	<p>Liable on summary Conviction</p> <p>To imprisonment for a term not exceeding 12 months (or, in relation to an offence committed before [paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months) or a fine (or both) in England and Wales.</p> <p>To imprisonment for a term not exceeding 12 months, or a fine not exceeding the statutory maximum (or both) in Scotland.</p> <p>To imprisonment for a term not exceeding 6 months, or a fine not exceeding the statutory maximum (or both) in Northern Ireland.</p> <p>Liable on indictment</p> <p>To imprisonment for a term not exceeding 7 years, or a fine, (or both).</p>
Breach of Confidentiality requirement	Disclosing the existence or content of a port barring direction, or anything done under such a direction, given under regulation 57B (1)	57B 57C	<p>Liable on summary Conviction</p> <p>To imprisonment for a term not exceeding 12 months (or, in relation to an offence committed before [paragraph</p>

	<p>(directions prohibiting port entry) when the Secretary of State has notified that the information should remain confidential.</p> <p>Disclosing the existence or content of a port entry or movement direction, or anything done under such a direction, given under regulation 57C (1) (movement of ships) when the Secretary of State has notified that the information should remain confidential.</p>	<p>24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months) or a fine (or both) in England and Wales.</p> <p>To imprisonment for a term not exceeding 12 months, or a fine not exceeding the statutory maximum (or both) in Scotland.</p> <p>To imprisonment for a term not exceeding 6 months, or a fine not exceeding the statutory maximum (or both) in Northern Ireland.</p> <p>Liable on indictment</p> <p>To imprisonment for a term not exceeding 7 years, or a fine, (or both).</p>
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