

THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) (NO. 6) 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. 6) Regulations 2022 ("**the Amendment 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 Amendment Regulations (see Part B); explains why there are good reasons for the relevant prohibitions or requirements in the Amendment 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 Amendment 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 Amendment Regulations amend the 2019 Regulations by adding a new Part 6A (Aircraft). The Amendment Regulations prohibit Russian aircraft from overflying or landing in the United Kingdom. The Amendment Regulations also confer powers on the Secretary of State, air traffic control and airport operators to make directions for the purpose of preventing Russian aircraft from entering the airspace over the United Kingdom, from landing in the United Kingdom, securing the detention of Russian aircraft or requiring aircraft to leave the airspace over the United Kingdom by a specific route. The Amendment Regulations also allow the Secretary of State to direct the Civil Aviation Authority ('CAA') to refuse, suspend or revoke permissions under articles 250 and 252 of the Air Navigation Order 2016 in respect of Russian aircraft. The registration of aircraft on the register kept by the CAA is prohibited where they are owned, operated and chartered by demise by a designated person. The Amendment Regulations also confer powers on the Secretary of

State to notify a person that any part of the content of a direction, or anything done under the direction, is to be treated as confidential.

7. The Amendment Regulations also amend the 2019 Regulations to correct several omissions and an error in the shipping measures introduced by the Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2022 (S.I. 2022/203).
8. In respect of transport sanctions, the Amendment Regulations make it a criminal offence to contravene any of the prohibitions in these Regulations. Details of each of the offences created by the Amendment Regulations, and the prohibitions and requirements to which those offences relate are set out in the table in **Annexes A and B** to this report.
9. The offences created by the Amendment Regulations (in relation to the transport sanctions measures) are:
 - a. failure of an operator or pilot of a Russian aircraft to comply with the prohibition on entering United Kingdom airspace or landing in the United Kingdom.
 - b. failure of an airport operator, without reasonable excuse, to comply with a direction given by the Secretary of State
 - c. failure of an operator or pilot in command of a Russian aircraft to comply with a direction given by air traffic control or an airport operator.
 - d. disclosing confidential information where a direction has been made by the Secretary of State in relation to an aircraft and where it has been notified that the information is to be treated as confidential.
10. The Amendment Regulations also change the penalty for the existing offences of disclosing confidential information where a direction has been made by the Secretary of State in relation to a ship and where it has been notified that the information is to be treated as confidential.
11. The Amendment Regulations also amend Part 5 (Trade) of the 2019 Regulations to impose and amend trade sanctions measures, to prohibit the export, supply and delivery, making available and transfer of aviation and space items to, or for use in, Russia (as well as the provision of related technical assistance, financial services, funds and brokering services). The Amendment Regulations also prohibit the provision of insurance and reinsurance services in relation to aviation and space items.
12. In respect of the trade sanctions, in some cases, the Amendment Regulations extend the scope of certain prohibitions in the 2019 Regulations which already have criminal offences attached. Details of each of the offences extended, created or maintained by the Amendment Regulations, the prohibitions and requirements to which those offences relate, and the maximum penalties relating to each offence, are set out in the table in Annex C to this report.

13. The offences created or extended by the Amendment Regulations fall into the following categories:
- a. contravening the principal prohibitions (e.g. breaching a financial or trade restriction) or trying to circumvent those principal prohibitions;
 - b. knowingly or recklessly providing false information for the purpose of obtaining a licence;
 - c. breaching the terms of a licence;
 - d. failing to comply with requirements relating to the providing and recording of information; and
 - e. disclosing confidential information.

C: REASONS FOR CREATING THE OFFENCES

14. 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.
15. There are several mechanisms through which some of these measures can be enforced without criminal proceedings. These include the seizure of goods being dealt with in contravention of certain trade sanctions measures
16. Having the ability to take enforcement action through criminal proceedings, alongside these other enforcement measures, is appropriate because the offences act as a deterrent in relation to the commission of serious acts and omissions which would undermine the purpose of the sanctions regime. They also allow the UK government to take a proportionate response where the severity of the act or omission warrants it.
17. The purposes of the sanctions against Russia are to encourage Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine. The ability to enforce transport sanctions through these offences is an important deterrent. Russia benefits significantly from the aviation sector in the United Kingdom. Aviation 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 aviation and users and operators of Russian aircraft, thereby restricting their economic interests and further holding the Russian government to account.
18. Importantly, special care has been taken to ensure that the offences created by the Regulations are consistent with other existing similar offences while not duplicating any offences that already exist.

Breaches of the aircraft and trade measures

19. The Amendment Regulations amend the 2019 Regulations by adding in a new Part 6A covering aircraft sanctions. Part 6A includes:

- (a) a prohibition on Russian aircraft from overflying the United Kingdom or landing in the United Kingdom with exceptions for safety;
- (b) a power for air traffic control to direct the operator or pilot in command of a Russian aircraft not to enter the airspace over the United Kingdom, or to leave the airspace over the United Kingdom by a specific route;
- (c) a power for the Secretary of State to issue a direction to air traffic control to direct the operator or pilot in command of a Russian aircraft not to enter the United Kingdom airspace or to leave the airspace over the United Kingdom by a specific route;
- (d) a power for an airport operator to direct the operator or pilot in command of a Russian aircraft:
 - (aa) not to take off, or not to permit the aircraft to take off, from an airport the operator manages, or
 - (bb) to take off or to require an aircraft to take off, from an airport the operator manages, or
 - (cc) not to land, or not to permit the aircraft to land, at the airport the operator manages;
- (e) a power for the Secretary of State to direct an airport operator to give the directions described in para (d) above;
- (f) a power for the Secretary of State to direct the CAA to refuse, suspend or revoke permissions under articles 250 and 252 of the Air Navigation Order 2016 in respect of Russian aircraft.
- (g) a prohibition on the registration of aircraft on the register kept by the CAA where they are owned, operated or chartered by demise, by a designated person; and
- (h) a prohibition on a person disclosing any information which the Secretary of State has notified that person is to be treated as confidential.

20. Failure to uphold the aviation sanctions is a serious matter because such actions undermine the purposes of the sanctions regime. Breaches of the aviation 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.

21. Disrupting the aviation industry will have both economic and strategic impacts, strategic industries limiting access to aviation and space goods, technology and related services would constrain Russia, and signal to Russia and the wider international community that Russia's military actions to change international borders and threaten Ukraine's sovereignty is unacceptable and should be met with a serious response. Breaches of these prohibitions, or acts circumventing them 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.

22. Breaches of the trade prohibitions introduced by the Amendment Regulation are a serious matter because such actions undermine the purposes of the sanctions regime - namely encouraging Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. There are other enforcement tools available in relation to trade sanctions, most notably the powers contained in the Customs and Excise Management Act 1979 to issue compound penalties, and to seize and dispose of goods where they are being dealt with in contravention of trade sanctions.
23. The ability to institute criminal proceedings in relation to these matters serves as an effective deterrent. It also enables the United Kingdom government to take a proportionate response which corresponds to the severity of the breach.
24. The offences created by the Amendment Regulations are consistent with, but do not duplicate, existing sanctions offences included in the sanctions regulations made under the Act.

Breaches of the confidential information prohibitions

25. The Amendment Regulations stipulate that it is an offence to disclose the existence or content of a direction given in relation to an aircraft (under Part 6A), or of anything done under that direction, if the Secretary of State has notified that that information should remain confidential. This is to ensure compliance if the direction is issued as part of a continuing enforcement action and to deter those who may seek to facilitate the circumvention of sanctions provisions.
26. Accordingly, the Amendment Regulations amend regulation s.80(4) (penalties for offences: confidentiality) of the 2019 Regulations to:
 - a. include regulation 57N(5) (aircraft: confidentiality); and
 - b. remedy an omission in the Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2022 (S.I. 2022/203) by including regulations 57B(5) (direction prohibiting port entry: confidentiality) and 57C(5) (movement of ships: confidentiality).

D: REASONS FOR MAXIMUM PENALTIES

27. The penalties imposed by the Regulations are set out in the Annex. The offences for breaches of the aviation sanctions provided for by the Regulations are consistent with the

penalties already created for breaches of the principal prohibitions in the 2019 Regulations. The offences for breaches of the trade prohibitions provided for by the Amendment Regulations are consistent with the penalties already created for breaches of the principal trade prohibitions in the 2019 Regulations. In all cases the penalties are consistent with similar offences in other regulations made under the Act.

Breaches of, and circumvention of, the principal aviation sanctions

28. The maximum penalty received for breaching the principal aircraft prohibition is seven years imprisonment, a fine, or both. This is in line with similar offences detailed elsewhere in the Regulations and in other sanctions Regulations made under the Act. This level is proportionate to the serious nature of the offence committed and represents an effective deterrent to the breaching of this aircraft sanction. Penalties shall be applied on a sliding scale up to this maximum and enhance and consolidate those included in existing legislation.

Breaches of, and circumvention of, the principal trade prohibitions

29. The maximum term of imprisonment for offences related to breaches of the principal trade prohibitions in the 2019 Regulations, as amended, or circumvention of them, is ten years. As explained in the report accompanying the 2019 Regulations, the 10-year maximum penalty is considered to be an effective deterrent and is proportionate to the seriousness of the offence.
30. The 2019 Regulations, as amended, also modify the Customs and Excise Management Act 1979 to increase the maximum term of imprisonment for the offence of breaching export controls from seven years to ten years. This increase ensures alignment with the maximum term of imprisonment for other similar offences created by the 2019 Regulations. An industry association stakeholder has commented that such provision has “a beneficial effect in assisting export control compliance staff within companies to get the attention of their colleagues on export control matters”.³ A 10-year maximum term of imprisonment provides an effective deterrent and is proportionate to the potential seriousness of the offence.

Information Offences

31. A person who is found to have breached confidentiality provisions relating to a direction shall be liable to receive a sentence of up to 6 months’ imprisonment on summary conviction or a fine (or both). Such breaches, although still serious, do not have as serious an impact as those detailed in the principal transport prohibitions and therefore carry a lesser sentence.

E: CONCLUSIONS

32. 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; and
- 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 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.

Lord Ahmad of Wimbledon

Minister of State at the Foreign, Commonwealth and Development Office

Annex A: Table of transport offences

Type of sanction offences	Specific offence	Relevant prohibition or requirement (or other legislation)	Maximum penalty
Breach of aircraft sanctions	Contravening the prohibition on overflying the United Kingdom or landing in the United Kingdom as an operator or pilot in command of a Russian aircraft save where an exception from prohibitions applies under regulation 61B	57J(1)	<p>Liable on summary conviction</p> <p>To imprisonment for a term not exceeding 12 months (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates' court's power to impose imprisonment) 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>

<p>Failure by an airport operator to comply with a direction by the Secretary of State</p>	<p>Failure by an airport operator to comply with a direction given by the Secretary of State, without a reasonable excuse save where an exception from the direction applies under regulation 61B</p>	<p>57J(6)</p>	<p>Liabe on summary conviction</p> <p>To imprisonment for a term not exceeding 12months (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates' court's power to impose imprisonment) 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>Liabe on indictment</p> <p>To imprisonment for a term not exceeding 7 years, or a fine, (or both).</p>
<p>Failure to comply with a direction given by air traffic control.</p>	<p>Failure to comply with a direction given by air traffic control to the operator or pilot in command of a Russian aircraft (i) not to enter the airspace over the United Kingdom, or (ii) to leave the airspace</p>	<p>57J(3)</p>	<p>Liabe on summary conviction</p> <p>To imprisonment for a term not exceeding 12 months (or, in relation to offences committed before section 154(1) of the Criminal Justice Act</p>

	<p>over the United Kingdom by a specific route save where an exception from direction applies under regulation 61B</p>		<p>2003 (general limit on magistrates' court's power to impose imprisonment) 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>
<p>Failure to comply with a direction given by an airport operator</p>	<p>Failure to comply with a direction given by an airport operator to the operator or pilot in command of a Russian aircraft (i) not to take off, or not to permit the aircraft to take off, from an airport the operator manages, or (ii) to take off, or to require the aircraft to take off, from an airport the operator manages, or (iii) not to land, or not to permit the aircraft to land, at an airport the operator manages, save where an</p>	<p>57J(5)</p>	<p>Liable on summary conviction</p> <p>To imprisonment for a term not exceeding 12 months (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates' court's power to impose imprisonment) comes into force, 6 months) or a fine (or both) in England and Wales.</p> <p>To imprisonment for a</p>

	<p>exception from the direction applies under regulation 61B</p>		<p>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>
<p>Breach of confidentiality requirement.</p>	<p>Disclosing the existence of or any part of the content of a direction or anything done under such a direction given under regulation 57B(5) (direction prohibiting port entry), 57C(4) (movement of ships) or regulation 57L(6) (directions relating to movement of aircraft) where the Secretary of State has notified that the information is to be treated as confidential.</p>	<p>57B(6)</p> <p>57C(5)</p> <p>57N(5)</p>	<p>Liable on summary conviction</p> <p>To imprisonment for a term not exceeding 6 months or a fine (or both) in England and Wales.</p> <p>To imprisonment for a term not exceeding 6 months, or a fine not exceeding level 5 on the standard scale (or both) in Scotland.</p> <p>To imprisonment for a term not exceeding 6 months, or a fine not exceeding level 5 on the standard scale (or both) in Northern Ireland.</p>

Annex B: Table of trade sanctions offences

Type of sanction offences	Specific offence	Reference to relevant prohibition or requirement of the 2019 Regulations (or other legislation)	Maximum penalty
Breach of controls on exporting restricted goods	Exporting restricted goods	Offence contained within Customs and Excise Management Act 1979 S.68(1) and S.170 (2)	<p>Liable on summary conviction</p> <p>To a penalty of £20,000 or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both</p> <p>Liable on conviction on indictment</p> <p>To a penalty of any amount, or to imprisonment for a term not exceeding 7 years (modified to 10 years).</p>
Breach of controls on restricted goods and technology (other than export)	<ol style="list-style-type: none"> 1. Supplying or delivering restricted goods. 2. Making restricted goods or restricted technology available. 3. Transferring restricted technology. 4. Providing technical assistance relating to restricted goods or restricted technology. 5. Providing financial services or funds relating to restricted goods or restricted technology. 6. Providing brokering services 	<ol style="list-style-type: none"> 1. Reg. 24 2. Reg 25 3. Reg 26 4. Reg 27 5. Reg 28 6. Reg 29 	<p>Liable on summary conviction</p> <p>To imprisonment to a term not exceeding 12 months in England and Wales (or, in relation to offences committed before paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 (Increase in magistrates’ court’s power to impose imprisonment) comes into force, 6 months) and 12 months in Scotland, and 6 months in Northern Ireland, or a fine, which in Scotland or Northern Ireland may not exceed the statutory maximum (or both);</p>

	relating to restricted goods or restricted technology		<p>Liabe on conviction on Indictment</p> <p>To imprisonment for a term not exceeding 10 years or a fine (or both).</p>
Breach of controls on aviation and space goods and technology	Providing insurance or reinsurance services relating to aviation and space goods or aviation and space technology.	Reg 29A	<p>Liabe on summary conviction</p> <p>To imprisonment to a term not exceeding 12 months in England and Wales (or, in relation to offences committed before paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 (Increase in magistrates' court's power to impose imprisonment) comes into force, 6 months) and 12 months in Scotland, and 6 months in Northern Ireland, or a fine, which in Scotland or Northern Ireland may not exceed the statutory maximum (or both);</p> <p>Liabe on conviction on Indictment</p> <p>To imprisonment for a term not exceeding 10 years or a fine (or both).</p>
Circumventi on etc. of prohibitions	Circumventing directly or indirectly the prohibitions of regs 22-53 (Trade) or enabling the contravention of prohibitions.	Reg. 55	<p>Liabe on summary conviction</p> <p>To imprisonment to a term not exceeding 12 months or a fine (or both) in England and Wales (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates' court's power to impose imprisonment) comes into force, six months).</p>

			<p>To imprisonment for a term not exceeding 12 months in Scotland.</p> <p>To imprisonment to a term not exceeding 6 months or a fine (or both) in Northern Ireland.</p> <p>Liabe on indictment To imprisonment for a term not exceeding 10 years or a fine (or both).</p>
Licensing offences	<p>1. Knowingly or recklessly: to providing information that is false in a material respect, or to providing or producing a document that is not what it purports to be, for the purpose of obtaining a trade licence.</p> <p>2. Purporting to act under the authority of a trade licence but failing to comply with any condition contained in the licence.</p>	<p>1. Reg 68(1)(a) and (b) 2. Reg 68(2)</p>	<p>Liabe on summary conviction</p> <p>To imprisonment to a term not exceeding 12 months or a fine (or both) in England and Wales (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates' court's power to impose imprisonment) comes into force, six months).</p> <p>To imprisonment for a term not exceeding 12 months in Scotland.</p> <p>To imprisonment to a term not exceeding 6 months or a fine (or both) in Northern Ireland.</p> <p>Liabe on indictment To imprisonment for a term not exceeding 2 years or a fine (or both).</p>
Information offences	<p>1. Failing to comply with record keeping requirements in reg. 77.</p> <p>2.(a) Intentionally obstructing an official in the performance of</p>	<p>1. Reg 77(6) 2. Reg 78(5)(a)(b)</p>	<p>Liabe on summary conviction</p> <p>To imprisonment to a term not exceeding 12 months or a fine (or both) in England and Wales (or, in relation to offences committed before</p>

	<p>any of the official's functions under this regulation; or</p> <p>(b) Failing to produce a register, record or document when reasonably required to do so by an official under this regulation.</p>		<p>section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates' court's power to impose imprisonment) comes into force, six months).</p> <p>To imprisonment for a term not exceeding 12 months in Scotland.</p> <p>To imprisonment to a term not exceeding 6 months or a fine (or both) in Northern Ireland.</p> <p>Liable on indictment</p> <p>To imprisonment for a term not exceeding 2 years or a fine (or both).</p>
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