

EXPLANATORY MEMORANDUM TO
THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) (NO. 9) REGULATIONS
2022

2022 No. 477

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Foreign, Commonwealth and Development Office and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument is made under the Sanctions and Anti-Money Laundering Act 2018 ('the Sanctions Act') to make amendments to the Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855) ('the 2019 Regulations'). These amendments will introduce new trade sanctions measures relating to internet services and online media services, for the purposes set out in regulation 4 of the 2019 Regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument, which is subject to the made affirmative procedure, is laid before Parliament on 27 April 2022 under section 55(3) of the Sanctions Act and comes into force on 29 April 2022. Bringing the instrument into force soon after it is laid is necessary given the international situation and it is appropriate for these measures to enter into force as soon as possible.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the same as the territorial extent of the instrument which it amends: that is, the whole of the United Kingdom ('UK').
- 4.2 Subject to paragraph 4.3, the territorial application of this instrument is also the same as the territorial application of the instrument that it amends. That is, it applies to the whole of the UK.
- 4.3 This instrument also applies to conduct by UK persons where that conduct is wholly or partly outside the UK.

5. European Convention on Human Rights

- 5.1 The Secretary of State for Foreign, Commonwealth and Development Affairs, Rt Hon Liz Truss MP, has made the following statement regarding human rights: "In my view the provisions of the Russia (Sanctions) (EU Exit) (Amendment) (No. 9) Regulations 2022 are compatible with the Convention rights."

6. Legislative Context

- 6.1 The Sanctions Act establishes a legal framework which enables Her Majesty's Government to impose sanctions for a number of purposes, which include that it is in

the interests of international peace and security and furthers a foreign policy objective of the government of the UK.

- 6.2 This instrument makes amendments to the 2019 Regulations, which were made under the Sanctions Act for discretionary purposes within section 1(2) of the Sanctions Act.

7. Policy background

What is being done and why?

- 7.1 This instrument amends the 2019 Regulations to impose requirements in relation to trade sanctions measures.
- 7.2 Following its illegal annexation of Crimea in 2014, Russia continued a pattern of aggressive action towards Ukraine until 24 February 2022 when it invaded Ukraine's sovereign territory, announced by President Putin as a "special military operation", and recognised the 'Donetsk People's Republic' and 'Luhansk People's Republic' as independent states and deployed Russian military to those regions.
- 7.3 The UK has called on Russia to cease its military activity, withdraw its forces from Ukraine and Crimea, end its support for the separatists, and fulfil its international commitments including under the 1975 Helsinki Final Act, the 2014 and 2015 Minsk Protocols and the 1994 Budapest memorandum. UK policy remains focused on ending the crisis in Ukraine and on assisting Ukraine to secure its borders against Russia's aggressive actions, ensuring a stable, prosperous and democratic future for all its citizens. The UK has been unwavering in its support for the country's territorial integrity and sovereignty.
- 7.4 These sanctions are part of a broader policy of measures which includes: diplomatic pressure; other trade sanctions; economic and financial sanctions; and designations. Change will therefore be sought through diplomatic pressure, and other measures, supported by implementing sanctions in respect of actions undermining the territorial integrity, sovereignty and independence of Ukraine.
- 7.5 This instrument amends Part 5 (Trade) of the 2019 Regulations, which contains trade sanctions measures, and makes related consequential amendments.
- 7.6 This instrument provides for a number of restrictions in the form of trade in services sanctions. It introduces requirements that: Social media services, including video sharing platforms, must take reasonable steps to prevent content that is generated directly on the service, or uploaded to or shared on the service, by a designated person being encountered by a user of the service in the United Kingdom. Internet access services, including fixed and wireless broadband providers, must take reasonable steps to prevent users of the service in the United Kingdom from accessing websites provided by a designated person. This will likely take the form of URL blocking. Application stores, including those on smartphones, must take reasonable steps to prevent users of the application store in the United Kingdom from downloading or otherwise accessing an application provided by a designated person.
- 7.7 The instrument confers powers on the Secretary of State to designate persons to whom these online restrictions will apply.
- 7.8 The instrument also confers on the Office of Communications (Ofcom) the power to impose civil monetary penalties on a person who fails to comply with the new trade sanctions. Failing to comply with the new sanctions is also a criminal offence.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument itself does not relate to withdrawal from the European Union ('EU') / trigger the statement requirements under the European Union (Withdrawal) Act. The 2019 Regulations related to the withdrawal of the UK from the EU because they replaced, with substantially the same effect, the previous EU Russia- and Ukraine-related sanctions regimes.

9. Consolidation

- 9.1 The 2019 Regulations have been amended by S.I. 2020/590; S.I. 2020/951; S.I. 2022/123; S.I. 2022/194; S.I. 2022/195; S.I. 2022/203; S.I. 2022/205; S.I. 2022/241; S.I. 2022/395; S.I. 2022/452; and by the Sentencing Act 2020. This instrument does not consolidate previous instruments. The Foreign, Commonwealth and Development Office will keep the need for consolidation under review.

10. Consultation outcome

- 10.1 No consultation has been carried out on this instrument. The Explanatory Memorandum to the 2019 Regulations explains the consultation that has been carried out in relation to the Sanctions Act.
- 10.2 There is neither a requirement in the Sanctions Act for public consultation on instruments made under the Act, nor is there any other legal obligation to consult in respect of this instrument. HM Government will continue engagement with stakeholders on the implementation of UK sanctions.

11. Guidance

- 11.1 In accordance with section 43 of the Sanctions Act, guidance has been published in relation to the prohibitions and requirements under the 2019 Regulations. This guidance will be updated to reflect the amendments to those Regulations made by this instrument.

12. Impact

- 12.1 The FCDO and the Department of Digital, Culture, Media and Sport (DCMS) have completed a De Minimis self-certification to estimate costs to UK businesses resulting from these Regulations, and estimated the costs to be well beneath the threshold of £5m per annum for a full impact assessment.
- 12.2 The FCDO and DCMS assess that the direct impacts and costs to business resulting from these sanctions can be summarised as follows. DCMS has engaged with several businesses of different sizes who provide different services, and will be in scope of these regulations to inform the de-minimis assessment. DCMS asked those businesses about their experience of other international obligations and the compliance costs. From this engagement it is clear that costs will be relatively insignificant. The business impacts fall on internet service providers, online media platforms and app stores, and based on the evidence provided will mainly consist of minor transitional costs.
- 12.3 UK businesses must already comply with sanctions against individuals and entities appearing on a regularly updated gov.uk list. The process for notifying businesses about sanctions remains unchanged, so we do not expect significant changes to IT systems or administrative changes.

12.4 For the reasons stated in paragraph 12.1, an impact assessment has not been conducted for this instrument. An impact assessment was produced for the primary legislation and can be found [here](#).

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to mitigate regulatory burdens on small businesses.

13.3 The FCDO does not believe it is possible to exempt smaller businesses from the requirements to comply with the measures introduced by this instrument, as this could provide a route for the circumvention or evasion of sanctions.

14. Monitoring & review

14.1 If determined that it was no longer appropriate to maintain a sanctions regime or specific sanctions measures, that regime would be removed or amended accordingly. In the case of the 2019 Regulations, that would include the measures introduced by this instrument. As such, the Minister does not consider that a review clause in this instrument is appropriate.

15. Contact

15.1 The Sanctions Taskforce at the Foreign, Commonwealth and Development Office, 0207 009 9553 or email: Sanctions.SIs@fcdo.gov.uk, can be contacted with any queries regarding the instrument.

15.2 Daniel Drake, Head of Sanctions Taskforce at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rt Hon Liz Truss MP, Secretary of State for Foreign, Commonwealth and Development Affairs, can confirm that this Explanatory Memorandum meets the required standard.