
STATUTORY INSTRUMENTS

2022 No. 748

The Republic of Belarus (Sanctions) (EU
Exit) (Amendment) Regulations 2022

PART 2

Purposes and designation

Purposes

5. In regulation 4 (purposes)—
- (a) at the end of paragraph (c), omit “and”;
 - (b) after paragraph (1)(d) insert—
 - “(e) cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine, including by supporting or facilitating Russia’s actions in respect of Ukraine, and
 - (f) refrain from any other action which undermines or threatens peace, security or stability in Europe.”.

Power to designate persons

6. In regulation 5 (power to designate persons)—
- (a) in paragraph (1) (power to designate persons), for sub-paragraph (c) substitute—
 - “(c) regulation 27N (technical assistance in relation to aircraft and ships);
 - (d) regulations 29A and 29CA (aircraft);
 - (e) regulations 29F, 29H, 29I and 29J (ships: prohibition on port entry etc.).”;
 - (b) after paragraph (1) insert—
 - “(1A) The Secretary of State may provide that persons of a description specified by the Secretary of State are designated persons for the purposes of any of the following—
 - (a) regulations 11 to 15 (finance);
 - (b) regulation 17 (immigration);
 - (c) regulation 27N (technical assistance relating to aircraft and ships);
 - (d) regulations 29A and 29CA (aircraft);
 - (e) regulations 29F, 29H, 29I and 29J (ships: prohibition on port entry etc.).”;
 - (c) in paragraph (2), after “paragraph (1)” insert “or (1A)”;
 - (d) at the end insert—
 - “(3) For the purposes of these Regulations, persons “designated under regulation 5” for the purpose of a particular regulation means—

- (a) persons who are designated by name under paragraph (1) for the purposes of that particular regulation, and
- (b) where the Secretary of State makes provision under paragraph (1A) that persons of a specified description are designated persons for the purposes of that particular regulation, persons of that description.”.

Conditions for designation

7. Before regulation 6 (designation criteria), insert—

“Conditions for the designation of persons by name

5A.—(1) The Secretary of State may choose whether to designate a person under regulation 5(1) (power to designate persons by name) in accordance with—

- (a) the standard procedure, or
- (b) the urgent procedure.

(2) Paragraph (3) applies where the Secretary of State chooses to designate a person mentioned in regulation 5(1) under the standard procedure.

(3) The Secretary of State may not provide that a person is a designated person under regulation 5(1) except where condition A is met.

(4) Condition A is that the Minister has reasonable grounds to suspect that that person is an involved person.

(5) Paragraphs (6) to (8) apply where the Secretary of State chooses to designate a person mentioned in regulation 5(1) under the urgent procedure.

(6) The Secretary of State may designate a person mentioned in regulation 5(1) where condition A is not met, but conditions B and C are met.

(7) The person ceases to be a designated person at the end of the period of 56 days beginning with the day following the day on which the person became a designated person unless, within that period, the Secretary of State certifies that—

- (a) condition A is met, or
- (b) conditions B and C continue to be met.

(8) Where the Secretary of State makes a certification under paragraph (7)(b), the designation ceases to have effect at the end of the period of 56 days beginning with the day immediately following the period mentioned in paragraph (7), unless within that period the Secretary of State certifies that condition A is met.

(9) Condition B is that relevant provision (whenever made) applies to, or in relation to, the person under the law of—

- (a) the United States of America;
- (b) the European Union;
- (c) Australia;
- (d) Canada.

(10) Condition C is that the Secretary of State considers that it is in the public interest to make designations under the urgent procedure.

(11) For the purposes of Condition B, “relevant provision” is provision that the Secretary of State considers—

- (a) corresponds, or is similar, to the type of sanction or sanctions in these Regulations, or
 - (b) is made for purposes corresponding, or similar, to any purpose of any type of sanction or sanctions in these Regulations.
- (12) In this regulation, “involved person” has the meaning given in regulation 6(2) (meaning of involved person).

Conditions for the designation of persons by description

5B.—(1) The Secretary of State may choose whether persons mentioned in regulation 5(1A) (power to designate persons by description) are designated persons under—

- (a) the standard procedure, or
- (b) the urgent procedure.

(2) Paragraph (3) applies where the Secretary of State chooses that persons mentioned in regulation 5(1A) are designated persons under the standard procedure.

(3) The Secretary of State may not provide that persons of a specified description are designated persons under regulation 5(1A) except where conditions A and C are met.

(4) Paragraphs (5) to (7) apply where the Secretary of State chooses that persons mentioned in regulation 5(1A) are designated persons under the urgent procedure.

(5) The Secretary of State may provide that persons of a specified description are designated persons where condition C is not met, but conditions A, D and E are met.

(6) The persons of the specified description cease to be designated persons at the end of the period of 56 days beginning with the day following the day on which the persons became designated persons unless, within that period, the Secretary of State certifies that—

- (a) conditions A and C are met, or
- (b) conditions A, D and E continue to be met.

(7) Where the Secretary of State makes a certification under paragraph (6)(b), the designation ceases to have effect at the end of the period of 56 days beginning with the day immediately following the period mentioned in paragraph (6), unless within that period the Secretary of State certifies that conditions A and C are met.

(8) Condition A is that the description of persons specified is such that a reasonable person would know whether that person fell within it.

(9) Condition C is that the Secretary of State has reasonable grounds to suspect—

- (a) in a case where the specified description is members of a particular organisation, that the organisation is an involved person, or
- (b) in the case of any other specified description, that any person falling within that description would necessarily be an involved person.

(10) Condition D is that the description of persons specified is of persons (or some persons) to which, or in relation to which, relevant provision (whenever made) applies under the law of—

- (a) the United States of America;
- (b) the European Union;
- (c) Australia;
- (d) Canada.

(11) Condition E is that the Secretary of State considers that it is in the public interest to provide that persons of a specified description are designated persons under the urgent procedure.

(12) For the purposes of Condition D, “relevant provision” is provision that the Secretary of State considers—

- (a) corresponds, or is similar, to the type of sanction or sanctions in these Regulations, or
- (b) is made for purposes corresponding, or similar, to any purpose of any type of sanction or sanctions in these Regulations.

(13) In this regulation—

“involved person” has the meaning given in regulation 6(2) (meaning of “involved person”);

“organisation” includes any body, association or combination of persons.”

Designation criteria: meaning of “involved person”

8. In regulation 6—

- (a) in the heading, for “criteria”, substitute “criteria: meaning of “involved person””;
- (b) omit paragraph (1);
- (c) in paragraph (2)—
 - (i) for “In this regulation”, substitute “For the purposes of regulations 5A(4) (condition relating to the designation of persons by name) and 5B(9) (condition relating to designation of persons by description)”;
 - (ii) in sub-paragraph (a)—
 - (aa) at the end of paragraph (iii), omit “or”;
 - (bb) after paragraph (iv), insert—
 - “(v) conduct destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine, including by supporting or facilitating Russia’s actions in respect of Ukraine, in particular by—
 - (aa) providing logistical support to the Russian army, or
 - (bb) spreading disinformation about Russia’s invasion of Ukraine,
 - (vi) other actions undermining or threatening peace, security or stability in Europe, or
 - (vii) obtaining a benefit from or supporting the Government of Belarus through carrying on a relevant business activity.”;
- (d) in paragraph (3)—
 - (i) for “paragraphs (2)(a)(i) to (iv)” substitute “paragraphs (2)(a)(i) to (vi)”;
 - (ii) in sub-paragraph (c), for “restricted goods and restricted technology” substitute “goods or technology mentioned in regulation 23(1A) (making available goods and technology to a person connected with, or for use in, Belarus)”;
- (e) after paragraph (3), insert—

“(3A) For the purposes of this regulation, being “involved in obtaining a benefit from or supporting the Government of Belarus through carrying on a relevant business activity” means—

- (a) carrying on business as a Government of Belarus-affiliated entity,
- (b) carrying on business of economic significance to the Government of Belarus,
- (c) carrying on business in a sector of strategic significance to the Government of Belarus, or
- (d) owning or controlling directly or indirectly (within the meaning of regulation 7), or working as a manager, director (whether executive or non-executive), trustee, or equivalent, of—
 - (i) a Government of Belarus-affiliated entity, or
 - (ii) a person, other than an individual, which falls within sub-paragraph (b) or (c).”;

(f) for paragraph (4), substitute—

“(4) In this regulation—

“Belarusian authority” has the meaning given in regulation 15D;

“Government of Belarus-affiliated entity” means a person, other than an individual—

- (a) which is owned or controlled directly or indirectly (within the meaning of regulation 7) by the President of Belarus or a Belarusian authority,
- (b) in which the President of Belarus or a Belarusian authority holds directly or indirectly a minority interest,
- (c) which receives, or has received, financing, directly or indirectly, from the President of Belarus or a Belarusian authority, or
- (d) which otherwise obtains a financial benefit or other material benefit from the President of Belarus or a Belarusian authority;

“minority interest” means any shareholding, voting right or right to appoint or remove members of the board of directors which does not meet the condition set out in regulation 7(2);

“relevant provision” means—

- (a) any provision of Parts 3 (Finance), 5 (Trade), 5A (Aircraft) or 5B (Ships);
- (b) any provision of the law of a country other than the United Kingdom made for purposes corresponding to a purpose of any provision of Parts 3 (Finance), 5 (Trade), 5A (Aircraft) or 5B (Ships);

“sector of strategic significance to the Government of Belarus” means—

- (a) the Belarusian chemicals sector;
- (b) the Belarusian construction sector;
- (c) the Belarusian defence sector;
- (d) the Belarusian electronics sector;
- (e) the Belarusian energy sector;
- (f) the Belarusian extractives sector;
- (g) the Belarusian forestry sector;
- (h) the Belarusian financial services sector;

- (i) the Belarusian information, communications and digital technologies sector;
 - (j) the Belarusian mechanical engineering sector;
 - (k) the Belarusian metallurgy sector;
 - (l) the Belarusian transport sector.”;
- (g) omit paragraph (7).

Notification and publicity where power to designate by name is used

9. In regulation 8 (notification and publicity where designation power used)—
- (a) in the heading, for “designation power” substitute “power to designate by name”;
 - (b) in paragraph (1)—
 - (i) in sub-paragraph (a), for “regulation 5” substitute “regulation 5(1)”;
 - (ii) in sub-paragraph (b), for “that regulation” substitute “that paragraph of that regulation”;
 - (c) for paragraph (3) substitute—

“(3) The information given under paragraph (2)(a)—

 - (a) where the Secretary of State designates a person under the standard procedure, must include a statement of reasons;
 - (b) where the Secretary of State designates a person under the urgent procedure, must include a statement—
 - (i) that the designation is made under the urgent procedure,
 - (ii) identifying the relevant provision by reference to which the Secretary of State considers that condition B is met in relation to the person, and
 - (iii) setting out why the Secretary of State considers that condition C is met.

(3A) Where the Secretary of State designates a person under the urgent procedure, the Secretary of State must, after the end of the period mentioned in paragraph (7) of regulation 5A (conditions for the designation of persons by name), or if the Secretary of State has made a certification under paragraph (7)(b) of that regulation, the period mentioned in paragraph (8) of that regulation, but otherwise without delay—

 - (a) in a case where the person ceases to be a designated person, take such steps as are reasonably practicable to inform the person that they have ceased to be a designated person, or
 - (b) in any other case, take such steps as are reasonably practicable to give the person a statement of reasons.”;
 - (d) for paragraph (4), substitute—

“(4) In this regulation, a “statement of reasons” means a brief statement of the matters that the Secretary of State knows, or has reasonable grounds to suspect, in relation to the person—

 - (a) in the case of a designation under the standard procedure, which have led the Secretary of State to make designation, and
 - (b) in the case of a designation under the urgent procedure, as a result of which the person does not cease to be a designated person at the end of the period mentioned in regulation 5A(7) or (8) (as the case may be).”.

Notification and publicity where power to designate by description is used

10. After regulation 9 (confidential information in certain cases where designation power used) insert—

“Notification and publicity where power to designate by description is used

9A.—(1) Paragraph (2) applies where the Secretary of State—

- (a) has provided that persons of a specified description are designated persons under regulation 5(1A) (power to designate persons by description), or
- (b) has by virtue of section 22 of the Act varied or revoked a designation made under that paragraph of that regulation.

(2) The Secretary of State—

- (a) must without delay take such steps as are reasonably practicable to inform persons of the specified description of the designation, variation or revocation, and
- (b) must take steps to publicise the designation, variation or revocation.

(3) The information given under paragraph (2)(a)—

- (a) where the Secretary of State provides that persons of a specified description are designated persons under the standard procedure, must include a statement of reasons, or
- (b) where the Secretary of State provides that persons of a specified description are designated persons under the urgent procedure, must include a statement—
 - (i) that the provision is made under the urgent procedure,
 - (ii) identifying the relevant provision by reference to which the Secretary of State considers that condition D is met in relation to persons of the specified description, and
 - (iii) setting out why the Secretary of State considers that condition E is met.

(4) Where the Secretary of State provides that persons of a specified description are designated persons under the urgent procedure, the Secretary of State must, after the end of the period mentioned in paragraph (6) of regulation 5B (conditions for the designation of persons by description), or if the Secretary of State has made a certification under paragraph (6)(b) of that regulation, the period mentioned in paragraph (7) of that regulation, but otherwise without delay—

- (a) in a case where the persons cease to be designated persons, take such steps as are reasonably practicable to inform persons of the specified description that they have ceased to be designated persons, or
- (b) in any other case, take such steps as are reasonably practicable to give each person of the specified description a statement of reasons.

(5) In this regulation, a “statement of reasons”, in relation to a provision designating persons of a specified description, means a brief statement of the matters that the Secretary of State knows, or has reasonable grounds to suspect, in relation to persons of the specified description—

- (a) in the case of a designation under the standard procedure, which have led the Secretary of State to make the provision designating persons of that description, and
- (b) in the case of a designation under the urgent procedure, as a result of which the persons do not cease to be designated persons at the end of the period mentioned in regulation 5B(6) or (7) (as the case may be).

(6) Matters that would otherwise be required by paragraph (5) to be included in a statement of reasons may be excluded from it where the Secretary of State considers that they should be excluded—

- (a) in the interests of national security or international relations,
- (b) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (c) in the interests of justice.

(7) The steps taken under paragraph (2)(b) must be steps to publicise generally—

- (a) the designation, variation or revocation, and
- (b) in the case of—
 - (i) a designation under the standard procedure, the statement of reasons relating to it, or
 - (ii) a designation under the urgent procedure, the contents of the statement required under paragraph (3)(b) relating to it.”.