

EXPLANATORY MEMORANDUM TO

THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) (NO. [12]) REGULATIONS 2022

2022 No. 801

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 ban additional types of new investments in relation to Russia by United Kingdom ('UK') persons or other persons in the UK 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 18th July 2022 under section 55(3) of the Sanctions Act and comes into force on 19th July 2022. Bringing the instrument into force on the day after it has been 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 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, it also applies to conduct by any person in the territorial sea adjacent to the UK.

5. European Convention on Human Rights

- 5.1 Rehman Chishti MP, Parliamentary Under-Secretary of State at the Foreign, Commonwealth and Development Office, has made the following statement regarding human rights:

“In my view the provisions of the Russia (Sanctions) (EU Exit) (Amendment) (No. 12) 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 prohibit additional types of new investment in Russia; by restricting acquisitions of any ownership interest in land in Russia and in entities connected with or having a place of business in Russia; and by prohibiting the establishment of commercial arrangements such as branches in Russia and joint ventures with persons connected with Russia. The instrument also prohibits investment services directly related to those activities.
- 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 forces 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 include: diplomatic pressure; economic and financial sanctions, including trade 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 3 of the 2019 Regulations, which contains financial sanctions measures, and makes related consequential amendments.
- 7.6 This instrument prohibits persons from undertaking the investment activities referred to in regulation 18B(2). These investment activities are:
 - 7.6.1 Direct acquisition of any ownership interest in Russian land and persons connected with Russia;
 - 7.6.2 Indirect acquisition of any ownership interest in Russian land and persons connected with Russia for the purpose of making funds or economic resources available directly or indirectly to, or for the benefit of, persons connected with Russia;
 - 7.6.3 Direct or indirect acquisition of any ownership interest in entities with a place of business in Russia (which are not persons connected with Russia) for the purpose of making funds or economic resources available directly or indirectly to, or for the benefit of, persons connected with Russia;
 - 7.6.4 Establishing joint ventures with a person connected with Russia;
 - 7.6.5 Opening representative offices and establishing branches and subsidiaries in Russia; and
 - 7.6.6 The provision of investment services directly related to all activities above.
- 7.7 The instrument also makes amendments to the 2019 Regulations to provide for exceptions from these measures, including to prevent overlap with existing Regulation 16 (which prohibits dealing with transferable securities or money market instruments), as well as licensing and enforcement, including the expansion of criminal offences.

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, S.I. 2022/477, S.I. 2022/689 and by the Sentencing Act 2020 (c. 17). 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 Sanctions Act, nor is there any other legal obligation to consult in respect of this instrument. Her Majesty's 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 the 2019 Regulations made by this instrument.

12. Impact

- 12.1 A full Impact Assessment for this instrument will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.
- 12.2 The Foreign, Commonwealth and Development Office and HM Treasury assess that the key cost to UK business will be the opportunity cost from prevented investment that businesses would have chosen to undertake in Russia were these sanctions not in place. Whilst some prevented investment will be directed toward substitute countries, there is evidence suggesting that the entirety of this will not be diverted. As such, the proportion of this investment that has not been undertaken or diverted represents a direct cost to businesses that would otherwise have chosen to invest in Russia.
- 12.3 In a scenario which assumes the measures will be in place for the full appraisal period (10 years), the Impact Assessment finds the net direct cost to UK business of the sanctions measures to be £17.9m per year.
- 12.4 The Foreign, Commonwealth and Development Office and HM Treasury estimate the Net Present Social Value of the overall set of measures to be negative at £151.4m over the 10 year appraisal period.
- 12.5 UK businesses must already comply with sectoral sanctions and 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.
- 12.6 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 Foreign, Commonwealth and Development Office 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 Legislation and Policy Team at the Foreign, Commonwealth and Development Office, 0207 008 8553 or email: Sanctions.SIs@fcdo.gov.uk, can be contacted with any queries regarding the instrument.
- 15.2 Abigail Culank, Deputy Director Sanctions Taskforce at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rehman Chishti MP, Parliamentary Under-Secretary of State at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.