

EXPLANATORY MEMORANDUM TO
THE IRAN (SANCTIONS) REGULATIONS 2023

2023 No. 1314

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 His 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 create a new sanctions regime in relation to Iran in order to deter the Government of Iran or an armed group backed by the Government of Iran from conducting hostile activity against the United Kingdom or any other country and to encourage the Government of Iran to comply with international human rights law and to respect human rights.
- 2.2 This instrument will replace the existing Iran Human Rights sanctions regime established by the Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019 (S.I. 2019/134) ("the Iran Human Rights sanctions regulations"). The Iran (Sanctions) (Nuclear) (EU Exit) Regulations (S.I. 2019/461) remain in force and are unchanged by this instrument.

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 13 December 2023 under section 55(3) of the Sanctions Act and comes into force the next day. Bringing the instrument into force on the day after it is laid guards against the risk that persons who may be designated under the regime, or others who may potentially be affected by the sanctions, remove their assets from UK jurisdiction. It also guards against the risk that new trade and related service restrictions are circumvented by bringing exports forward.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the whole of the United Kingdom ('UK').
- 4.2 The territorial application of this instrument is 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, and some parts of it also apply to conduct by any person in the territorial sea adjacent to the UK. In addition, the maritime enforcement powers contained in Part 11 of this instrument apply in relation to British ships in international or foreign waters, ships without nationality in international waters and foreign ships in international waters.

5. European Convention on Human Rights

5.1 The Rt Hon Anne-Marie Trevelyan MP, Minister of State at the Foreign, Commonwealth and Development Office, has made the following statement regarding Human Rights:

“In my view the provisions of the Iran (Sanctions) Regulations 2023 are compatible with the Convention rights.”

6. Legislative Context

6.1 The Sanctions Act establishes a legal framework which enables His Majesty’s Government to impose sanctions for a number of purposes, including that it is in the interests of national security, in the interests of international peace and security, furthers a foreign policy objective of the government of the UK, promotes the resolution of armed conflicts or the protections of civilians in conflict zones, promotes compliance with international human rights law or respect for human rights, or promotes respect for democracy, the rule of law and good governance.

6.2 Section 54(2) of SAML A enables regulations made under the Act to revoke enactments and to make savings provisions. This power is used to revoke the Iran Human Rights sanctions regulations and treat any designations made under those Regulations as designations made under regulation 5 (power to designate persons) of these Regulations.

7. Policy background

What is being done and why?

7.1 Iran has increased its efforts to kill or kidnap individuals perceived to be enemies of the regime outside of Iran, including in the UK. Iran continues to threaten the security and stability of other countries, including Ukraine and states in the Middle East, through its development, proliferation and use of weapons, and its political, financial and military relationships with a number of proxy and partner groups.

7.2 Through the introduction of new and enhanced sanctions powers on Iran we aim to deter Iran from undertaking these activities and to demonstrate the commitment of the UK to countering Iranian activities that undermine the UK’s security, interests, and values.

7.3 This instrument also replaces the existing Iran Human Rights sanctions regulations, enabling the alignment of all Iran related sanctions regulations together as far as possible.

7.4 Part 2 of this instrument deals with the designation of persons (including individuals, entities and organisations) under the sanctions regime. It lists the criteria against which a Minister may make a decision to designate a person for the purposes of a travel ban, asset freeze, shipping measure or director disqualification (“designated persons”) namely where a person has been involved in either hostile activity by the Government of Iran, hostile activity by an armed group backed by the Government of Iran, or the commission of a serious human rights abuse or violation in Iran.

7.5 Part 3 of this instrument sets out financial sanctions measures that can be imposed on designated persons. Financial sanctions include an asset freeze, ensuring UK persons and persons in the UK do not deal with a designated person’s funds and economic

resources (non-monetary assets, such as property or vehicles), and ensuring that funds and economic resources are not made available to or for the benefit of a designated person, either directly or indirectly.

- 7.6 Part 4 of this instrument deals with director disqualification sanctions, and sets out that a person who is designated under Part 2 of the instrument is subject to director disqualification sanctions under the Company Directors Disqualification Act 1986 and the Company Directors Disqualification (Northern Ireland) Order 2002.
- 7.7 Part 5 of the instrument sets out the effect of immigration measures made under this instrument. A designation for the purposes of regulation 21 of the instrument means that section 8B of the Immigration Act 1971 then applies to the person: a designated person is banned from travelling to or via the UK and any permission to stay in the UK that they may have is cancelled. In certain circumstances, the Secretary of State may direct, on an individual basis, that the travel ban does not apply, for example for the purposes of attending UN meetings.
- 7.8 Part 6 of the instrument details trade sanctions. These sanctions include a replication of the measures in place under the Iran Human Rights sanctions regulations which consists of restrictions on the trade of restricted goods and technology, namely goods or technology that may be used to repress the civilian population in Iran or to intercept or monitor communications. Lists of the restricted goods are at Schedules 2 and 3 of the instrument respectively. This Part also imposes a prohibition on the provision of interception and monitoring services to or for the benefit of the Government of Iran. The instrument also introduces new trade sanctions measures which add to existing Export Control powers and trade restrictions to prohibit the export of and trade in certain Unmanned Aerial Vehicles and related components, set out in Schedule 4 of the instrument.
- 7.9 Part 7 of the instrument details shipping sanctions. The instrument sets out a number of transport sanctions including prohibition on port entry and on the movement and direction of ships, that may be applied by the Secretary of State on to ships that are specified by the Secretary of State or that are owned or controlled, chartered or operated by a person designated for the purposes of transport sanctions under the criteria set out in Part 2 (Designation of Person).
- 7.10 Part 8 of the instrument makes provision in respect of exceptions and licences that may apply or be available, as the case may be, in respect of prohibitions and requirements under this regime. For example, and in relation to Treasury licences, a designated person can apply for a licence allowing funds to be released in order to pay for essential goods or services such as food. It states that the Treasury may issue licences to permit activity prohibited by Part 3 (Finance) where it is appropriate for a purpose set out in Schedule 5 of the instrument. Part 7 also details exceptions to trade prohibitions. It states that licences provided by the Secretary of State may permit activity prohibited by Part 5 (Trade). Guidance will provide further detail about licencing.
- 7.11 Part 11 of the instrument confers powers on maritime enforcement officers. These powers are analogous to maritime enforcement powers contained in existing legislation, such as Chapter 5 of the Policing and Crime Act 2017. The key distinction is that those powers are contingent on there being reasonable grounds to suspect that a criminal offence has been committed, whereas the purpose of these powers is to

identify, seize and dispose of goods which are being dealt with in contravention, or deemed contravention, of certain trade sanctions.

- 7.12 Part 12 of the instrument contains supplementary provisions including the revocation of the Iran Human Rights sanctions regulations and savings provisions to save designations made under those regulations. This part also includes transitional provisions linked to the Iran Human Rights sanctions regulations.
- 7.13 This instrument also sets out offences which can be committed if prohibitions or requirements in the instrument are not complied with.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This instrument does not consolidate previous instruments though it does replicate what was the Iran Human Rights sanctions regulations. 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. HMG ran a public consultation¹ on the Sanctions Act which was open for nine weeks. Over 30,000 individuals and companies received a copy of the White Paper, and 34 individuals provided written responses. Government officials held a number of roundtables with key sectors, including financial services, trade bodies, the legal profession, NGOs and industry professionals and regulators. The main areas of concern raised in consultation responses were around the legal threshold for sanctions designations, the rights of designated persons to challenge their designations, and licensing procedures. All of these concerns were taken into account in the drafting of 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. His 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 will be published on gov.uk in relation to the prohibitions and requirements under this instrument.

12. Impact

- 12.1 The Foreign, Commonwealth & Development Office has undertaken a De Minimis impact assessment to estimate costs to UK businesses and wider impacts resulting from these Regulations. We have estimated the costs to be beneath the threshold of £10m per annum for a full impact assessment, with costs resulting primarily from the opportunity cost of future profit that may have been made from the export of goods and services that will newly be subject to restrictions under this instrument, namely

¹ <https://www.gov.uk/government/consultations/public-consultation-on-the-united-kingdoms-future-legal-framework-for-imposing-and-implementing-sanctions>

those concerning UAVs and their components. The impact to UK business, charities or voluntary bodies from the new sanctions regime is expected to be negligible.

- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An impact assessment was produced for the primary legislation². The assessment concluded that the introduction of the Sanctions Act, and statutory instruments under it to transfer existing sanctions regimes into UK law, would overall reduce uncertainty for business and would not result in significant costs or impact, apart from some familiarisation costs for businesses associated with adapting to the new legislative framework.

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 It is estimated that the impact on small business in the UK will be negligible, given the assessment that the total costs to all UK business will be negligible. 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 His Majesty's Government determined that it was no longer appropriate to maintain a sanctions regime or specific sanctions measures, that regime would be removed or amended accordingly. The Minister does not consider that a review clause in this instrument is appropriate.

15. Contact

- 15.1 The Sanctions Directorate at the Foreign, Commonwealth and Development Office, email: SanctionsSIs@fcdo.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Abigail Culank, Deputy Director for Sanctions Strategy, Legislation and Engagement, at the Foreign Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Anne-Marie Trevelyan MP, Minister of State at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.

² <https://publications.parliament.uk/pa/bills/lbill/2017-2019/0069/sanctions-and-anti-money-laundering-IA.pdf>