
STATUTORY INSTRUMENTS

2023 No. 291

The Russia (Sanctions) (Overseas Territories) (Amendment) Order 2023

Citation, commencement and extent

1.—(1) This Order may be cited as the Russia (Sanctions) (Overseas Territories) (Amendment) Order 2023 and comes into force on 9th March 2023.

(2) This Order extends to each British overseas territory listed in the Schedule.

Amendment of the Russia (Sanctions) (Overseas Territories) Order 2020

2. Schedule 2 (modifications to be made in the extension of the Russia (Sanctions) (EU Exit) Regulations 2019 to each British overseas territory listed in Schedule 1) to the Russia (Sanctions) (Overseas Territories) Order 2020(1), is amended as set out in articles 3 to 9.

3. After paragraph 12A, insert—

“**12AA.** In regulation 18C (trust services), in paragraph (7) for the definition of “designated person” substitute—

““designated person” means a person who is designated from time to time by the Secretary of State under regulation 5 (power to designate persons)(as it has effect in the United Kingdom) for the purposes of regulation 18C (trust services)(as it has effect in the United Kingdom);””

4. After paragraph 34ZA, insert—

“**34ZB.** For regulation 60ZZB substitute—

“**60ZZB.**—(1) The prohibitions in regulation 18C (trust services) are not contravened by any act done by a person (“P”)—

(a) in satisfaction of an obligation in respect of the provision of trust services by P to or for the benefit of—

(i) a designated person, or

(ii) a person connected with Russia,

where those services are provided in relation to the discharge of or compliance with a statutory or regulatory obligation of the Territory;

(b) for the purposes of complying with the prohibitions and obligations in Chapter 1 of Part 3 (asset freeze etc.);

(c) in connection with transferable securities or money-market instruments where dealing with such securities or instruments is not prohibited by regulation 16 or 18B.

(2) The prohibitions in regulation 18C are not contravened by the provision of the following trust services where the condition in paragraph (3) is met—

- (a) trust services provided to a community amateur sports club registered as such under the applicable law of the Territory;
- (b) trust services provided to a trust for charitable services registered (or which is or is not required to register) as a charity under the applicable law of the Territory;
- (c) trust services provided to a pension scheme registered under the applicable law of the Territory;
- (d) trust services for the purposes of a trust relating to the creation of a beneficial interest in securities belonging to a person whose name and address are maintained on a register of securities in the Territory;
- (e) trust services provided by the operator or trustee of an authorised unit trust scheme in relation to that scheme;
- (f) trust services provided in the course of, or in connection with, carrying on by way of business the activity specified in article 40 (safeguarding and administering investments) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(2), except in so far as the activity relates to a unit trust scheme which is not an authorised unit trust scheme; or
- (g) trust services provided in the course of, or in connection with, the acting by way of business as an agent holding funds, economic resources or documents in escrow until the performance of a contractual condition agreed between two or more other persons, including the person for whom the funds, economic resources or documents are being held.

(3) The condition in this paragraph is that the trust services are not provided primarily to, or for the benefit of, a designated person or a person connected with Russia.

(4) Where the condition in paragraph (5) is met, the prohibitions in regulation 18C are not contravened by the provision of trust services for making funds and economic resources available to or for the benefit of—

- (a) a person under the age of 18,
- (b) a person who at the material time lacks capacity, being unable to make a decision for themselves in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain (whether permanent or temporary).

(5) The condition in this paragraph is that the trust services are not provided primarily to, or for the benefit of, a designated person.

(6) In this regulation, whether trust services are provided for the benefit of a person is to be construed in accordance with regulation 18C.

(7) In this regulation—

“authorised unit trust scheme” means a unit trust scheme which is authorised by the relevant financial authority in the Territory;

“designated person” has the meaning given in regulation 18C(7);

“the operator” has the meaning given in section 237 of the Financial Services and Markets Act 2000(3);

“person connected with Russia” is to be construed in accordance with regulation 19A(2);

“trust services” has the meaning given in regulation 18C(7);

“trustee” has the meaning given in section 237 of the Financial Services and Markets Act 2000;

“unit trust scheme” means a collective investment scheme under which the property is held on trust for the participants, except that it does not include a contractual scheme.””

5. For paragraph 34C substitute—

“34C. In regulation 60DA (trade: exception relating to professional and business services)—

(a) in paragraph (1), for “UK statutory or regulatory obligations” substitute “applicable statutory or regulatory obligations in the Territory”;

(b) in paragraph (2)(b), for “Secretary of State” substitute “Governor”;

(c) in paragraph (3)(b)(iii), for “Secretary of State” substitute “Governor”;

(d) in paragraph (5)(a), for “UK statutory or regulatory obligations” substitute “applicable statutory or regulatory obligations in the Territory”;

(e) in paragraph (9)—

(i) for the definition of “auditor” substitute—

““auditor” means a person appointed, in accordance with a requirement under the law of the Territory, to audit the accounts of a body corporate which is incorporated or constituted under the law of the Territory;”;

(ii) for the definition of “credit institution” substitute—

““credit institution” means a body incorporated under the law of the Territory, the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account;”.”

6. In paragraph 38 (regulation 64: financial sanctions licences), in the substituted text—

(a) in paragraph (2), for “18B” substitute “18C”;

(b) after paragraph (3)(g), insert—

“(ga) in the case of acts which would otherwise be prohibited by regulation 18C (trust services), where the Governor considers that it is appropriate to issue the licence for a purpose set out in Part 3A of Schedule 5, and”.

7. In paragraph 44 (regulation 71: “relevant firm”), in the substituted text—

(a) for sub-paragraph (1)(c)(v) substitute—

“(v) company services, or

(vi) trust services;”

(b) in paragraph (2), omit the definition of “trust or company services” and at the appropriate places insert—

(3) 2000 c. 8. The definition of “the operator” was amended by the Financial Services Act 2021 (c. 22), paragraph 5 of Schedule 9 and by S.I. 2011/1613; S.I. 2013/1388; and S.I. 2019/325.

““company services” means any of the following services—

- (a) forming companies or other legal persons;
- (b) acting, or arranging for another person to act—
 - (i) as a director or secretary of a company,
 - (ii) as a partner of a partnership, or
 - (iii) in a similar capacity in relation to other legal persons;
- (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
- (d) acting, or arranging for another person to act, as a nominee shareholder for a person;”;

““trust services” has the meaning given in regulation 18C(7) (trust services).”

8. After paragraph 71, insert—

“**71A.** Omit regulation 97A.”

9. In paragraph 78 (modification to Schedule 5, Treasury licences: purposes), after paragraph (q) insert—

- “(r) in paragraph 20F (safety and soundness of a firm), for “the Bank of England, the Prudential Regulation Authority or the Financial Conduct Authority” substitute “the relevant authority of the Territory;
- (s) for paragraph 20H (financial stability), substitute—

“**20H.** To enable anything to be done by a person, following consultation by that person (or a person acting on their behalf) with the relevant financial authority of the Territory, that is necessary or expedient in order to protect or enhance the stability of the financial system of the Territory.””

Richard Tilbrook
Clerk of the Privy Council