

EXPLANATORY MEMORANDUM TO
THE REPUBLIC OF BELARUS (SANCTIONS) (EU EXIT) (AMENDMENT)
REGULATIONS 2023

2023 No. 616

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 make amendments to the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/600) ('the 2019 Regulations'). This instrument widens the designation powers and introduces new trade sanctions and other measures as outlined in paragraph 7.3.

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 8 June 2023 under section 55(3) of the Sanctions Act and comes into force on 9 June 2023. It is appropriate for these measures to enter into force as soon as possible given the ongoing international situation, with the ambition of urgently ending the crisis in Ukraine.

4. Extent and Territorial Application

- 4.1 This instrument extends to the whole of the United Kingdom ('UK'). It is subject to any obligation arising in respect of the Windsor Framework as it may apply through section 7A of the European Union (Withdrawal) Act 2018 in respect of Northern Ireland.
- 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, and some parts of it also apply to conduct by any person in the territorial sea adjacent to the UK.

5. European Convention on Human Rights

- 5.1 David Rutley 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 Republic of Belarus (Sanctions) (EU Exit) (Amendment) 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 (HMG) to impose sanctions for a number of purposes, which include that it is in the interests of international peace and security and furthering 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 The 2019 Regulations were amended in July 2022 to extend measures made in the Russia regime and to allow for designations related to Russia's illegal invasion of Ukraine.
- 7.2 The Belarusian regime continues to openly facilitate Russia's illegal invasion of Ukraine. Belarus also continues to provide diplomatic support to Russia and their economies are closely integrated.
- 7.3 The measures imposed and amended by the Amendment Regulations are as follows:
- Changes to designation criteria. This will allow the FCDO to more effectively target those persons that are involved in supporting Russia's invasion of Ukraine. This includes persons with the ability to nominate, appoint or remove a Director or members of management and supervisory bodies of relevant entities and persons that work for, or are affiliated to, Belarusian authorities.
 - Amendments to the dealing with transferable securities or money market instruments measure.
 - New measures to relating to internet services and online media.
 - The prohibition of exports of machinery; banknotes; and precursor materials for chemical and biological weapons and technology.
 - The prohibition of imports of cement, rubber, wood and gold; and
 - A ban on ancillary services for all prohibited goods, including technical assistance and financial and brokering services.
- 7.4 These further sanctions align with HMG's strategic approach in response to Russia's illegal invasion of Ukraine by deterring the Belarusian regime from supporting or enabling Russian actions that are destabilising Ukraine and demonstrating that the UK strongly condemns Belarus' role in facilitating Russia's invasion of Ukraine.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument itself does not relate to withdrawal from the European Union / 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 Belarus related sanctions regime.

9. Consolidation

- 9.1 The 2019 Regulations have been amended by S.I. 2020/590; S.I. 2020/951; S.I. 2021/1146, S.I. 2022/748, S.I. 2022/500, S.I. 2022/818 and S.I. 2023/149. 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. HMG 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, HM Treasury and the Department for Business and Trade assess that direct impacts and costs to UK businesses can be summarised as follows:
 - The measures will impose an opportunity cost of future profit UK businesses may have made from the export of goods and services that will be subject to restrictions under the new measures.
 - The measures will impose an impact on the profitability of UK companies that currently export to Belarus.
 - The measures will impose impacts on ancillary services, supply chain effects, displacement and business closure as well as the chilling effect of sanctions.
 - The new import measures may increase production costs to downstream firms in the UK who may have benefitted from relatively lower costs of Belarusian cement, rubber and wood.
 - Financial measures could also impact the provision of ancillary services and contribute to asset-price volatility for those already holding Belarusian securities.
- 12.2 In a central, best estimate, the Impact Assessment concluded that the sanctions measures imply a cumulative net social cost in the form of lost revenue of £71.5m over the next nine years. On average, this amounts to an average direct cost to UK businesses of £9.1m per year in the form of lost profits.
- 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 A full Impact Assessment for this instrument, is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation gov.uk website.
- 12.5 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 His Majesty's Government determined that it is no longer appropriate to maintain a sanctions regime or specific sanctions measures, that regime will 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 Directorate at the Foreign, Commonwealth and Development Office, 0207 008 8553 or email: sanctions@fcdo.gov.uk, can be contacted with any queries regarding the instrument.
- 15.2 Abigail Culank, Deputy Director, Sanctions Directorate at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 David Rutley MP, Parliamentary Under Secretary of State at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.