

EXPLANATORY MEMORANDUM TO

THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) REGULATIONS 2024

2024 No. 218

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Foreign, Commonwealth and Development Office (FCDO) and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

- 2.1 Rt Hon Anne Marie Trevelyan MP, Minister of State for the Indo Pacific and Sanctions at the Foreign, Commonwealth and Development Office confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Abigail Culank, Deputy Director for Sanctions, at the Foreign, Commonwealth and Development Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 The Sanctions Directorate at the Foreign, Commonwealth and Development Office Telephone: 0207 008 8553 or email: Sanctions.SI@fcdо.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 This legislation will ban the import of Russian diamonds processed in third countries. This will first apply to stones equal to or larger than 1 carat (equivalent to 0.2 grams or larger) from 1 March 2024 dropping down to stones equal to or larger than 0.5 carats (equivalent to 0.1 grams or larger) from 1 September 2024. The legislation will also ban the provision of technical assistance, brokering and financial services in connection with the import of third country processed Russian diamonds. We continue to implement sanctions at pace, to impose further pressure on the Russian government, with the ambition of urgently ending the war in Ukraine.

Where does the legislation extend to, and apply?

- 4.2 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.
- 4.3 Subject to paragraph 4.4, 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.

4.4 This instrument also applies to conduct by UK persons where that conduct is wholly or partly outside the UK, and to conduct undertaken by any person in the territorial sea adjacent to the UK.

5. Policy Context

What is being done and why?

- 5.1 This instrument amends the Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855) ('the 2019 Regulations').
- 5.2 This instrument introduces a prohibition on the import of Russian diamonds processed in a third country or third countries, specifically those that weigh 1 carat (equivalent to 0.2 grams or larger) or more from 1 March 2024 reducing to 0.5 carats (equivalent to 0.1 grams or larger) from 1 September 2024. It also introduces a prohibition on the provision of technical assistance, brokering and financial services, and the provision of funds associated with the import of Russian diamonds processed in a third country.
- 5.3 This instrument delivers on commitments made by G7 Leaders in statements in May 2023 and December 2023. The purpose of this instrument is to further constrain the Russian government's ability to raise money to fund its war effort, and form part of the broader measures on Russian diamonds coordinated with other G7 partners.
- 5.4 Following its illegal annexation of Crimea in 2014, Russia continued a pattern of aggressive action towards Ukraine, which culminated in the invasion of Ukraine's sovereign territory on 24 February 2022. Announced by President Putin as a "special military operation", this included recognising the "Donetsk People's Republic" and "Luhansk People's Republic" as independent states and deploying Russian military across Ukraine.
- 5.5 In September 2022, Russian-installed officials in four temporarily controlled regions of Ukraine, namely Donetsk, Luhansk, Kherson and Zaporizhzhia, conducted sham referendums in an attempt to justify their illegal seizure of Ukrainian land. The Russian regime announced the illegal annexation of these regions against the will of the Ukrainian people and in flagrant breach of international law.
- 5.6 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 and the UN Charter. UK policy remains focused on ending Russia's invasion and on assisting Ukraine to secure its borders, ensuring a stable, prosperous and democratic future for all its citizens. The UK is unwavering in its support for the country's independence, territorial integrity and sovereignty.
- 5.7 The UK had already taken strong actions against Russian diamonds by designating Russia's mining conglomerate Alrosa, and its CEO. Russian diamonds have also been subject to an additional 35 percentage point import tariff.
- 5.8 At the G7 summit in May 2023, the Prime Minister committed to banning the import of Russian-origin diamonds by the end of 2023. This was achieved by implementing a direct import ban on diamonds originating in or consigned from Russia. The further ban targeting the import of Russian diamonds processed in third countries helps continue to limit the revenues Russia can derive from the diamond trade to fund its war efforts, through further limiting its routes to export diamonds to the UK and G7 markets.

- 5.9 These sanctions are part of a broader set of measures which include: diplomatic, military, financial and humanitarian support; trade, financial and transport 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.

What was the previous policy, how is this different?

- 5.10 In December 2023, the Russia (Sanctions) (EU Exit) (Amendment) (No. 5) Regulations 2023 introduced measures on import, acquisition, and supply and delivery relating to the import of diamonds originating or consigned from Russia including related ancillary services for the purposes set out in regulation 4 of the 2019 Regulations.
- 5.11 The current instrument will build on the previous measure, by introducing prohibitions on Russian diamonds processed in third countries before import into the UK.

6. Legislative and Legal Context

How has the law changed?

- 6.1 This instrument is made under powers in the Sanctions and Anti-Money Laundering Act 2018 ('the Sanctions Act'). 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 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.
- 6.3 More specifically this instrument amends Part 5 (Trade) of the 2019 Regulations, which contains trade sanctions measures. Previous trade sanctions include wide-ranging prohibitions on the export of goods and services, including defence and security goods and technology, goods used for Russia's energy sector, and services for which Russia depends on the West; and import prohibitions on iron and steel products, metals, gold, oil, coal, and key revenue creating goods that originate in or are consigned from Russia.
- 6.4 These Regulations introduce a prohibition on the import of 'relevant processed diamonds' on or after the 'relevant day' (as defined in regulation 2) and on the provision of ancillary services related to that prohibition. The instrument provides that each of the prohibitions are subject to Part 7 (Exceptions and licences) of the 2019 Regulations and also that a person who contravenes the prohibition on providing the relevant ancillary offences without a defence commits an offence.

Why was this approach taken to change the law?

- 6.5 As noted above, this instrument delivers on broader G7 commitments, and the approach taken seeks to align with that taken by other G7 countries to the extent possible. Amending the 2019 Regulations under the legal framework provided by the Sanctions Act was considered to be the most effective and appropriate way to change the law and is in line with the approach which has been taken for associated sanctions measures.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 No consultation has been carried out on this instrument. The Explanatory Memorandum to the 2019 Regulations themselves explains that consultation has been carried out in relation to the Sanctions Act.
- 7.2 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. HM Government will continue engagement with stakeholders on the implementation of UK sanctions.

8. Applicable Guidance

- 8.1 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.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sector is foreseen.

Impact on businesses, charities and voluntary bodies

- 9.2 The impact on individual businesses may be significant. UK importers will need to ensure diamonds are of non-Russian provenance, including those processed in third countries. This will increase process and potential costs for importers and consumers.
- 9.3 There may also be implications for the broader diamond market, as importers and consumers may opt for diamonds outside of the scope of the weights and stones banned in the current instrument. This may also impact revenue in the retail sector.
- 9.4 The legislation does impact small or micro businesses. No specific action is proposed to mitigate regulatory burdens on small or micro businesses.
- 9.5 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.
- 9.6 Impacts on the public sector will primarily include an increased burden on customs officials who will have to check diamond imports to verify compliance with the new measures.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 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. 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.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 This instrument, which is subject to the made affirmative procedure, is laid before Parliament on 29 February 2024 under section 55(3) of the Sanctions Act and comes into force on the 1 March 2024. Bringing the instrument into force on this date is required to ensure alignment with international partners and will also put further pressure on the Russian government, with the ambition of urgently ending the war in Ukraine.

12. European Convention on Human Rights

- 12.1 The Minister of State for the Indo Pacific and Sanctions has made the following statement regarding Human Rights:

“In my view the provisions of the Russia (Sanctions) (EU Exit) (Amendment) Regulations 2024 are compatible with the Convention rights.”

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023.