
STATUTORY INSTRUMENTS

2019 No. 433

The Democratic Republic of the Congo
(Sanctions) (EU Exit) Regulations 2019

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019.

(2) These Regulations come into force in accordance with regulations made under section 56 of the Act.

Interpretation

2. In these Regulations—

“the Act” means the Sanctions and Anti-Money Laundering Act 2018;

“arrangement” includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable (but see paragraph 12 of Schedule 1 for the meaning of that term in that Schedule);

“CEMA” means the Customs and Excise Management Act 1979(1);

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“the Committee” means the Committee of the Security Council established in accordance with paragraph 8 of resolution 1533 (2004) adopted by the Security Council on 12 March 2004;

“conduct” includes acts and omissions;

“document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include producing a copy of the information in legible form;

“the EU DRC Regulation” means Council Regulation (EC) No 1183/2005 of 18 July 2005, imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo(2), as it has effect in EU law;

“non-governmental person” means a person(3) who is not the Government of the Democratic Republic of the Congo or its public bodies, corporations or agencies or any person acting on its behalf or at its direction;

(1) 1979 c.2. Amendments have been made to this Act and are cited, where relevant, in respect of the applicable regulations.

(2) OJ L 193 23.7.2005, p. 1.

(3) “Person” is defined by section 9(5) of the Act to include (in addition to an individual and a body of persons corporate or unincorporate) any organisation and any association or combination of persons.

“resolution 1807” means resolution 1807 (2008) adopted by the Security Council on 31 March 2008(4);

“resolution 1857” means resolution 1857 (2008) adopted by the Security Council on 22 December 2008;

“resolution 1952” means resolution 1952 (2010) adopted by the Security Council on 29 November 2010;

“resolution 2078” means resolution 2078 (2012) adopted by the Security Council on 28 November 2012;

“resolution 2136” means resolution 2136 (2014) adopted by the Security Council on 30 January 2014;

“resolution 2198” means resolution 2198 (2015) adopted by the Security Council on 29 January 2015;

“resolution 2293” means resolution 2293 (2016) adopted by the Security Council on 23 June 2016;

“resolution 2360” means resolution 2360 (2017) adopted by the Security Council on 21 June 2017;

“trade licence” means a licence under regulation 34;

“Treasury licence” means a licence under regulation 33(1);

“United Kingdom person” has the same meaning as in section 21 of the Act.

Application of prohibitions and requirements outside the United Kingdom

3.—(1) A United Kingdom person may contravene a relevant prohibition by conduct wholly or partly outside the United Kingdom.

(2) Any person may contravene a relevant prohibition by conduct in the territorial sea.

(3) In paragraphs (1) and (2) a “relevant prohibition” means any prohibition imposed by—

(a) regulation 9(2) (confidential information),

(b) Part 3 (Finance),

(c) Part 5 (Trade), or

(d) a condition of a Treasury licence or a trade licence.

(4) A United Kingdom person may comply, or fail to comply, with a relevant requirement by conduct wholly or partly outside the United Kingdom.

(5) Any person may comply, or fail to comply, with a relevant requirement by conduct in the territorial sea.

(6) In paragraphs (4) and (5) a “relevant requirement” means any requirement imposed—

(a) by or under Part 7 (Information and records), or by reason of a request made under a power conferred by that Part, or

(b) by a condition of a Treasury licence or a trade licence.

(7) Nothing in this regulation is to be taken to prevent a relevant prohibition or a relevant requirement from applying to conduct (by any person) in the United Kingdom.

(4) Various provisions of resolution 1807 have been extended by resolution 1857, resolution 1896 (2009) adopted by the Security Council on 30 November 2009, resolution 1952, resolution 2021 (2011) adopted by the Security Council on 29 November 2011, resolution 2078, resolution 2136, resolution 2198, resolution 2293, resolution 2360, and resolution 2424 (2018) adopted by the Security Council on 29 June 2018.

Purposes

4.—(1) The regulations contained in this instrument that are made under section 1 of the Act have the following purposes—

- (a) compliance with the relevant UN obligations, and
- (b) the additional purposes mentioned in paragraph (2).

(2) Those additional purposes are to promote—

- (a) resolution of the armed conflict in the Democratic Republic of the Congo;
- (b) respect for human rights, and compliance with international humanitarian law, including, in particular, in relation to—
 - (i) the right of persons not to be subjected to torture or cruel, inhuman or degrading treatment or punishment in the Democratic Republic of the Congo, including in the context of—
 - (aa) rape, mass rape and other forms of sexual and gender-based violence;
 - (bb) deliberate targeting of civilians, schools and hospitals;
 - (cc) recruitment or use of children as soldiers;
 - (ii) the right of persons in the Democratic Republic of the Congo to the freedom of expression and peaceful assembly;
- (c) respect for democracy, the rule of law and good governance in the Democratic Republic of the Congo;

otherwise than by compliance with the relevant UN obligations.

(3) In this regulation, “the relevant UN obligations” means—

- (a) the obligations the United Kingdom has by virtue of paragraph 1(5) of resolution 1807 (arms embargo and military services provision);
- (b) the obligations the United Kingdom has by virtue of paragraph 11(6) of resolution 1807 (asset freeze) to take the measures required by that provision in respect of persons for the time being named for the purposes of that provision by the Security Council or the Committee;
- (c) the obligations the United Kingdom has by virtue of paragraph 11 of resolution 1807 (asset freeze) in respect of persons—
 - (i) acting on behalf of or at the direction of, or
 - (ii) owned or controlled by,

the persons for the time being named by the Security Council or the Committee for the purposes of paragraph 11 of resolution 1807.

(4) In this regulation, any reference to the obligations that the United Kingdom has by virtue of paragraph 11 of resolution 1807 (asset freeze) is to that provision read with—

- (a) paragraph 4 of resolution 1857;

(5) Paragraph 1 of resolution 1807 was renewed by paragraph 1 of resolution 1857, paragraph 1 of resolution 1896 (2009) adopted by the Security Council on 30 November 2009, paragraph 1 of resolution 1952, paragraph 1 of resolution 2021 (2011) adopted by the Security Council on 29 November 2011, paragraph 1 of resolution 2078, paragraph 1 of resolution 2136, paragraph 1 of resolution 2198, paragraph 1 of resolution 2293, paragraph 1 of resolution 2360, and paragraph 1 of resolution 2424 (2018) adopted by the Security Council on 29 June 2018.

(6) Paragraph 11 of resolution 1807 was renewed by paragraph 3 of resolution 1857, paragraph 3 of resolution 1896 (2009) adopted by the Security Council on 30 November 2009, paragraph 3 of resolution 1952, paragraph 3 of resolution 2021 (2011) adopted by the Security Council on 29 November 2011, paragraph 3 of resolution 2078, paragraph 3 of resolution 2136, paragraph 3 of resolution 2198, paragraph 5 of resolution 2293, paragraph 1 of resolution 2360 and paragraph 1 of resolution 2424 (2018) adopted by the Security Council on 29 June 2018.

- (b) paragraph 9 of resolution 1952;
- (c) paragraph 4 of resolution 2078;
- (d) paragraph 4 of resolution 2136;
- (e) paragraph 5 of resolution 2198;
- (f) paragraph 7 of resolution 2293; and
- (g) paragraph 3 of resolution 2360.