

*Regulations made by the Secretary of State, laid before Parliament under section 55(3) of the Sanctions and Anti-Money Laundering Act 2018, for approval by resolution of each House of Parliament within twenty-eight days beginning with the day on which they are made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.*

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STATUTORY INSTRUMENTS

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**2019 No. 855**

**EXITING THE EUROPEAN UNION  
SANCTIONS**

**The Russia (Sanctions) (EU Exit) Regulations 2019**

*Made - - - - 10th April 2019*

*Laid before Parliament 11th April 2019*

*Coming into force in accordance with regulation 1(2)  
and (3)*

The Secretary of State<sup>(1)</sup>, in exercise of the powers conferred by sections 1(1)(c) and (3)(b), 3(1)(a), (b)(ii) and (iii), (c)(ii) and (iii), (d), (e)(iii), (g)(iii), (2)(b) and (c), 4, 5, 7(2) and (5), 9(2)(a), 10(2)(a) and (c), (3) and (4), 11(2) to (9), 15(2)(a) and (b), (3), (4)(b), (5) and (6), 16, 17(2) to (9), 19, 20, 21(1), 54(1) and (2)(a), 62(4) to (6) of, and paragraphs 2(a)(iii) and (b), 3(a) and (b), 4(a)(iii), (b) and (c), 5(a)(ii) and (iii) and (b), 6(a)(ii) and (iii) and (b), 7(a)(iii) and (b), 9, 10(b), 11(a)(ii) and (iii), 13(a), (b), (c), (g), (h), (i), (k), (l), (m), (n), (p), (q), (t), (v) and (w), 14(a), (e), (f) and (k), 17, 19 to 23 and 27 of Schedule 1 to, the Sanctions and Anti-Money Laundering Act 2018<sup>(2)</sup>, and having decided, upon consideration of the matters set out in section 2(2) of that Act, that it is appropriate to do so, makes the following Regulations:

**PART 1**

**General**

**Citation and commencement**

- 1.—(1) These Regulations may be cited as the Russia (Sanctions) (EU Exit) Regulations 2019.
- (2) Subject to paragraph (3), these Regulations come into force on exit day.

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(1) The power to make regulations under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 is conferred on an “appropriate Minister”. Section 1(9)(a) of the Act defines an “appropriate Minister” as including the Secretary of State.

(2) 2018 c.13.

(3) The following provisions of these Regulations come into force on the day after the day on which the Regulations are made—

- (a) this regulation;
- (b) regulation 2 (interpretation);
- (c) regulation 4 (purposes);
- (d) Part 2;
- (e) Schedule 1 (rules for interpretation of regulations 7(2) and 16(7)).

## 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(3);

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

“conduct” includes acts and omissions;

“Crimea” means the Autonomous Republic of Crimea and the city of Sevastopol;

“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 Russia Regulations” means the following, as they have effect in EU law—

- (a) [Council Regulation \(EU\) No 269/2014](#) of 17 March 2014 (concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine)(4),
- (b) [Council Regulation \(EU\) No 692/2014](#) of 23 June 2014 (concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol)(5), and
- (c) [Council Regulation \(EU\) No 833/2014](#) of 31 July 2014 (concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine)(6);

“trade licence” means a licence under regulation 65;

“Treasury licence” means a licence under regulation 64(1);

the “Ukraine Financial Sanctions Regulations” means—

- (a) The Ukraine (European Union Financial Sanctions) (No.2) Regulations 2014(7), and
- (b) The Ukraine (European Union Financial Sanctions) (No.3) Regulations 2014(8);

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

“working day” means any day other than—

- (a) Saturday or Sunday,

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(3) 1979 c.2. Amendments have been made to this Act and are cited, where relevant, in respect of the applicable regulations.

(4) OJ L 78, 17.3.2014, p. 6–15.

(5) OJ L 183 24.6.2014, p. 9.

(6) OJ L 229, 31.7.2014, p. 1–11.

(7) S.I. 2014/693, as modified by the Wales Act 2014 (c.29), section 4(4)(a) and amended by S.I. 2017/560, S.I. 2017/754 and S.I. 2018/682 and as prospectively amended by S.I. 2018/1149.

(8) S.I. 2014/2054, as amended by S.I. 2014/2445, S.I. 2014/3230, S.I. 2017/560, S.I. 2017/754, 2018/682 and as prospectively amended by S.I. 2018/1149.

- (b) Christmas Day or Good Friday, or
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

### **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 this regulation a “relevant prohibition” means any prohibition imposed—

- (a) by regulation 9(2) (confidential information),
- (b) by Part 3 (Finance),
- (c) by Part 5 (Trade),
- (d) under Part 6 (Ships), or
- (e) by 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 this regulation a “relevant requirement” means any requirement imposed—

- (a) by or under Part 8 (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.

### **Purposes**

4. The regulations contained in this instrument that are made under section 1 of the Act are for the purposes of encouraging Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine.

## **PART 2**

### **Designation of persons**

#### **Power to designate persons**

5.—(1) The Secretary of State may designate persons by name for the purposes of any of the following—

- (a) regulations 11 to 15 (asset-freeze etc.);
- (b) regulation 20 (immigration).

(2) The Secretary of State may designate different persons for the purposes of different provisions mentioned in paragraph (1).

## Designation criteria

6.—(1) The Secretary of State may not designate a person under regulation 5 unless the Secretary of State—

- (a) has reasonable grounds to suspect that that person is an involved person, and
- (b) considers that the designation of that person is appropriate, having regard to—
  - (i) the purposes stated in regulation 4, and
  - (ii) the likely significant effects of the designation on that person (as they appear to the Secretary of State to be on the basis of the information that the Secretary of State has).

(2) In this regulation an “involved person” means a person who—

- (a) is or has been involved in destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine,
- (b) is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person who is or has been so involved,
- (c) is acting on behalf of or at the direction of a person who is or has been so involved, or
- (d) is a member of, or associated with, a person who is or has been so involved.

(3) For the purposes of this regulation a person is “involved in destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine” if—

- (a) the person is responsible for, engaging in, providing support for, or promoting any policy or action which destabilises Ukraine or undermines or threatens the territorial integrity, sovereignty or independence of Ukraine;
- (b) the person provides financial services, or makes available funds, economic resources, goods or technology that could contribute to destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine;
- (c) the person provides financial services, or makes available funds, economic resources, goods or technology, to—
  - (i) a person who is responsible for a policy or action which falls within paragraph (a), or
  - (ii) a person who provides financial services, or makes available funds, economic resources, goods or technology, as mentioned in sub-paragraph (b);
- (d) the person obstructs the work of international organisations in Ukraine;
- (e) the person conducts business with a separatist group in the Donbas region;
- (f) the person is a relevant person trading or operating in Crimea; or
- (g) the person assists with the contravention of a relevant provision.

(4) In paragraph (3)(f), a person (“P”) “is a “relevant person” if—

- (a) P is not an individual;
- (b) the ownership or control of P has been transferred contrary to the law of Ukraine.

(5) In paragraph (2)(d), being “associated with” a person includes obtaining a financial benefit or other material benefit from that person.

(6) In this regulation “relevant provision” means—

- (a) any provision of Part 3 or Part 5;
- (b) any provision of the law of a country other than the United Kingdom made for purposes corresponding to a purpose of any provision of Part 3 or Part 5.

(7) Nothing in any sub-paragraph of paragraph (3) is to be taken to limit the meaning of any of the other sub-paragraphs of that paragraph.

**Meaning of “owned or controlled directly or indirectly”**

7.—(1) A person who is not an individual (“C”) is “owned or controlled directly or indirectly” by another person (“P”) if either of the following two conditions is met (or both are met).

(2) The first condition is that P—

- (a) holds directly or indirectly more than 50% of the shares in C,
- (b) holds directly or indirectly more than 50% of the voting rights in C, or
- (c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.

(3) Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).

(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P’s wishes.

**Notification and publicity where designation power used**

8.—(1) Paragraph (2) applies where the Secretary of State—

- (a) has made a designation under regulation 5, or
- (b) has by virtue of section 22 of the Act varied or revoked a designation made under that regulation.

(2) The Secretary of State—

- (a) must without delay take such steps as are reasonably practicable to inform the designated person of the designation, variation or revocation, and
- (b) must take steps to publicise the designation, variation or revocation.

(3) The information given under paragraph (2)(a) where a designation is made must include a statement of reasons.

(4) In this regulation a “statement of reasons”, in relation to a designation, means a brief statement of the matters that the Secretary of State knows, or has reasonable grounds to suspect, in relation to the designated person which have led the Secretary of State to make the designation.

(5) Matters that would otherwise be required by paragraph (4) to be included in a statement of reasons may be excluded from it where the Secretary of State considers that they should be excluded

- (a) in the interests of national security or international relations,
- (b) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (c) in the interests of justice.

(6) The steps taken under paragraph (2)(b) must—

- (a) unless one or more of the restricted publicity conditions is met, be steps to publicise generally—
  - (i) the designation, variation or revocation, and
  - (ii) in the case of a designation, the statement of reasons;

- (b) if one or more of those conditions is met, be steps to inform only such persons as the Secretary of State considers appropriate of the designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons.
- (7) The “restricted publicity conditions” are as follows—
  - (a) the designation is of a person believed by the Secretary of State to be an individual under the age of 18;
  - (b) the Secretary of State considers that disclosure of the designation, variation or revocation should be restricted—
    - (i) in the interests of national security or international relations,
    - (ii) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or
    - (iii) in the interests of justice.
- (8) Paragraph (9) applies if—
  - (a) when a designation is made one or more of the restricted publicity conditions is met, but
  - (b) at any time when the designation has effect, it becomes the case that none of the restricted publicity conditions is met.
- (9) The Secretary of State must—
  - (a) take such steps as are reasonably practicable to inform the designated person that none of the restricted publicity conditions is now met, and
  - (b) take steps to publicise generally the designation and the statement of reasons relating to it.

### **Confidential information in certain cases where designation power used**

9.—(1) Where the Secretary of State in accordance with regulation 8(6)(b) informs only certain persons of a designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons, the Secretary of State may specify that any of that information is to be treated as confidential.

- (2) A person (“P”) who—
  - (a) is provided with information that is to be treated as confidential in accordance with paragraph (1), or
  - (b) otherwise obtains such information,

must not, subject to paragraph (3), disclose it if P knows, or has reasonable cause to suspect, that the information is to be treated as confidential.

(3) The prohibition in paragraph (2) does not apply to any disclosure made by P with lawful authority.

- (4) For this purpose information is disclosed with lawful authority only if and to the extent that—
  - (a) the disclosure is by, or is authorised by, the Secretary of State,
  - (b) the disclosure is by or with the consent of the person who is or was the subject of the designation,
  - (c) the disclosure is necessary to give effect to a requirement imposed under or by virtue of these Regulations or any other enactment, or
  - (d) the disclosure is required, under rules of court, tribunal rules or a court or tribunal order, for the purposes of legal proceedings of any description.

(5) This regulation does not prevent the disclosure of information that is already, or has previously been, available to the public from other sources.

- (6) A person who contravenes the prohibition in paragraph (2) commits an offence.
- (7) The High Court (in Scotland, the Court of Session) may, on the application of—
  - (a) the person who is the subject of the information, or
  - (b) the Secretary of State,grant an injunction (in Scotland, an interdict) to prevent a breach of the prohibition in paragraph (2).
- (8) In paragraph (4)(c), “enactment” has the meaning given by section 54(6) of the Act.

## PART 3

### Finance

#### CHAPTER 1

##### Finance restrictions in relation to designated persons

#### Meaning of “designated person”

**10.** In this Chapter a “designated person” means a person who is designated under regulation 5 for the purposes of regulations 11 to 15.

#### Asset-freeze in relation to designated persons

**11.—(1)** A person (“P”) must not deal with funds or economic resources owned, held or controlled by a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.
- (4) For the purposes of paragraph (1) a person “deals with” funds if the person—
  - (a) uses, alters, moves, transfers or allows access to the funds,
  - (b) deals with the funds in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or
  - (c) makes any other change, including portfolio management, that would enable use of the funds.
- (5) For the purposes of paragraph (1) a person “deals with” economic resources if the person—
  - (a) exchanges the economic resources for funds, goods or services, or
  - (b) uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise).
- (6) The reference in paragraph (1) to funds or economic resources that are “owned, held or controlled” by a person includes, in particular, a reference to—
  - (a) funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources;
  - (b) any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in the possession of the person.
- (7) For the purposes of paragraph (1) funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

(8) For the avoidance of doubt, the reference in paragraph (1) to a designated person includes P if P is a designated person.

#### **Making funds available to designated person**

**12.—**(1) A person (“P”) must not make funds available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) The reference in paragraph (1) to making funds available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

#### **Making funds available for benefit of designated person**

**13.—**(1) A person (“P”) must not make funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) For the purposes of this regulation—

(a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and

(b) “financial benefit” includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

#### **Making economic resources available to designated person**

**14.—**(1) A person (“P”) must not make economic resources available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect—

(a) that P is making the economic resources so available, and

(b) that the designated person would be likely to exchange the economic resources for, or use them in exchange for, funds, goods or services.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) The reference in paragraph (1) to making economic resources available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

#### **Making economic resources available for benefit of designated person**

**15.—**(1) A person (“P”) must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) For the purposes of paragraph (1)—



- (a) economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and
- (b) “financial benefit” includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

## CHAPTER 2

### Other financial and investment restrictions

#### **Dealing with transferable securities or money-market instruments**

16.—(1) A person (“P”) must not, directly or indirectly, deal with a transferable security or money-market instrument falling within paragraph (2) if P knows, or has reasonable cause to suspect, that P is dealing with such a transferable security or money-market instrument.

(2) A transferable security or money-market instrument falls within this paragraph if it has a maturity exceeding 30 days and is issued after 1 August 2014 by—

- (a) a person mentioned in any of paragraphs 1 to 5 of Schedule 2;
- (b) a person, other than an individual, which is—
  - (i) incorporated or constituted under the law of a non-UK country, and
  - (ii) owned by a person within sub-paragraph (a); or
- (c) a person, other than an individual, acting on behalf or at the direction of a person within sub-paragraph (a) or sub-paragraph (b).

(3) A person (“P”) must not, directly or indirectly, deal with a transferable security or money-market instrument falling within paragraph (4) if P knows, or has reasonable cause to suspect, that P is dealing with such a transferable security or money-market instrument.

(4) A transferable security or money-market instrument falls within this paragraph if it has a maturity exceeding 30 days and is issued after 12 September 2014 by—

- (a) a person mentioned in any of paragraphs 6 to 11 of Schedule 2;
- (b) a person, other than an individual, which is—
  - (i) incorporated or constituted under the law of a non-UK country, and
  - (ii) owned by a person within sub-paragraph (a); or
- (c) a person, other than an individual, acting on behalf or at the direction of a person within sub-paragraph (a) or sub-paragraph (b).

(5) Paragraphs (1) and (3) are subject to regulation 63 (exception for acts done for purposes of national security or prevention of serious crime).

(6) A person who contravenes a prohibition in paragraph (1) or (3) commits an offence.

(7) For the purposes of this regulation, and regulations 17 (loans and credit arrangements) and 59 (exceptions relating to loans and credit arrangements), a person (“C”) is “owned” by another person (“P”) if P—

- (a) holds directly or indirectly more than 50% of the shares in C, or
- (b) holds directly or indirectly more than 50% of the voting rights in C.

(8) Schedule 1 applies for the purpose of interpreting paragraph (7).

(9) For the purposes of this regulation, a reference to “dealing with” a transferable security or money-market instrument includes a reference to purchasing or selling the security or instrument, providing investment services relating to the security or instrument or assisting in the issuance of the security or instrument.

(10) In this regulation—

“investment services” means—

- (a) the reception and transmission of orders in relation to one or more financial instruments,
- (b) the execution of orders on behalf of clients,
- (c) dealing on own account,
- (d) portfolio management,
- (e) the provision of investment advice,
- (f) the underwriting of financial instruments or placing of financial instruments on a firm commitment basis,
- (g) the placing of financial instruments without a firm commitment basis, or
- (h) any service in relation to the admission to trading on a regulated market or trading on a multilateral trading facility;

“money-market instrument” means an instrument of a kind normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers, excluding instruments of payment;

“non-UK country” means a country that is not the United Kingdom;

“transferable security” means a security, negotiable on the capital market, of any of the following kinds, but excluding instruments of payment—

- (a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;
- (b) bonds or other forms of securitised debt, including depositary receipts in respect of such securities;
- (c) any other securities giving the right to purchase or sell any security of a kind mentioned in paragraph (a) or (b).

### **Loans and credit arrangements**

17.—(1) A person (“P”) must not directly or indirectly grant a relevant loan if P knows, or has reasonable cause to suspect, that P is granting a relevant loan.

(2) A person must not directly or indirectly enter into any arrangement to grant a relevant loan if the person knows, or has reasonable cause to suspect, that the arrangement relates to a relevant loan.

(3) Paragraphs (1) and (2) are subject to regulations 59 and 63 (exceptions).

(4) A person who contravenes a prohibition in paragraph (1) or (2) commits an offence.

(5) In this regulation—

“non-UK country” means a country that is not the United Kingdom;

“relevant loan” means a loan or credit—

- (a) with a maturity exceeding 30 days,
- (b) made or granted to a relevant person, and
- (c) which is first made or granted at any time after exit day;

“relevant person” means—

- (a) a person falling within Schedule 2;
- (b) a person, other than an individual, which is—
  - (i) incorporated or constituted under the law of a non-UK country, and
  - (ii) owned (within the meaning of regulation 16(7)) by a person within subparagraph (a); or

- (c) a person, other than an individual, acting on behalf or at the direction of a person within sub-paragraph (a) or sub-paragraph (b).

### **Investments in relation to Crimea**

**18.**—(1) A person (“P”) must not carry on an activity mentioned in paragraph (2) if P knows, or has reasonable cause to suspect, that P is carrying on such an activity.

(2) The activities in this paragraph are—

- (a) directly or indirectly acquiring or extending a participation, or acquiring any ownership interest, in land located in Crimea;
  - (b) directly or indirectly acquiring or extending a participation, or acquiring any ownership interest in or control over, a relevant entity;
  - (c) directly or indirectly granting any loan or credit, entering into any arrangement to grant any loan or credit, or otherwise providing funds, including for example equity capital—
    - (i) to a relevant entity, or
    - (ii) for the documented purpose of financing any such entity;
  - (d) directly or indirectly establishing any joint venture—
    - (i) in Crimea, or
    - (ii) with a relevant entity;
  - (e) providing investment services directly related to an activity referred to in sub-paragraphs (a) to (d) above.
- (3) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (4) A person who contravenes a prohibition in paragraph (1) commits an offence.
- (5) In this regulation—
- “investment services” has the same meaning as it has in regulation 16;
  - “relevant entity” means a person, other than an individual, which has a place of business located in Crimea.

## CHAPTER 3

### Further provision

### **Circumventing etc. prohibitions**

**19.**—(1) A person must not intentionally participate in activities knowing that the object or effect of them is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in regulations 11 to 18, or
  - (b) to enable or facilitate the contravention of any such prohibition.
- (2) A person who contravenes the prohibition in paragraph (1) commits an offence.

## PART 4

### Immigration

#### Immigration

**20.** A person who is designated under regulation 5 for the purposes of this regulation is an excluded person for the purposes of section 8B of the Immigration Act 1971<sup>(9)</sup>.

## PART 5

### Trade

#### CHAPTER 1

#### Interpretation

#### Interpretation of this Part

**21.**—(1) In this Part—

“brokering service” means any service to secure, or otherwise in relation to, an arrangement, including (but not limited to)—

- (a) the selection or introduction of persons as parties or potential parties to the arrangement,
- (b) the negotiation of the arrangement,
- (c) the facilitation of anything that enables the arrangement to be entered into, and
- (d) the provision of any assistance that in any way promotes or facilitates the arrangement;

“dual-use goods” means—

- (a) any thing for the time being specified in Annex I of the Dual-Use Regulation, other than any thing which is dual-use technology, and
- (b) any tangible storage medium on which dual-use technology is recorded or from which it can be derived;

“the Dual-Use Regulation” means Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items;

“dual-use technology” means any thing for the time being specified in Annex I of the Dual-Use Regulation which is described as software or technology;

“energy-related goods” means any thing falling within Part 2 of Schedule 3;

“infrastructure-related goods” means any thing falling within Part 3 of Schedule 3;

“military goods” means—

- (a) any thing for the time being specified in Schedule 2 to the Export Control Order 2008<sup>(10)</sup>, other than any thing which is military technology, and
- (b) any tangible storage medium on which military technology is recorded or from which it can be derived;

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<sup>(9)</sup> 1971 c. 77, as amended by the Immigration and Asylum Act 1999 (c.33), s.8 and the Immigration Act 2016 (c.19), s.76.

<sup>(10)</sup> S.I. 2008/3231. Schedule 2 was substituted by S.I. 2017/85 and subsequently amended by S.I. 2017/697 and S.I. 2018/165. There are other instruments which amend other parts of the Order.

“military technology” means any thing for the time being specified in Schedule 2 to the Export Control Order 2008 which is described as software or technology;

“technical assistance”, in relation to goods or technology, means—

- (a) technical support relating to the repair, development, production, assembly, testing, use or maintenance of the goods or technology, or
- (b) any other technical service relating to the goods or technology;

“technology” has the meaning given in paragraph 37 of Schedule 1 to the Act;

“transfer” has the meaning given in paragraph 37 of Schedule 1 to the Act.

(2) For the purposes of this Part, a person is to be regarded as “connected with” Russia if the person is—

- (a) an individual who is, or an association or combination of individuals who are, ordinarily resident in Russia,
- (b) an individual who is, or an association or combination of individuals who are, located in Russia,
- (c) a person, other than an individual, which is incorporated or constituted under the law of Russia, or
- (d) a person, other than an individual, which is domiciled in Russia.

(3) For the purposes of this Part, a person is to be regarded as “connected with” Crimea if the person is—

- (a) an individual who is, or an association or combination of individuals who are, ordinarily resident in Crimea,
- (b) an individual who is, or an association or combination of individuals who are, located in Crimea, or
- (c) a person, other than an individual, which has its registered office, central administration or principal place of business located in Crimea.

(4) Paragraphs 32 to 36 of Schedule 1 to the Act (trade sanctions) apply for the purpose of interpreting expressions in this Part.

(5) In this Part, any reference to the United Kingdom includes a reference to the territorial sea.

## CHAPTER 2

### Military goods, military technology and related activities

#### **Export of military goods**

22.—(1) The export of military goods to, or for use in, Russia is prohibited.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

#### **Import of arms and related materiel**

23.—(1) The import of arms and related materiel which are consigned from Russia is prohibited.

(2) The import of arms and related materiel which originate in Russia is prohibited.

(3) Paragraphs (1) and (2) are subject to Part 7 (Exceptions and licences).

(4) In this regulation “arms and related materiel” means—

- (a) military goods, and
- (b) any thing which falls within chapter 93 of the Goods Classification Table, other than military goods.

(5) For the purposes of the definition of “arms and related materiel”, whether a thing “falls within chapter 93 of the Goods Classification Table” is to be interpreted in accordance with paragraph 1 of Schedule 3.

### **Supply and delivery of military goods**

**24.**—(1) A person must not—

- (a) directly or indirectly supply or deliver military goods from a third country to a place in Russia;
- (b) directly or indirectly supply or deliver military goods from a place in Russia to a third country.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) to show that the person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for Russia;
- (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the supply or delivery was from a place in Russia, whether directly or indirectly.

(4) In this regulation “third country” means a country that is not the United Kingdom, the Isle of Man or Russia.

### **Making available or acquiring military goods and military technology**

**25.**—(1) A person must not—

- (a) directly or indirectly make military goods or military technology available to a person connected with Russia;
- (b) directly or indirectly make military goods or military technology available for use in Russia;
- (c) directly or indirectly acquire military goods or military technology from a person connected with Russia;
- (d) directly or indirectly acquire military goods or military technology which originate in Russia;
- (e) directly or indirectly acquire military goods or military technology located in Russia.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

- (a) it is a defence for a person charged with an offence of contravening paragraph (1)(a) or (c) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Russia;
- (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for use in Russia;
- (c) it is a defence for a person charged with the offence of contravening paragraph (1)(d) to show that the person did not know and had no reasonable cause to suspect that the goods or technology originated in Russia;

- (d) it is a defence for a person charged with the offence of contravening paragraph (1)(e) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were located in Russia.

### **Transfer of military technology**

- 26.**—(1) A person must not—
- (a) transfer military technology to a place in Russia;
  - (b) transfer military technology to a person connected with Russia;
  - (c) transfer military technology to persons outside the United Kingdom or to a place outside the United Kingdom, where the transfer is from a place in Russia.
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—
- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) to show that the person did not know and had no reasonable cause to suspect that the transfer was to a place in Russia;
  - (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Russia;
  - (c) it is a defence for a person charged with the offence of contravening paragraph (1)(c) to show that the person did not know and had no reasonable cause to suspect that the transfer was from a place in Russia.

### **Technical assistance relating to military goods and military technology**

- 27.**—(1) A person must not directly or indirectly provide technical assistance relating to military goods or military technology—
- (a) to a person connected with Russia, or
  - (b) for use in Russia.
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—
- (a) it is a defence for a person charged with an offence of contravening paragraph (1)(a) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Russia;
  - (b) it is a defence for a person charged with an offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for use in Russia.

### **Financial services and funds relating to military goods and military technology**

- 28.**—(1) A person must not directly or indirectly provide, to a person connected with Russia, financial services in pursuance of or in connection with an arrangement whose object or effect is—
- (a) the export of military goods,
  - (b) the direct or indirect supply or delivery of military goods,
  - (c) directly or indirectly making military goods or military technology available to a person,
  - (d) the transfer of military technology, or

- (e) the direct or indirect provision of technical assistance relating to military goods or military technology.
- (2) A person must not directly or indirectly make funds available to a person connected with Russia in pursuance of or in connection with an arrangement mentioned in paragraph (1).
- (3) A person must not directly or indirectly provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—
  - (a) the export of military goods to, or for use in, Russia;
  - (b) the direct or indirect supply or delivery of military goods to a place in Russia;
  - (c) directly or indirectly making military goods or military technology available—
    - (i) to a person connected with Russia, or
    - (ii) for use in Russia;
  - (d) the transfer of military technology—
    - (i) to a person connected with Russia, or
    - (ii) to a place in Russia; or
  - (e) the direct or indirect provision of technical assistance relating to military goods or military technology—
    - (i) to a person connected with Russia, or
    - (ii) for use in Russia.
- (4) A person must not directly or indirectly procure financial services from a person connected with Russia in pursuance of or in connection with an arrangement mentioned in paragraph (1).
- (5) A person must not directly or indirectly procure financial services in pursuance of or in connection with an arrangement mentioned in paragraph (3).
- (6) Paragraphs (1) to (5) are subject to Part 7 (Exceptions and licences).
- (7) A person who contravenes a prohibition in any of paragraphs (1) to (5) commits an offence, but—
  - (a) it is a defence for a person charged with an offence of contravening paragraph (1), (2) or (4) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Russia;
  - (b) it is a defence for a person charged with the offence of contravening paragraph (3) to show that the person did not know and had no reasonable cause to suspect that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in that paragraph;
  - (c) it is a defence for a person charged with the offence of contravening paragraph (5) to show that the person did not know and had no reasonable cause to suspect that the financial services were procured in pursuance of or in connection with an arrangement mentioned in paragraph (3).

#### **Brokering services: non-UK activity relating to military goods and military technology**

- 29.**—(1) A person must not directly or indirectly provide brokering services in relation to an arrangement (“arrangement A”) whose object or effect is—
- (a) the direct or indirect supply or delivery of military goods from a third country to a place in Russia;
  - (b) directly or indirectly making military goods available in a third country for direct or indirect supply or delivery—



- (i) to a person connected with Russia, or
    - (ii) to a place in Russia;
  - (c) directly or indirectly making military technology available in a third country for transfer—
    - (i) to a person connected with Russia, or
    - (ii) to a place in Russia;
  - (d) the transfer of military technology from a place in a third country—
    - (i) to a person connected with Russia, or
    - (ii) to a place in Russia;
  - (e) the direct or indirect provision, in a non-UK country, of technical assistance relating to military goods or military technology—
    - (i) to a person connected with Russia, or
    - (ii) for use in Russia;
  - (f) the direct or indirect provision, in a non-UK country, of financial services—
    - (i) to a person connected with Russia, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28(1), or
    - (ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28(3);
  - (g) directly or indirectly making funds available, in a non-UK country, to a person connected with Russia, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28(1); or
  - (h) the direct or indirect provision of funds from a non-UK country, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28(3).
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the brokering services were provided in relation to an arrangement mentioned in that paragraph.
- (4) In this regulation—
- “non-UK country” means a country that is not the United Kingdom;
  - “third country” means—
    - (a) for the purposes of paragraph (1)(a) and (b), a country that is not the United Kingdom, the Isle of Man or Russia,
    - (b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom or Russia.

### **Enabling or facilitating military activities**

- 30.**—(1) A person must not directly or indirectly provide—
- (a) technical assistance,
  - (b) armed personnel,
  - (c) financial services or funds, or

(d) brokering services in relation to an arrangement whose object or effect is to provide, in a non-UK country, anything mentioned in sub-paragraphs (a) to (c), where such provision enables or facilitates the conduct of military activities carried on or proposed to be carried on by the Russian military or any other military end-user who is a person connected with Russia.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the provision as mentioned in paragraph (1) would enable or facilitate the conduct of military activities carried on or proposed to be carried on by the Russian military or any other military end-user who is a person connected with Russia.

(4) In this regulation—

“non-UK country” means a country that is not the United Kingdom;

“technical assistance” means the provision of technical support or any other technical service.

(5) Nothing in this regulation is to be taken to limit the meaning of any of the prohibitions contained in this Part.

## CHAPTER 3

### Dual-use goods, dual-use technology and related activities

#### Interpretation of this Chapter

**31.** For the purposes of this Chapter—

(a) goods are “for military use” if they are—

- (i) for use by the Russian military or any other military end-user, or
- (ii) for any military use;

(b) technology is “for military use” if it—

- (i) relates to military activities carried on or proposed to be carried on by the Russian military or any other military end-user, or
- (ii) is for any military use.

#### Export of dual-use goods

**32.**—(1) The export to Russia of dual-use goods for military use is prohibited.

(2) The export of dual-use goods for military use in Russia is prohibited.

(3) The export of dual-use goods to or for use by a person mentioned in Schedule 4 is prohibited.

(4) Paragraphs (1) and (2) are subject to Part 7 (Exceptions and licences).

#### Supply and delivery of dual-use goods

**33.**—(1) A person must not—

- (a) directly or indirectly supply or deliver dual-use goods for military use from a third country to a place in Russia;
- (b) directly or indirectly supply or deliver dual-use goods from a third country to or for use by a person mentioned in Schedule 4.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) to show that the person did not know and had no reasonable cause to suspect that—
    - (i) the goods were destined (or ultimately destined) for Russia, or
    - (ii) the goods were for military use;
  - (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom, or for whose use, the goods were supplied or delivered was a person mentioned in Schedule 4.
- (4) In this regulation “third country” means a country that is not the United Kingdom, the Isle of Man or Russia.

### **Making dual-use goods and dual-use technology available**

- 34.**—(1) A person must not—
- (a) directly or indirectly make available, to a person connected with Russia, dual-use goods for military use or dual-use technology for military use;
  - (b) directly or indirectly make available dual-use goods for military use in Russia or dual-use technology for military use in Russia;
  - (c) directly or indirectly make dual-use goods available to or for use by a person mentioned in Schedule 4.
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—
- (a) it is a defence for a person charged with an offence of contravening paragraph (1)(a) (“P”) to show that P did not know and had no reasonable cause to suspect that—
    - (i) the person was connected with Russia, or
    - (ii) the goods or technology were for military use;
  - (b) it is a defence for a person charged with an offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for military use in Russia;
  - (c) it is a defence for a person charged with an offence of contravening paragraph (1)(c) (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom or for whose benefit the goods were made available was a person mentioned in Schedule 4.

### **Transfer of dual-use technology**

- 35.**—(1) A person must not—
- (a) transfer dual-use technology for military use to a place in Russia;
  - (b) transfer dual-use technology for military use to a person connected with Russia;
  - (c) transfer dual-use technology to a person mentioned in Schedule 4.
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—
- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) to show that the person did not know and had no reasonable cause to suspect that—
    - (i) the transfer was to a place in Russia, or
    - (ii) the technology was for military use;

- (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) (“P”) to show that P did not know and had no reasonable cause to suspect that—
  - (i) the person was connected with Russia, or
  - (ii) the technology was for military use;
- (c) it is a defence for a person charged with an offence of contravening paragraph (1)(c) (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom the technology was transferred was a person mentioned in Schedule 4.

### **Technical assistance relating to dual-use goods and dual-use technology**

- 36.**—(1) A person must not directly or indirectly—
- (a) provide technical assistance relating to dual-use goods for military use or dual-use technology for military use to a person connected with Russia;
  - (b) provide technical assistance relating to dual-use goods for military use in Russia or dual-use technology for military use in Russia;
  - (c) provide technical assistance relating to dual-use goods or dual-use technology to a person mentioned in Schedule 4;
  - (d) provide technical assistance relating to dual-use goods or dual-use technology for use by a person mentioned in Schedule 4.
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—
- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) (“P”) to show that P did not know and had no reasonable cause to suspect that—
    - (i) the person was connected with Russia, or
    - (ii) the goods or technology were for military use;
  - (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for military use in Russia;
  - (c) it is a defence for a person charged with the offence of contravening paragraph (1)(c) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was a person mentioned in Schedule 4;
  - (d) it is a defence for a person charged with the offence of contravening paragraph (1)(d) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for use by a person mentioned in Schedule 4.

### **Financial services and funds relating to dual-use goods and dual-use technology**

- 37.**—(1) A person must not directly or indirectly provide, to a person connected with Russia, financial services in pursuance of or in connection with an arrangement whose object or effect is—
- (a) the export of dual-use goods for military use,
  - (b) the direct or indirect supply or delivery of dual-use goods for military use,
  - (c) directly or indirectly making dual-use goods for military use or dual-use technology for military use available to a person,
  - (d) the transfer of dual-use technology for military use, or
  - (e) the direct or indirect provision of technical assistance relating to dual-use goods for military use or dual-use technology for military use.

(2) A person must not directly or indirectly make funds available to a person connected with Russia in pursuance of or in connection with an arrangement mentioned in paragraph (1).

(3) A person must not directly or indirectly provide, to a person mentioned in Schedule 4, financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export of dual-use goods,
- (b) the direct or indirect supply or delivery of dual-use goods,
- (c) directly or indirectly making dual-use goods or technology available to a person,
- (d) the transfer of dual-use technology, or
- (e) the direct or indirect provision of technical assistance relating to dual-use goods or dual-use technology.

(4) A person must not directly or indirectly provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export to Russia of dual-use goods for military use;
- (b) the export of dual-use goods for military use in Russia;
- (c) the export of dual-use goods to or for use by a person mentioned in Schedule 4;
- (d) the direct or indirect supply or delivery of dual-use goods for military use to a place in Russia;
- (e) the direct or indirect supply or delivery of dual-use goods to or for use by a person mentioned in Schedule 4;
- (f) directly or indirectly making available, to a person connected with Russia, dual-use goods for military use or dual-use technology for military use;
- (g) directly or indirectly making available dual-use goods for military use in Russia or dual-use technology for military use in Russia;
- (h) directly or indirectly making dual-use goods or dual-use technology available to or for use by a person mentioned in Schedule 4.
- (i) the transfer of dual-use technology for military use—
  - (i) to a person connected with Russia, or
  - (ii) to a place in Russia;
- (j) the transfer of dual-use technology to a person mentioned in Schedule 4;
- (k) the direct or indirect provision of technical assistance relating to dual-use goods for military use or dual-use technology for military use to a person connected with Russia;
- (l) the direct or indirect provision of technical assistance relating to dual-use goods for military use in Russia or dual-use technology for military use in Russia;
- (m) the direct or indirect provision of technical assistance relating to dual-use goods or dual-use technology to a person mentioned in Schedule 4;
- (n) the direct or indirect provision of technical assistance relating to dual-use goods or dual-use technology for use by a person mentioned in Schedule 4.

(5) Paragraphs (1) to (4) are subject to Part 7 (Exceptions and licences).

(6) A person who contravenes a prohibition in any of paragraphs (1) to (4) commits an offence, but—

- (a) it is a defence for a person charged with an offence of contravening a prohibition in paragraph (1) or (2) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Russia;

- (b) it is a defence for a person charged with an offence of contravening a prohibition in paragraph (3) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was a person mentioned in Schedule 4;
- (c) it is a defence for a person charged with an offence of contravening a prohibition in paragraph (4) to show that the person did not know and had no reasonable cause to suspect that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in that paragraph.

**Brokering services: non-UK activity relating to dual-use goods and dual-use technology**

**38.**—(1) A person (“P”) must not directly or indirectly provide brokering services in relation to an arrangement (“arrangement A”) whose object or effect is—

- (a) the direct or indirect supply or delivery of dual-use goods for military use from a third country to a place in Russia;
- (b) the direct or indirect supply or delivery of dual-use goods to or for use by a person mentioned in Schedule 4;
- (c) directly or indirectly making dual-use goods for military use available in a third country for direct or indirect supply or delivery—
  - (i) to a person connected with Russia, or
  - (ii) to a place in Russia;
- (d) directly or indirectly making dual-use technology for military use available in a third country for transfer—
  - (i) to a person connected with Russia, or
  - (ii) to a place in Russia;
- (e) directly or indirectly making dual-use goods or dual-use technology available to or for use by a person mentioned in Schedule 4.
- (f) the transfer of dual-use technology for military use from a place in a third country—
  - (i) to a person connected with Russia, or
  - (ii) to a place in Russia;
- (g) the transfer of dual-use technology from a place in a third country to a person mentioned in Schedule 4;
- (h) the direct or indirect provision, in a non-UK country, of technical assistance relating to dual-use goods for military use or dual-use technology for military use—
  - (i) to a person connected with Russia, or
  - (ii) for use in Russia;
- (i) the direct or indirect provision, in a non-UK country, of technical assistance relating to dual-use goods or dual-use technology to a person mentioned in Schedule 4.
- (j) the direct or indirect provision, in a non-UK country, of financial services—
  - (i) to a person connected with Russia, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 37(1), or
  - (ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 37(3);
- (k) directly or indirectly making funds available, in a non-UK country, to a person connected with Russia, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 37(1); or

- (1) the direct or indirect provision of funds from a non-UK country, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 37(3).
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the brokering services were provided in relation to an arrangement mentioned in that paragraph.
- (4) In this regulation—
  - “non-UK country” means a country that is not the United Kingdom;
  - “third country” means—
    - (a) for the purposes of paragraph (1)(a) and (c), a country that is not the United Kingdom, the Isle of Man or Russia,
    - (b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom or Russia.

## CHAPTER 4

### Energy-related goods and related activities

#### Interpretation of this Chapter

**39.** For the purposes of this Chapter “Russia” includes Russia’s exclusive economic zone and continental shelf (which terms are to be interpreted in accordance with the United Nations Convention on the Law of the Sea)(11).

#### Export of energy-related goods

- 40.**—(1) The export of energy-related goods for use in Russia is prohibited.
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

#### Supply and delivery of energy-related goods

- 41.**—(1) A person must not directly or indirectly supply or deliver energy-related goods for use in Russia from a third country to a place in Russia.
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that—
  - (a) the goods were destined (or ultimately destined) for Russia, or
  - (b) the goods were for use in Russia.
- (4) In this regulation “third country” means a country that is not the United Kingdom, the Isle of Man or Russia.

#### Making energy-related goods available

**42.**—(1) A person must not directly or indirectly make energy-related goods available for use in Russia.

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(11) Command 8941.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the goods were for use in Russia.

#### **Technical assistance relating to energy-related goods**

**43.**—(1) A person must not directly or indirectly—

- (a) provide technical assistance relating to energy-related goods for use in Russia; or
- (b) provide, to a person connected with Russia, technical assistance relating to energy-related goods.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

- (a) it is a defence for a person charged with the offence in paragraph (1)(a) to show that the person did not know and had no reasonable cause to suspect that the goods were for use in Russia;
- (b) it is a defence for a person charged with the offence in paragraph (1)(b) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Russia.

#### **Financial services and funds relating to energy-related goods and energy-related technology**

**44.**—(1) A person must not directly or indirectly provide, to a person connected with Russia, financial services in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export of energy-related goods,
- (b) the direct or indirect supply or delivery of energy-related goods,
- (c) directly or indirectly making energy-related goods available to a person, or
- (d) the direct or indirect provision of technical assistance relating to energy-related goods.

(2) A person must not directly or indirectly make funds available to a person connected with Russia in pursuance of or in connection with an arrangement mentioned in paragraph (1).

(3) A person must not directly or indirectly provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export to Russia of energy-related goods for use in Russia;
- (b) the direct or indirect supply or delivery of energy-related goods for use in Russia;
- (c) directly or indirectly making energy-related goods available for use in Russia;
- (d) the direct or indirect provision of technical assistance relating to energy-related goods to a person connected with Russia;
- (e) the direct or indirect provision of technical assistance relating to energy-related goods for use in Russia;

(4) Paragraphs (1) to (3) are subject to Part 7 (Exceptions and licences).

(5) A person who contravenes a prohibition in any of paragraphs (1) to (3) commits an offence, but—

- (a) it is a defence for a person charged with an offence of contravening a prohibition in paragraph (1) or (2) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Russia;



- (b) it is a defence for a person charged with an offence of contravening a prohibition in paragraph (3) to show that the person did not know and had no reasonable cause to suspect that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned that paragraph.

### **Brokering services: non-UK activity relating to energy-related goods and energy-related technology**

**45.**—(1) A person (“P”) must not directly or indirectly provide brokering services in relation to an arrangement (“arrangement A”) whose object or effect is—

- (a) the direct or indirect supply or delivery of energy-related goods for use in Russia from a third country to a place in Russia;
- (b) directly or indirectly making energy-related goods available for use in Russia;
- (c) the direct or indirect provision, in a non-UK country, of technical assistance relating to energy-related goods—
  - (i) to a person connected with Russia, or
  - (ii) for use in Russia;
- (d) the direct or indirect provision, in a non-UK country, of financial services—
  - (i) to a person connected with Russia, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 44(1), or
  - (ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 44(3);
- (e) directly or indirectly making funds available, in a non-UK country, to a person connected with Russia, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 44(1); or
- (f) the direct or indirect provision of funds from a non-UK country, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 44(3).

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the brokering services were provided in relation to an arrangement mentioned in that paragraph.

(4) In this regulation—

“non-UK country” means a country that is not the United Kingdom;

“third country” means a country that is not the United Kingdom, the Isle of Man or Russia.

### **Prohibition on providing other energy-related services**

**46.**—(1) A person must not provide, directly or indirectly, relevant energy services.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the person was providing relevant energy services.

(4) In this regulation—

“relevant energy services” means specified services necessary for a relevant oil exploration or production project;

“relevant oil exploration or production project” means a project in Russia within any of the following descriptions—

- (a) oil exploration and production in waters deeper than 150 metres;
- (b) oil exploration and production in the offshore area north of the Arctic Circle; or
- (c) a project that has the potential to produce oil from resources located in shale formations by way of hydraulic fracturing, excluding exploration and production through shale formations to locate or extract oil from non-shale reservoirs;

“specified services” means any of the following—

- (a) drilling;
- (b) well testing;
- (c) logging and completion services;
- (d) supply of specialised floating vessels.

## CHAPTER 5

### Exports and imports, and related activities, in relation to Crimea

#### **Imports from Crimea**

- 47.**—(1) The import of goods which originate in Crimea is prohibited.
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

#### **Export of infrastructure-related goods to Crimea**

- 48.**—(1) The export of infrastructure-related goods to, or for use in, Crimea, is prohibited.
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

#### **Supply and delivery of infrastructure-related goods**

- 49.**—(1) A person must not directly or indirectly supply or deliver infrastructure-related goods from a third country to a place in Crimea.
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for Crimea.
- (4) In this regulation, “third country” means a country that is not the United Kingdom, the Isle of Man or Crimea.

#### **Making infrastructure-related goods available**

- 50.**—(1) A person must not—
- (a) directly or indirectly make infrastructure-related goods available to a person connected with Crimea;
  - (b) directly or indirectly make infrastructure-related goods available for use in Crimea.
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Crimea;
- (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the goods were for use in Crimea.

**Technical assistance relating to infrastructure-related goods**

**51.**—(1) A person must not directly or indirectly provide technical assistance relating to infrastructure-related goods—

- (a) to a person connected with Crimea, or
  - (b) for use in Crimea.
- (2) Paragraph (1) is subject to Part 7 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—
- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Crimea;
  - (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the goods were for use in Crimea.

**Financial services and funds relating to infrastructure-related goods etc.**

**52.**—(1) A person must not directly or indirectly provide, to a person connected with Crimea, financial services in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export of infrastructure-related goods,
  - (b) the direct or indirect supply or delivery of infrastructure-related goods,
  - (c) directly or indirectly making infrastructure-related goods available to a person, or
  - (d) the direct or indirect provision of technical assistance relating to infrastructure-related goods.
- (2) A person must not directly or indirectly make funds available to a person connected with Crimea in pursuance of or in connection with an arrangement mentioned in paragraph (1).
- (3) A person must not directly or indirectly provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—
- (a) the import of goods which originate in Crimea;
  - (b) the export of infrastructure-related goods to, or for use in, Crimea,
  - (c) the direct or indirect supply or delivery of infrastructure-related goods to a place in Crimea,
  - (d) directly or indirectly making infrastructure-related goods available—
    - (i) to a person connected with Crimea, or
    - (ii) for use in Crimea,
  - (e) the direct or indirect provision of technical assistance relating to infrastructure-related goods—
    - (i) to a person connected with Crimea, or
    - (ii) for use in Crimea.

- (4) Paragraphs (1) to (3) are subject to Part 7 (Exceptions and licences).
- (5) A person who contravenes a prohibition in any of paragraphs (1) to (3) commits an offence, but—
- (a) it is a defence for a person charged with an offence of contravening paragraph (1) or (2) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Crimea;
  - (b) it is a defence for a person charged with an offence of contravening a prohibition in paragraph (3) to show that the person did not know and had no reasonable cause to suspect that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in that paragraph.

**Brokering services: non-UK activity relating to infrastructure-related goods and goods from Crimea**

**53.**—(1) A person must not directly or indirectly provide brokering services in relation to an arrangement (“arrangement A”) whose object or effect is—

- (a) the import of goods which originate in Crimea;
- (b) the direct or indirect supply or delivery of infrastructure-related goods from a third country to a place in Crimea,
- (c) directly or indirectly making infrastructure-related goods available in a third country for direct or indirect supply or delivery—
  - (i) to a person connected with Crimea, or
  - (ii) to a place in Crimea,
- (d) the direct or indirect provision, in a non-UK country, of technical assistance relating to infrastructure-related goods—
  - (i) to a person connected with Crimea, or
  - (ii) for use in Crimea,
- (e) the direct or indirect provision, in a non-UK country, of financial services—
  - (i) to a person connected with Crimea, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 52(1), or
  - (ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 52(3) in relation to infrastructure-related goods,
- (f) directly or indirectly making funds available, in a non-UK country, to a person connected with Crimea, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 52(1), or
- (g) the direct or indirect provision of funds from a non-UK country, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 52(3) in relation to infrastructure-related goods.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the brokering services were provided in relation to an arrangement mentioned in that paragraph.

(4) In this regulation—

“non-UK country” means a country that is not the United Kingdom;

“third country” means a country that is not the United Kingdom, the Isle of Man or Crimea.

## CHAPTER 6

### Other services relating to Crimea

#### **Prohibition on providing certain services relating to Crimea**

**54.**—(1) A person must not provide—

- (a) services relating to a relevant infrastructure sector in Crimea; or
- (b) services relating to tourism in Crimea.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but—

- (a) it is a defence for a person charged with the offence in paragraph (1)(a) (“P”) to show that P did not know and had no reasonable cause to suspect that P was providing services relating to a relevant infrastructure sector in Crimea;
- (b) it is a defence for a person charged with the offence in paragraph (1)(b) (“P”) to show that P did not know and had no reasonable cause to suspect that P was providing services relating to tourism in Crimea.

(4) In this regulation—

“services relating to a relevant infrastructure sector in Crimea” means technical assistance, brokering, construction or engineering services directly relating to infrastructure in Crimea in any of the following sectors—

- (a) transport;
- (b) telecommunications;
- (c) energy;
- (d) the prospection, exploration and production of oil, gas and mineral resources;

“technical assistance” means the provision of technical support or any other technical service.

## CHAPTER 7

### Further provision

#### **Circumventing etc. prohibitions**

**55.**—(1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

- (a) to circumvent any of the prohibitions in Chapters 2 to 6 of this Part, or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person who contravenes a prohibition in paragraph (1) commits an offence.

#### **Defences**

**56.**—(1) Paragraph (2) applies where a person relies on a defence under any of Chapters 2 to 6 of this Part.

(2) If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

## PART 6

### Ships

#### **Movement of ships**

**57.**—(1) The Secretary of State may give a Crimean ports direction to a master or pilot of a British ship which is a cruise ship.

(2) In this regulation, a “Crimean ports direction” is a direction prohibiting a ship from entering a port or any ports located in Crimea.

(3) It is an offence for a person to whom a direction under this regulation is given to fail to comply with the direction.

(4) A Crimean ports direction—

(a) may be given to any master or pilot of a British ship which is a cruise ship, or to masters and pilots of British ships which are cruise ships generally;

(b) may be of indefinite duration or a defined duration.

(5) The Secretary of State may vary, revoke or suspend a Crimean ports direction at any time.

(6) In this regulation, “cruise ship” means a ship providing cruise services.

(7) Any expression used in this Part and in section 7 of the Act (shipping sanctions) has the same meaning in this Part as it has in that section.

## PART 7

### Exceptions and licences

#### **Asset-freeze etc.: exceptions from prohibitions**

**58.**—(1) The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person (“P”) transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—

(a) is held by P, and

(b) is not held jointly with the designated person.

(2) In paragraph (1) “independent person” means a person who—

(a) is not the designated person, and

(b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

(3) The prohibitions in regulations 11 to 13 (asset-freeze in relation to, and making funds available to or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account with interest or other earnings due on the account.

(4) The prohibitions in regulations 12 and 13 (making funds available to, or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account where it receives funds transferred to that institution for crediting to that account.

(5) The prohibitions in regulations 12 and 13 are not contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.

(6) The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person (“P”) by a transfer of funds from account A to account B, where—

- (a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000(12),
- (b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000(13), and
- (c) accounts A and B are held or controlled (directly or indirectly) by P.

(7) In this regulation—

“designated person” has the same meaning as it has in Chapter 1 Part 3 (Finance);

“frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person;

“relevant institution” means a person that has permission under Part 4A of the Financial Services and Markets Act 2000(14) (permission to carry on regulated activity).

(8) The definition of “relevant institution” in paragraph (7) is to be read with section 22 of the Financial Services and Markets Act 2000(15), any relevant order under that section(16) and Schedule 2 to that Act(17).

### **Exceptions relating to loans and credit arrangements**

**59.**—(1) The prohibitions in regulation 17 (loans and credit arrangements) are not contravened by the grant of—

- (a) a relevant loan that has a specific and documented objective of making funds available for non-restricted trade;
- (b) a relevant loan that has a specific and documented objective of making emergency funds available to meet applicable solvency or liquidity criteria for a relevant subsidiary;
- (c) a relevant loan consisting of a drawdown or disbursement made under an arrangement entered into before 15th September 2014, where the conditions in paragraph (2) are met.

(2) The conditions referred to in paragraph (1)(c) are that—

- (a) all the terms and conditions of such drawdowns or disbursements—
  - (i) were agreed before 15th September 2014;
  - (ii) have not been modified on or after that date; and
- (b) a contractual maturity date has been fixed for the repayment in full of all funds made available and for the cancellation of all the rights and obligations under the arrangement.

(3) In this regulation—

“non-restricted trade” means any trade that is not prohibited under Part 5;

“relevant loan” has the meaning given to it in regulation 17;

“relevant subsidiary” means a person, other than an individual, which is—

- (a) incorporated or constituted under the law of any part of the United Kingdom, and

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(12) 2000 c.8. Section 142D was inserted by section 4(1) of the Financial Services (Banking Reform) Act 2013 (c.33).

(13) Section 142A was inserted by section 4(1) of the Financial Services (Banking Reform) Act 2013 (c.33).

(14) Part 4A was inserted by the Financial Services Act 2012 (c.21), section 11(2) and amended by S.I. 2018/135.

(15) Section 22 was amended by; the Financial Guidance and Claims Act 2018 (c.10), Part 2, s.27(4); the Financial Services Act 2012, section 7(1); and S.I. 2018/135.

(16) S.I. 2001/544, as amended by S.I. 2017/500.

(17) Schedule 2 was amended by; the Dormant Bank and Building Society Accounts Act 2008 (c.31), section 15, Schedule 2, para. 1; the Regulation of Financial Services (Land Transactions) Act 2003 (c.24), section 1; the Financial Services Act 2012, section 7(2) to (5) and section 8; S.I. 2013/1881; and it is prospectively amended by S.I. 2018/135.

- (b) owned (within the meaning of regulation 16(7)) by a person mentioned in paragraphs 1 to 5 of Schedule 2.

### **Exceptions relating to investments in relation to Crimea**

**60.**—(1) The prohibitions in regulation 18 (investments in relation to Crimea) are not contravened by any act done by a person (“P”) in satisfaction of an obligation of P arising under a contract concluded before 20 December 2014, or an ancillary contract necessary for the satisfaction of such a contract, provided that P has notified the Treasury no later than the day five working days before the day on which the act is carried out.

(2) The prohibitions in regulation 18 are not contravened by activities carried on by a person with entities outside Crimea where the related investment is not destined for an entity in Crimea.

### **Trade: exception for emergencies in certain cases**

**61.**—(1) The prohibitions in regulations 40 to 45 (prohibitions relating to energy-related goods etc.) and regulations 48 to 54 (prohibitions relating to infrastructure in Crimea etc.) are not contravened by a person (“P”) where the P provides justification to the Secretary of State within the relevant period that the act is an act dealing with an emergency.

(2) In this regulation—

“an act dealing with an emergency” means an act assisting with the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health or safety, infrastructure or the environment;

“relevant period”, in relation to an act, means the period of 5 working days beginning with the day on which the act is done.

### **Exception relating to trade restrictions in relation to Crimea**

**62.**—(1) A prohibition in regulation 47 (imports from Crimea) or regulation 52(3)(a) (financial services and funds in relation to imports from Crimea) is not contravened by any action in relation to goods which—

- (a) originate in Crimea, and
- (b) are the subject of a certificate of origin.

(2) In this regulation a “certificate of origin” means a document issued by the Government of Ukraine or a person acting on behalf of the Government of Ukraine confirming that the goods originate in Ukraine.

### **Exception for acts done for purposes of national security or prevention of serious crime**

**63.**—(1) Where an act would, in the absence of this paragraph, be prohibited by regulation 9(2)(confidentiality) or any prohibition in Part 3 (Finance) or 5 (Trade), or under or by virtue of Part 6 (Ships) that prohibition does not apply to the act if the act is one which a responsible officer has determined would be in the interests of—

- (a) national security, or
- (b) the prevention or detection of serious crime in the United Kingdom or elsewhere.

(2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 8 (Information and records) or Part 10 (Maritime enforcement), that requirement does not apply if a responsible officer has determined that not doing the thing in question would be in the interests of—



- (a) national security, or
- (b) the prevention or detection of serious crime in the United Kingdom or elsewhere.

(3) In this regulation “responsible officer” means a person in the service of the Crown or holding office under the Crown, acting in the course of that person’s duty.

### **Treasury licences**

**64.**—(1) The prohibitions in regulations 11 to 15 (asset-freeze etc.) and 18 (investments in relation to Crimea) do not apply to anything done under the authority of a licence issued by the Treasury under this paragraph.

- (2) The Treasury may issue a licence which authorises acts by a particular person only—
  - (a) in the case of acts which would otherwise be prohibited by regulations 11 to 15, where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Part 1 of Schedule 5, and
  - (b) in the case of acts which would otherwise be prohibited by regulation 18, where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Part 2 of Schedule 5.

### **Trade licences**

**65.** The prohibitions in Chapters 2 to 6 of Part 5 (Trade) do not apply to anything done under the authority of a licence issued by the Secretary of State under this regulation.

### **Licences: general provisions**

- 66.**—(1) This regulation applies in relation to Treasury licences and trade licences.
- (2) A licence must specify the acts authorised by it.
  - (3) A licence may be general or may authorise acts by a particular person or persons of a particular description.
  - (4) A licence may —
    - (a) contain conditions;
    - (b) be of indefinite duration or a defined duration.
  - (5) A person who issues a licence may vary, revoke or suspend it at any time.
  - (6) A person who issues, varies, revokes or suspends a licence which authorises acts by a particular person must give written notice to that person of the issue, variation, revocation or suspension of the licence.
  - (7) A person who issues, varies, revokes or suspends a general licence or a licence which authorises acts by persons of a particular description must take such steps as that person considers appropriate to publicise the issue, variation, revocation or suspension of the licence.

### **Finance: licensing offences**

- 67.**—(1) A person (“P”) commits an offence if P knowingly or recklessly—
  - (a) provides information that is false in a material respect, or
  - (b) provides or produces a document that is not what it purports to be,for the purpose of obtaining a Treasury licence (whether for P or anyone else).
- (2) A person who purports to act under the authority of a Treasury licence but who fails to comply with any condition of the licence commits an offence.

### **Trade: licensing offences**

- 68.**—(1) A person (“P”) commits an offence if P knowingly or recklessly—
- (a) provides information that is false in a material respect, or
  - (b) provides or produces a document that is not what it purports to be,
- for the purpose of obtaining a trade licence (whether for P or anyone else).
- (2) A person who purports to act under the authority of a trade licence but who fails to comply with any condition of the licence commits an offence.
- (3) A licence in respect of which an offence under paragraph (1) has been committed is to be treated as void from the time at which it was issued.

### **Section 8B(1) to (3) of Immigration Act 1971: directions**

- 69.**—(1) The Secretary of State may direct that, in relation to any person within regulation 20 whose name is specified, or who is of a specified description, section 8B(1) and (2) of the Immigration Act 1971, or section 8B(3) of that Act, have effect subject to specified exceptions.
- (2) A direction under this regulation—
- (a) may contain conditions.
  - (b) must be of a defined duration (and that duration may be expressed in any way, including, for example, being expressed in a way such that the direction ceases to have effect on, or within a specified period after, the occurrence of a specified event).
- (3) The Secretary of State may vary, revoke or suspend a direction under this regulation at any time.
- (4) On the issue, variation, revocation or suspension of a direction under this regulation, the Secretary of State may take such steps as the Secretary of State considers appropriate to publicise the issue, variation, revocation or suspension of the direction.
- (5) In this regulation “specified” means specified in a direction under this regulation.

## **PART 8**

### **Information and records**

#### **Finance: reporting obligations**

- 70.**—(1) A relevant firm must inform the Treasury as soon as practicable if—
- (a) it knows, or has reasonable cause to suspect, that a person—
    - (i) is a designated person, or
    - (ii) has committed an offence under any provision of Part 3 (Finance) or regulation 67 (finance: licensing offences), and
  - (b) the information or other matter on which the knowledge or cause for suspicion is based came to it in the course of carrying on its business.
- (2) Where a relevant firm informs the Treasury under paragraph (1), it must state—
- (a) the information or other matter on which the knowledge or suspicion is based, and
  - (b) any information it holds about the person by which the person can be identified.
- (3) Paragraph (4) applies if—

- (a) a relevant firm informs the Treasury under paragraph (1) that it knows, or has reasonable cause to suspect, that a person is a designated person, and
  - (b) that person is a customer of the relevant firm.
- (4) The relevant firm must also state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion.
- (5) A relevant institution must inform the Treasury without delay if that institution—
- (a) credits a frozen account in accordance with regulation 58(4) (finance: exceptions from prohibitions), or
  - (b) transfers funds from a frozen account in accordance with regulation 58(6).
- (6) A person who fails to comply with a requirement in paragraph (1), (2) or (4) commits an offence.
- (7) In this regulation—
- “designated person” has the same meaning as it has in Chapter 1 of Part 3 (Finance);
  - “frozen account” has the same meaning as it has in regulation 58;
  - “relevant firm” is to be read in accordance with regulation 71;
  - “relevant institution” has the same meaning as it has in regulation 58.

**“Relevant firm”**

- 71.—**(1) The following are relevant firms for the purposes of regulation 70—
- (a) a person that has permission under Part 4A of the Financial Services and Markets Act 2000 (permission to carry on regulated activity);
  - (b) an undertaking that by way of business—
    - (i) operates a currency exchange office,
    - (ii) transmits money (or any representation of monetary value) by any means, or
    - (iii) cashes cheques that are made payable to customers;
  - (c) a firm or sole practitioner that is—
    - (i) a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (statutory auditors)(**18**), or
    - (ii) a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014 (general requirements for audit)(**19**);
  - (d) a firm or sole practitioner that provides to other persons, by way of business—
    - (i) accountancy services,
    - (ii) legal or notarial services,
    - (iii) advice about tax affairs, or
    - (iv) trust or company services within the meaning of paragraph (2);
  - (e) a firm or sole practitioner that carries out, or whose employees carry out, estate agency work;
  - (f) the holder of a casino operating licence within the meaning given by section 65(2)(a) of the Gambling Act 2005 (nature of a licence)(**20**);

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**(18)** 2006 c.46. Section 1210 was amended by; S.I. 2017/516; S.I. 2017/1164; S.I. 2013/3115; S.I. 2012/1809; S.I. 2008/1950; S.I. 2008/567; and S.I. 2008/565.

**(19)** 2014 c.2.

**(20)** 2005 c.19.

- (g) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging—
  - (i) articles made from gold, silver, platinum or palladium, or
  - (ii) precious stones or pearls.
- (2) In paragraph (1) “trust or 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—
    - (i) a trustee of an express trust or similar legal arrangement, or
    - (ii) a nominee shareholder for a person.
- (3) In paragraph (1)—
 

“estate agency work” is to be read in accordance with section 1 of the Estate Agents Act 1979(21), but as if references in that section to disposing of or acquiring an interest in land included (despite anything in section 2 of that Act) references to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest;

“firm” means any entity that, whether or not a legal person, is not an individual, and includes a body corporate and a partnership or other unincorporated body.
- (4) Paragraph (1)(a) and (b) is to be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.
- (5) For the purposes of regulation 70(1), information or another matter comes to a relevant firm “in the course of carrying on its business” if the information or other matter comes to the firm—
  - (a) in the case of a relevant firm within paragraph(1)(a), in the course of carrying on an activity in respect of which the permission mentioned in that provision is required;
  - (b) in the case of a relevant firm within paragraph (1)(c)(i), in the course of carrying out statutory audit work within the meaning of section 1210 of the Companies Act 2006 (meaning of statutory auditor)(22);
  - (c) in the case of a relevant firm within paragraph (1)(c)(ii), in the course of carrying out an audit required by the Local Audit and Accountability Act 2014;
  - (d) in the case of a relevant firm within paragraph (1)(f), in the course of carrying on an activity in respect of which the licence mentioned in that provision is required;
  - (e) in the case of a relevant firm within any other provision of paragraph (1), in the course of carrying on an activity mentioned in that provision.

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(21) 1979 c.38, amended by paragraph 40 of Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73); paragraph 42 of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11); paragraph 28 of Schedule 2 to the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11); section 70 of the Enterprise and Regulatory Reform Act 2013 (c.24); S.I. 2001/1283; S.I. 2000/121; and S.I. 1991/2684.

(22) Section 1210 has been amended by S.I. 2017/516, S.I. 2017/1164, S.I. 2008/565 and S.I. 2008/1950.

## **Finance: powers to request information**

- 72.—(1) The Treasury may request a designated person to provide information about—
- (a) funds or economic resources owned, held or controlled by or on behalf of the designated person, or
  - (b) any disposal of such funds or economic resources.
- (2) The Treasury may request a designated person to provide such information as the Treasury may reasonably require about expenditure—
- (a) by the designated person, or
  - (b) for the benefit of the designated person.
- (3) For the purposes of paragraph (2), expenditure for the benefit of a designated person includes expenditure on the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.
- (4) The power in paragraph (1) or (2) is exercisable only where the Treasury believe that it is necessary for the purpose of monitoring compliance with or detecting evasion of any provision of Part 3 (Finance).
- (5) The Treasury may request a person acting under a Treasury licence to provide information about—
- (a) funds or economic resources dealt with under the licence,
  - (b) funds, economic resources or financial services made available under the licence, or
  - (c) any matter to which a licence relates, where that licence authorises an act that would otherwise be prohibited under regulation 18 (investments in Crimea).
- (6) The Treasury may request a person to provide information within paragraph (7) if the Treasury believe that the person may be able to provide the information.
- (7) Information within this paragraph is such information as the Treasury may reasonably require for the purpose of—
- (a) establishing for the purposes of any provision of Chapter 1 of Part 3 (Finance)—
    - (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated person,
    - (ii) the nature and amount or quantity of any funds, financial services or economic resources made available directly or indirectly to, or for the benefit of, a designated person, or
    - (iii) the nature of any financial transactions entered into by a designated person;
  - (b) monitoring compliance with or detecting evasion of—
    - (i) any provision of Part 3,
    - (ii) regulation 70 (finance: reporting obligations), or
    - (iii) any condition of a Treasury licence;
  - (c) detecting or obtaining evidence of the commission of an offence under Part 3 or regulation 67 (finance: licensing offences) or 70 (finance: reporting obligations).
- (8) The Treasury may specify the way in which, and the period within which, information is to be provided.
- (9) If no such period is specified, the information which has been requested must be provided within a reasonable time.
- (10) A request may include a continuing obligation to keep the Treasury informed as circumstances change, or on such regular basis as the Treasury may specify.

(11) Information requested under this regulation may relate to any period of time during which a person is, or was, a designated person.

(12) Information requested by virtue of paragraph (1)(b), (2) or (7)(a)(iii) may relate to any period before a person became a designated person (as well as, or instead of, any subsequent period).

(13) Expressions used in this regulation have the same meaning as they have in Part 3.

### **Finance: production of documents**

**73.**—(1) A request under regulation 72 may include a request to produce specified documents or documents of a specified description.

(2) Where the Treasury request that documents be produced, the Treasury may—

- (a) take copies of or extracts from any document so produced,
- (b) request any person producing a document to give an explanation of it, and
- (c) where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is—
  - (i) in the case of a partnership, a present or past partner or employee of the partnership, or
  - (ii) in any other case, a present or past officer or employee of the body concerned, to give such an explanation.

(3) Where the Treasury request a designated person or a person acting under a Treasury licence to produce documents, that person must—

- (a) take reasonable steps to obtain the documents (if they are not already in the person’s possession or control);
- (b) keep the documents under the person’s possession or control (except for the purpose of providing them to the Treasury or as the Treasury may otherwise permit).

(4) In this regulation “designated person” has the same meaning as it has in Chapter 1 of Part 3 (Finance).

### **Finance: information offences**

**74.**—(1) A person commits an offence, if that person—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request under regulation 72 (finance: powers to request information);
- (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;
- (c) with intent to evade any provision of regulation 72 or 73 (finance: production of documents), destroys, mutilates, defaces, conceals or removes any document;
- (d) otherwise intentionally obstructs the Treasury in the exercise of their powers under regulation 72 or 73.

(2) Where a person is convicted of an offence under this regulation, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

### **Trade: application of information powers in CEMA**

**75.**—(1) Section 77A of CEMA(23) applies in relation to a person carrying on a relevant activity as it applies in relation to a person concerned in the importation or exportation of goods but as if—

- (a) in subsection (1), the reference to a person concerned in the importation or exportation of goods for which for that purpose an entry is required by regulation 5 of the Customs Controls on Importation of Goods Regulations 1991(24) or an entry or specification is required by or under CEMA were to a person carrying on a relevant activity;
  - (b) any other reference to importation or exportation were to a relevant activity;
  - (c) any reference to goods were to the goods, technology, services or funds to which the relevant activity relates.
- (2) For the purposes of paragraph (1), a “relevant activity” means an activity—
- (a) which would, unless done under the authority of a trade licence, constitute a contravention of any prohibition in Chapters 2 to 6 of Part 5 (Trade), except any prohibition on imports or exports, or
  - (b) which would constitute a contravention of the prohibition in regulation 55(1) (circumventing etc. prohibitions).

### **General trade licences: records**

**76.**—(1) This regulation applies in relation to a person (“P”) who does any act authorised by a general licence issued under regulation 65 (trade licences) (“the licence”).

(2) P must keep a register or record containing such details as may be necessary to allow the following information to be identified in relation to each act done under the authority of the licence—

- (a) a description of the act;
- (b) a description of any goods, technology, services or funds to which the act relates;
- (c) the date of the act or the dates between which the act took place;
- (d) the quantity of any goods or funds to which the act relates;
- (e) P’s name and address;
- (f) the name and address of any consignee of goods to which the act relates or any recipient of technology, services or funds to which the act relates;
- (g) in so far as it is known to P, the name and address of the end-user of the goods, technology, services or funds to which the act relates;
- (h) if different from P, the name and address of the supplier of any goods to which the act relates;
- (i) any further information required by the licence.

(3) The register or record relating to an act must be kept until the end of the calendar year in which the register or record is created and for a further period of 4 years from the end of that calendar year.

(4) P must notify the Secretary of State in writing of P’s name and the address at which the register or record may be inspected, and must make a further such notification if those details change.

(5) A notification under paragraph (4) must be given no later than 30 days after—

- (a) P first does any act authorised by the licence, or
- (b) there is any change to the details previously notified.

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(23) Section 77A was inserted by the Finance Act 1987 (c.16), section 10 and amended by S.I. 1992/3095.

(24) S.I. 1991/2724 as amended by S.I. 1992/3095, S.I. 1993/3014 and S.I. 2011/1043 and is prospectively revoked by S.I. 2018/1247.



(6) A person who fails to comply with a requirement in paragraph (2), (3) or (4) commits an offence.

### **General trade licences: inspection of records**

77.—(1) A person authorised by the Secretary of State or the Commissioners (an “official”) may at any reasonable hour enter premises notified under regulation 76(4) for the purposes of monitoring compliance with or detecting evasion of regulation 76(2) or (3).

(2) An official may require any person on the premises to produce any register or record required to be kept under regulation 76, or any document included in such a register or record, that is in the person’s possession or control.

(3) An official may inspect and copy any such register, record or document.

(4) An official must, if requested to do so, produce documentary evidence that he or she is authorised to exercise a power conferred by this regulation.

(5) A person commits an offence if, without reasonable excuse, the person—

- (a) intentionally obstructs an official in the performance of any of the official’s functions under this regulation, or
- (b) fails to produce a register, record or document when reasonably required to do so by an official under this regulation.

### **Disclosure of information**

78.—(1) The Secretary of State, the Treasury or the Commissioners may, in accordance with this regulation, disclose—

- (a) any information obtained under or by virtue of Part 7 (Exceptions and licences), this Part or Part 10 (Maritime enforcement), or
- (b) any information held in connection with—
  - (i) anything done under or by virtue of Part 2 (Designation of persons), Part 3 (Finance), Part 5 (Trade), Part 6 (Ships), or
  - (ii) any exception or licence under Part 7 or anything done in accordance with such an exception or under the authority of such a licence.

(2) Information referred to in paragraph (1) may be disclosed for, or in connection with, any of the following purposes—

- (a) any purpose stated in regulation 4;
- (b) the exercise of functions under these Regulations;
- (c) facilitating, monitoring or ensuring compliance with these Regulations;
- (d) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the United Kingdom—
  - (i) for an offence under any provision of these Regulations,
  - (ii) for an offence under CEMA in connection with any prohibition in Part 5 on imports or exports, or
  - (iii) in relation to a monetary penalty under section 146 of the Policing and Crime Act 2017 (breach of financial sanctions legislation);
- (e) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in any of the Channel Islands, the Isle of Man, or any British overseas territory, for an offence—



- (i) under a provision in any such jurisdiction that is similar to a provision of these Regulations, or
    - (ii) in connection with a prohibition in any such jurisdiction that is similar to a prohibition referred to in sub-paragraph (d)(ii);
  - (f) compliance with an international obligation<sup>(25)</sup>;
  - (g) facilitating the exercise by an authority outside the United Kingdom or by an international organisation of functions which correspond to functions under these Regulations.
- (3) Information referred to in paragraph (1) may be disclosed to the following persons—
- (a) a police officer;
  - (b) any person holding or acting in any office under or in the service of—
    - (i) the Crown in right of the Government of the United Kingdom,
    - (ii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government,
    - (iii) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark,
    - (iv) the Government of the Isle of Man, or
    - (v) the Government of any British overseas territory;
  - (c) any law officer of the Crown for Jersey, Guernsey or the Isle of Man;
  - (d) the Scottish Legal Aid Board;
  - (e) the Financial Conduct Authority, the Prudential Regulation Authority, the Bank of England, the Jersey Financial Services Commission, the Guernsey Financial Services Commission or the Isle of Man Financial Services Authority;
  - (f) any other regulatory body (whether or not in the United Kingdom);
  - (g) any organ of the United Nations;
  - (h) the Council of the European Union, the European Commission or the European External Action Service;
  - (i) the Government of any country;
  - (j) any other person where the Secretary of State, the Treasury or the Commissioners (as the case may be) consider that it is appropriate to disclose the information.
- (4) Information referred to in paragraph (1) may be disclosed to any person with the consent of a person who, in their own right, is entitled to the information.
- (5) In paragraph (4) “in their own right” means not merely in the capacity as a servant or agent of another person.
- (6) In paragraph (1)(b)—
- (a) the reference to information includes information obtained at a time when any provision of these Regulations is not in force, and
  - (b) the reference to a licence under Part 7 includes—
    - (i) a licence or authorisation which has effect or is treated as if it were a licence which had been issued under that Part, and
    - (ii) a licence which is deemed to have been issued under that Part.

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<sup>(25)</sup> Section 1(8) of the Act defines an “international obligation” as an obligation of the United Kingdom created or arising by or under any international agreement.

## Part 7: supplementary

**79.**—(1) A disclosure of information under regulation 78 does not breach any restriction on such disclosure imposed by statute or otherwise.

(2) But nothing in that regulation authorises a disclosure that—

- (a) contravenes the data protection legislation, or
- (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016<sup>(26)</sup>.

(3) Nothing in this Part is to be read as requiring a person who has acted or is acting as counsel or solicitor for any person to disclose any privileged information in their possession in that capacity.

(4) Regulation 78 does not limit the circumstances in which information may be disclosed apart from that regulation.

(5) Nothing in this Part limits any conditions which may be contained in a Treasury licence or a trade licence.

(6) In this regulation—

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act)<sup>(27)</sup>;

“privileged information” means information with respect to which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

## PART 9

### Enforcement

#### Penalties for offences

**80.**—(1) A person who commits an offence under any provision of Part 3 (Finance), regulation 67 (finance: licensing offences) or Part 6 (Ships) is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both);
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
- (d) on conviction on indictment, to imprisonment for a term not exceeding 7 years or a fine (or both).

(2) A person who commits an offence under any provision of Part 5 (Trade) is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both);
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);

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<sup>(26)</sup> 2016 c.25. Parts 2 and 5 have been amended by the Policing and Crime Act 2017 (c.3), Schedule 9(3), para 74 and Part 7 has been amended by the Data Protection Act 2018 (c. 12), Schedule 19(1), para 202. Chapter 1 of Part 9 has been amended by regulation 6 of the Investigatory Powers Act 2016 (Commencement No. 3 and Transitory, Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/859).

<sup>(27)</sup> 2018 c.12. There are amendments to this Act that are not relevant to these Regulations.

- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
  - (d) on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine (or both).
- (3) A person who commits an offence under regulation 9(6) (confidentiality), 68 (trade: licensing offences), 76(6) (general trade licences: records) or 77(5) (general trade licences: inspection of records) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
  - (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (4) A person who commits an offence under regulation 70(6) or 74 (information offences in connection with Part 3) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 6 months or a fine (or both);
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both);
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (5) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003(28) comes into force the reference in each of paragraphs (1)(a), (2)(a) and (3)(a) to 12 months is to be read as a reference to 6 months.

#### **Liability of officers of bodies corporate etc.**

**81.**—(1) Where an offence under these Regulations, committed by a body corporate—

- (a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or
- (b) is attributable to any neglect on the part of any such person,

that person as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Paragraph (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—

- (a) in the case of a partnership, to a partner;
- (b) in the case of an unincorporated body other than a partnership—
  - (i) where the body’s affairs are managed by its members, to a member of the body;
  - (ii) in any other case, to a member of the governing body.

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(28) 2003 c.44. Amendments have been made to section 154(1), but none are relevant to these Regulations.

(4) Section 171(4) of CEMA (which is a provision similar to this regulation) does not apply to any offence under these Regulations to which that provision would, in the absence of this paragraph, apply.

### **Jurisdiction to try offences**

**82.**—(1) Where an offence under regulation 9(6) (confidentiality), Part 3 (Finance), regulation 67 (finance: licensing offences) or regulation 70(6) or 74 (information offences in connection with Part 3) is committed in the United Kingdom—

- (a) proceedings for the offence may be taken at any place in the United Kingdom, and
- (b) the offence may for all incidental purposes be treated as having been committed at any such place.

(2) Where an offence under these Regulations is committed outside the United Kingdom—

- (a) proceedings for the offence may be taken at any place in the United Kingdom, and
- (b) the offence may for all incidental purposes be treated as having been committed at any such place.

(3) In the application of paragraph (2) to Scotland, any such proceedings against a person may be taken—

- (a) in any sheriff court district in which the person is apprehended or is in custody, or
- (b) in such sheriff court district as the Lord Advocate may determine.

(4) In paragraph (3) “sheriff court district” is to be read in accordance with the Criminal Procedure (Scotland) Act 1995 (see section 307(1) of that Act)(**29**).

### **Procedure for offences by unincorporated bodies**

**83.**—(1) Paragraphs (2) and (3) apply if it is alleged that an offence under these Regulations has been committed by an unincorporated body (as opposed to by a member of the body).

(2) Proceedings in England and Wales or Northern Ireland for such an offence must be brought against the body in its own name.

(3) For the purposes of proceedings, for such an offence brought against an unincorporated body

- (a) rules of court relating to the service of documents have effect as if the body were a body corporate;
- (b) the following provisions apply as they apply in relation to a body corporate
  - (i) section 33 of the Criminal Justice Act 1925(**30**) and Schedule 3 to the Magistrates’ Courts Act 1980(**31**);
  - (ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945(**32**) and Article 166 of, and Schedule 4 to, the Magistrates’ Courts (Northern Ireland) Order 1981(**33**).

(4) A fine imposed on an unincorporated body on its conviction of an offence under these Regulations is to be paid out of the funds of the body.

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(29) 1995 c.46.

(30) 1925 c.8, as amended by Statute Law (Repeals) Act 2004 (c.14), section 1(1) and (3) and Schedule 1(17)(11), para. 1. Other amendments have been made to section 33 that are not relevant to these Regulations.

(31) 1980 c.43. Amendments have been made to Schedule 3 that are not relevant to these Regulations.

(32) 1945 c.15 (N.I.).

(33) S.I. 1981/1675 (N.I. 26).

### Time limit for proceedings for summary offences

**84.**—(1) Proceedings for an offence under these Regulations which is triable only summarily may be brought within the period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the prosecutor’s knowledge.

(2) But such proceedings may not be brought by virtue of paragraph (1) more than 3 years after the commission of the offence.

(3) A certificate signed by the prosecutor as to the date on which the evidence in question came to the prosecutor’s knowledge is conclusive evidence of the date on which it did so; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

(4) In relation to proceedings in Scotland—

- (a) section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date of commencement of summary proceedings)**(34)** applies for the purposes of this regulation as it applies for the purposes of that section, and
- (b) references in this regulation to the prosecutor are to be treated as references to the Lord Advocate.

### Trade enforcement: application of CEMA

**85.**—(1) Where the Commissioners investigate or propose to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that a relevant offence has been committed, or
- (b) whether a person should be prosecuted for such an offence,

the matter is to be treated as an assigned matter.

(2) In paragraph (1) “assigned matter” has the meaning given by section 1(1) of CEMA**(35)**.

(3) In this regulation a “relevant offence” means an offence under—

- (a) Part 5 (Trade),
- (b) regulation 68 (trade: licensing offences),
- (c) regulation 76(6) (general trade licences: records), or
- (d) regulation 77(5) (general trade licences: inspection of records).

(4) Section 138 of CEMA**(36)** (arrest of persons) applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, a relevant offence as it applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, an offence for which the person is liable to be arrested under the customs and excise Acts, but as if—

- (a) any reference to an offence under, or for which a person is liable to be arrested under, the customs and excise Acts were to a relevant offence;
- (b) in subsection (2), the reference to any person so liable were to a person who has committed, or whom there are reasonable grounds to suspect of having committed, a relevant offence.

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**(34)** There have been no amendments to section 136(3).

**(35)** The definition of “assigned matter” in section 1(1) of CEMA was amended by the Commissioners for Revenue and Customs Act 2005 (c.11), Schedule 4, paragraph 22(a), the Scotland Act 2012 (c. 11), section 24(7), the Wales Act 2014 (c.29), section 7(1).

**(36)** Section 138 of CEMA was amended by; the Police and Criminal Evidence Act 1984 (c. 60), section 114(1), Schedule 6, paragraph 37, and Part 1 of Schedule 7; the Finance Act 1988 (c. 39), section 11; the Serious and Organised Crime Act 2005 (c. 15), Part 4 of Schedule 7, paragraph 54; S.I 1989/1341; and S.I. 2007/288.

(5) The provisions of CEMA mentioned in paragraph (6) apply in relation to proceedings for a relevant offence as they apply in relation to proceedings for an offence under the customs and excise Acts, but as if—

- (a) any reference to the customs and excise Acts were to any of the provisions mentioned in paragraph (3)(a) to (d);
- (b) in section 145(6), the reference to an offence for which a person is liable to be arrested under the customs and excise Acts were to a relevant offence;
- (c) in section 151, the reference to any penalty imposed under the customs and excise Acts were to any penalty imposed under these Regulations in relation to a relevant offence;
- (d) in section 154(2)—
  - (i) the reference to proceedings relating to customs or excise were to proceedings under any of the provisions mentioned in paragraph (3)(a) to (d), and
  - (ii) the reference to the place from which any goods have been brought included a reference to the place to which goods have been exported, supplied or delivered or the place to or from which technology has been transferred.

(6) The provisions of CEMA are sections 145, 146, 147, 148(1), 150, 151, 152, 154 and 155(37) (legal proceedings).

#### **Trade offences in CEMA: modification of penalty**

**86.**—(1) Paragraph (2) applies where a person is guilty of an offence under section 50(2) of CEMA in connection with a prohibition mentioned in regulations 23 or 47(1) (imports).

(2) Where this paragraph applies, the reference to 7 years in section 50(4)(b) of CEMA(38) is to be read as a reference to 10 years.

(3) Paragraph (4) applies where a person is guilty of an offence under section 68(2) of CEMA in connection with a prohibition mentioned in regulations 22(1), 32, 40(1) or 48 (exports).

(4) Where this paragraph applies, the reference to 7 years in section 68(3)(b) of CEMA(39) is to be read as a reference to 10 years.

(5) Paragraph (6) applies where a person is guilty of an offence under section 170(2) of CEMA in connection with a prohibition mentioned in regulation 22(1), 23, 32, 40(1), 47(1) or 48 (exports and imports).

(6) Where this paragraph applies, the reference to 7 years in section 170(3)(b) of CEMA(40) is to be read as a reference to 10 years.

#### **Application of Chapter 1 of Part 2 of Serious Organised Crime and Police Act 2005**

**87.** Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005 (investigatory powers)(41) applies to any offence under Part 3 (Finance) or regulation 67 (finance: licensing offences).

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(37) Section 145 of CEMA was amended by the Police and Criminal Evidence Act 1984, section 114(1), the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraph 23(a), and S.I. 2014/834. Section 147 was amended by the Criminal Justice Act 1982 (c. 48), Schedule 14, paragraph 42, the Finance Act 1989, section 16(2), and the Criminal Justice Act 2003, Part 2 of Schedule 3, paragraph 50. Section 152 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraph 26, and Schedule 5. Section 155 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraph 27, and Schedule 5.

(38) The words “7 years” were inserted in section 50(4)(b) of CEMA by the Finance Act 1988, section 12.

(39) The words “7 years” were inserted in section 68(3)(b) of CEMA by the Finance Act 1988, section 12.

(40) The words “7 years” were inserted in section 170(3)(b) of CEMA by the Finance Act 1988, section 12.

(41) 2005 c.15, as amended by Schedule 3, para. 4 of the Act.

## Monetary penalties

**88.** Each provision in Part 5 (Trade) which contains a prohibition imposed for a purpose mentioned in section 3(1) or (2) of the Act is to be regarded as not being financial sanctions legislation for the purposes of Part 8 of the Policing and Crime Act 2017(42).

## PART 10

### Maritime enforcement

#### Exercise of maritime enforcement powers

**89.**—(1) A maritime enforcement officer may, for a purpose mentioned in paragraph (2) or (3), exercise any of the maritime enforcement powers in relation to—

- (a) a British ship in foreign waters or international waters,
- (b) a ship without nationality in international waters, or
- (c) a foreign ship in international waters,

and a ship within sub-paragraph (a), (b) or (c) is referred to in this Part as “a relevant ship”.

(2) The maritime enforcement powers may be exercised for the purpose of enforcing any of the following—

- (a) a prohibition in any of regulations 22 to 26 (trade sanctions relating to military goods and military technology);
- (b) a prohibition in any of regulations 32 to 35 (trade sanctions relating to dual-use goods and dual-use technology);
- (c) a prohibition in any of regulations 40 to 42 (trade sanctions relating to energy-related goods);
- (d) a prohibition in any of regulation 47 to 50 (exports and imports etc.. in relation to Crimea);
- (e) a prohibition imposed by a condition of a trade licence in relation to a prohibition mentioned in sub-paragraph (a) to (d).

(3) The maritime enforcement powers may also be exercised in relation to a relevant ship for the purpose of—

- (a) investigating the suspected carriage of relevant goods on the ship, or
- (b) preventing the continued carriage on the ship of goods suspected to be relevant goods.

(4) In this Part, “the maritime enforcement powers” are the powers conferred by regulations 91 and 92.

(5) This regulation is subject to regulation 93 (restrictions on exercise of maritime enforcement powers).

#### Maritime enforcement officers

**90.**—(1) The following persons are “maritime enforcement officers” for the purposes of this Part

- (a) a commissioned officer of any of Her Majesty’s ships;

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(42) 2017 c.3; see section 143(4)(f) and (4A).



- (b) a member of the Ministry of Defence Police (within the meaning of section 1 of the Ministry of Defence Police Act 1987<sup>(43)</sup>);
  - (c) a constable—
    - (i) who is a member of a police force in England and Wales,
    - (ii) within the meaning of section 99 of the Police and Fire Reform (Scotland) Act 2012<sup>(44)</sup>, or
    - (iii) who is a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;
  - (d) a special constable—
    - (i) appointed under section 27 of the Police Act 1996<sup>(45)</sup>,
    - (ii) appointed under section 9 of the Police and Fire Reform (Scotland) Act 2012, or
    - (iii) in Northern Ireland, appointed by virtue of provision incorporating section 79 of the Harbours, Docks, and Piers Clauses Act 1847<sup>(46)</sup>;
  - (e) a constable who is a member of the British Transport Police Force;
  - (f) a port constable, within the meaning of section 7 of the Marine Navigation Act 2013<sup>(47)</sup>, or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964<sup>(48)</sup>;
  - (g) a designated customs official within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009 (see section 14(6) of that Act)<sup>(49)</sup>;
  - (h) a designated NCA officer who is authorised by the Director General of the National Crime Agency (whether generally or specifically) to exercise the powers of a maritime enforcement officer under this Part.
- (2) In this regulation, “a designated NCA officer” means a National Crime Agency officer who is either or both of the following—
- (a) an officer designated under section 10 of the Crime and Courts Act 2013<sup>(50)</sup> as having the powers and privileges of a constable;
  - (b) an officer designated under that section as having the powers of a general customs official.

### **Power to stop, board, search etc.**

**91.**—(1) This regulation applies if a maritime enforcement officer has reasonable grounds to suspect that a relevant ship is carrying prohibited goods or relevant goods.

- (2) The officer may—
- (a) stop the ship;
  - (b) board the ship;

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<sup>(43)</sup> 1987 c.4. Section 1 was amended by; paragraph 41 of Schedule 7 to the Police Act 1996 (c.16); paragraph 16 of Schedule 4 to the Police (Northern Ireland) Act 1998 (c.32); section 78(2) of the Police (Northern Ireland) Act 2000 (c.32); section 79(3) of the Police Reform Act 2002 (c.30); and by S.I. 2013/602.

<sup>(44)</sup> 2012 asp.8 (Scottish Act).

<sup>(45)</sup> 1996 c.16. Section 27 was amended by paragraphs 22 and 26 of Schedule 16(1) to the Police Reform and Social Responsibility Act 2011 (c.13).

<sup>(46)</sup> 1847 c.27. Section 79 was amended by S.I. 2006/2167.

<sup>(47)</sup> 2013 c.23.

<sup>(48)</sup> 1964 c.40. Section 16 was amended by; section 29(2) of the Wales Act 2017 (c.4); S.I. 1999/672; and S.I. 1970/1681.

<sup>(49)</sup> 2009 c.11. Designated customs officials are designated, as either a general customs official or a customs revenue official, under sections 8 and 11 of this Act respectively.

<sup>(50)</sup> 2013 c.22.



- (c) for the purpose of exercising a power conferred by paragraph (3) or regulation 92, require the ship to be taken to, and remain in, a port or anchorage in the United Kingdom or any other country willing to receive it.
- (3) Where the officer boards a ship by virtue of this regulation, the officer may—
  - (a) stop any person found on the ship and search that person for—
    - (i) prohibited goods or relevant goods, or
    - (ii) any thing that might be used to cause physical injury or damage to property or to endanger the safety of any ship;
  - (b) search the ship, or any thing found on the ship (including cargo) for prohibited goods or relevant goods;
- (4) The officer may—
  - (a) require a person found on a ship boarded by virtue of this regulation to provide information or produce documents;
  - (b) inspect and copy such information or documents.
- (5) The officer may exercise a power conferred by paragraph (3)(a)(i) or (b) only to the extent reasonably required for the purpose of discovering prohibited goods or relevant goods.
- (6) The officer may exercise the power conferred by paragraph (3)(a)(ii) in relation to a person only where the officer has reasonable grounds to believe that the person might use a thing to cause physical injury or damage to property or to endanger the safety of any ship.
- (7) The officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

### **Seizure power**

- 92.**—(1) This regulation applies if a maritime enforcement officer is lawfully on a relevant ship (whether in exercise of the powers conferred by regulation 91 or otherwise).
- (2) The officer may seize any of the following which are found on the ship, in any thing found on the ship, or on any person found on the ship—
    - (a) goods which the officer has reasonable grounds to suspect are prohibited goods or relevant goods, or
    - (b) things within regulation 91(3)(a)(ii).
  - (3) The officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

### **Restrictions on exercise of maritime enforcement powers**

- 93.**—(1) The authority of the Secretary of State is required before any maritime enforcement power is exercised in reliance on regulation 89 in relation to—
  - (a) a British ship in foreign waters, or
  - (b) a foreign ship in international waters.
- (2) In relation to a British ship in foreign waters other than the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant British possession, the Secretary of State may give authority under paragraph (1) only if the State in whose waters the power would be exercised consents to the exercise of the power.
  - (3) The Secretary of State may give authority under paragraph (1) only if—

- (a) the home state has requested the assistance of the United Kingdom for a purpose mentioned in regulation 89(2) or (3),
- (b) the home state has authorised the United Kingdom to act for such a purpose, or
- (c) the United Nations Convention on the Law of the Sea 1982 or a UN Security Council Resolution otherwise permits the exercise of the power in relation to the ship.

### **Interpretation of Part 9**

**94.**—(1) Subject to paragraph (2), any expression used in this Part and in section 19 or 20 of the Act has the same meaning in this Part as it has in section 19 or (as the case may be) section 20 of the Act.

(2) For the purpose of interpreting any reference to “prohibited goods” or “relevant goods” in this Part, any reference in section 19 or 20 of the Act to a “relevant prohibition or requirement” is to be read as a reference to any prohibition specified in regulation 89(2)(a) to (d).

## **PART 11**

### **Supplementary and final provision**

#### **Notices**

**95.**—(1) This regulation applies in relation to a notice required by regulation 66 (licences: general provisions) to be given to a person.

- (2) The notice may be given to an individual—
  - (a) by delivering it to the individual,
  - (b) by sending it to the individual by post addressed to the individual at his or her usual or last-known place of residence or business, or
  - (c) by leaving it for the individual at that place.
- (3) The notice may be given to a person other than an individual—
  - (a) by sending it by post to the proper officer of the body at its principal office, or
  - (b) by addressing it to the proper officer of the body and leaving it at that office.
- (4) The notice may be given to the person by other means, including by electronic means, with the person’s consent.
- (5) In this regulation, the reference in paragraph (3) to a “principal office”—
  - (a) in relation to a registered company, is to be read as a reference to the company’s registered office;
  - (b) in relation to a body incorporated or constituted under the law of a country other than the United Kingdom, includes a reference to the body’s principal office in the United Kingdom (if any).
- (6) In this regulation—
  - “proper officer”—
    - (a) in relation to a body other than a partnership, means the secretary or other executive officer charged with the conduct of the body’s general affairs, and
    - (b) in relation to a partnership, means a partner or a person who has the control or management of the partnership business;

“registered company” means a company registered under the enactments relating to companies for the time being in force in the United Kingdom.

#### **Article 20 of the Export Control Order 2008**

**96.** Article 20 of the Export Control Order 2008 (embargoed destinations) is not to be taken to prohibit anything prohibited by Part 5 (Trade).

#### **Trade: overlapping offences**

**97.** A person is not to be taken to commit an offence under the Export Control Order 2008 if the person would, in the absence of this regulation, commit an offence under both—

- (a) article 34, 35, 37 or 38 of that Order, and
- (b) any provision of Part 5 (Trade) or regulation 68 (trade: licensing offences), 76(6) (general trade licences: records) or 77(5) (general trade licences: inspection of records).

#### **Revocations of relevant retained EU law**

**98.** The following are revoked—

- (a) [Council Regulation \(EU\) No 269/2014](#) of 17 March 2014 (concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine)(**51**);
- (b) [Council Regulation \(EU\) No 692/2014](#) of 23 June 2014 (concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol)(**52**);
- (c) [Council Regulation \(EU\) No 833/2014](#) of 31 July 2014 (concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine)(**53**).

#### **Other revocations and amendments**

**99.**—(1) The Ukraine Financial Sanctions Regulations are revoked.

(2) The Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014(**54**) is revoked.

#### **Transitional provision: Treasury licences**

**100.**—(1) Paragraphs (2) to (4) apply to a licence which—

- (a) was granted, or deemed to be granted, by the Treasury under the Ukraine Financial Sanctions Regulations,
- (b) was in effect immediately before exit day, and
- (c) authorises an act which would (on and after exit day, and in the absence of paragraphs (2) to (4)) be prohibited by Part 3 (Finance),

and such a licence is referred to in this regulation as “an existing financial sanctions licence”.

(2) An existing financial sanctions licence has effect on and after exit day as if it had been issued by the Treasury under regulation 64(1) (Treasury licences).

(3) Any reference in an existing financial sanctions licence to the Ukraine Financial Sanctions Regulations is to be treated on and after exit day as a reference to these Regulations.

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(51) OJ L 78, 17.3.2014, p. 6–15

(52) OJ L 183 24.6.2014, p. 9

(53) OJ L 229, 31.7.2014, p. 1–11

(54) [S.I. 2014/2357](#), as amended by [S.I. 2014/2932](#), [S.I. 2015/97](#) and [SI 2015/1933](#).

(4) Any reference in an existing financial sanctions licence to a prohibition in—

- (a) the Ukraine Financial Sanctions Regulations, or
- (b) the EU Russia Regulations,

is to be treated on and after exit day as a reference to the corresponding prohibition in Part 3 (Finance).

(5) Paragraph (6) applies where—

- (a) an application for a licence, or for the variation of a licence, under the Ukraine Financial Sanctions Regulations was made before exit day,
- (b) the application is for authorisation of acts which would (on and after exit day) be prohibited by Part 3, and
- (c) a decision to grant or refuse the application has not been made before that date.

(6) The application is to be treated on and after exit day as an application for a licence, or for the variation of a licence (as the case may be), under regulation 64(1) (Treasury licences).

#### **Transitional provision: trade licences**

**101.**—(1) Paragraph (2) applies in relation to each licence or authorisation granted by the Secretary of State which—

- (a) was in effect immediately before exit day, and
- (b) authorises an act—
  - (i) which would otherwise be prohibited by any provision of the Export Control Order 2008 except article 20 of that Order (embargoed destinations), or which requires an authorisation under or pursuant to the Dual-Use Regulation, and
  - (ii) which would (on and after exit day, and in the absence of paragraph (2)) be prohibited by Part 5 (Trade),

and such a licence or authorisation is referred to in this regulation as “an existing trade licence”.

(2) A licence is deemed to have been issued by the Secretary of State on exit day under regulation 65 (trade licences)—

- (a) disapplying every provision of Part 5 (Trade) which would, in the absence of this paragraph, prohibit any act authorised by the existing trade licence, and
- (b) otherwise in the same terms as the existing trade licence.

(3) Paragraphs (4) to (6) apply to a licence or authorisation granted by the Secretary of State which—

- (a) was in effect immediately before exit day, and
- (b) authorises an act—
  - (i) which would otherwise be prohibited by the EU Russia Regulations, and
  - (ii) which would (on or after exit day), and in the absence of Paragraphs (4) to (6), be prohibited by Part 5 (Trade),

and such a licence or authorisation is referred to in this regulation as “an existing trade sanctions licence”.

(4) An existing trade sanctions licence has effect on and after exit day as if it were a licence which had been issued by the Secretary of State under regulation 65 (trade licences).

(5) Any reference in an existing trade sanctions licence to a provision of the Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014 or the Export Control Order 2008 is to be

treated on and after exit day as a reference to the corresponding provision of these Regulations (if any).

(6) Any reference in an existing trade sanctions licence to a prohibition in the EU Russia Regulations is to be treated on and after exit day as a reference to the corresponding prohibition in Part 5 (Trade).

**Transitional provision: pending applications for trade licences**

**102.**—(1) Paragraph (2) applies where—

- (a) an application was made before exit day for a licence or authorisation under or pursuant to the Export Control Order 2008 or the Dual-Use Regulation,
- (b) the application is for authorisation of an act prohibited by Part 5 (Trade), and
- (c) a decision to grant or refuse the application has not been made before exit day.

(2) The application is to be treated on and after exit day as including an application for a licence under regulation 65 (trade licences).

(3) Paragraph (4) applies where—

- (a) an application was made before exit day for a licence or authorisation under the Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014 or the EU Russia Regulations,
- (b) the application is for authorisation of an act prohibited by Part 5 (Trade), and
- (c) a decision to grant or refuse the application has not been made before exit day.

(4) The application is to be treated on and after exit day as an application for a licence under regulation 65 (trade licences).

**Transitional provision: prior obligations**

**103.**—(1) Where—

- (a) a person was named in an Annex to the EU Russia Regulations immediately before exit day, and
- (b) the person is a designated person immediately before exit day,

any reference in a provision mentioned in paragraph (2) to the date on which a person became a designated person is a reference to the date on which the person was named in an Annex to the EU Russia Regulations.

(2) The provisions referred to in paragraph (1) are—

- (a) regulation 58(5) (finance: exceptions from prohibitions),
- (b) paragraph 6 of Schedule 5 (pre-existing judicial decisions), and
- (c) paragraph 8 of Schedule 5 (prior obligations).

(3) In this regulation, “designated person” has the same meaning as it has in Chapter 1 of Part 3 (finance restrictions in relation to designated persons).

10th April 2019

*Alan Duncan*  
Minister of State  
Foreign and Commonwealth Office

## SCHEDULES

### SCHEDULE 1

Regulations 7(3) and 16(8)

#### Rules for interpretation of regulations 7(2) and 16(7)

##### **Application of Schedule**

1.—(1) The rules set out in the following paragraphs of this Schedule apply for the purpose of interpreting regulations 7(2) and 16(7).

(2) They also apply for the purpose of interpreting this Schedule.

##### **Joint interests**

2. If two or more persons each hold a share or right jointly, each of them is treated as holding that share or right.

##### **Joint arrangements**

3.—(1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated as holding the combined shares or rights of both of them.

(2) A “joint arrangement” is an arrangement between the holders of shares or rights that they will exercise all or substantially all the rights conferred by their respective shares or rights jointly in a way that is pre-determined by the arrangement.

(3) “Arrangement” has the meaning given by paragraph 12.

##### **Calculating shareholdings**

4.—(1) In relation to a person who has a share capital, a reference to holding “more than 50% of the shares” in that person is to holding shares comprised in the issued share capital of that person of a nominal value exceeding (in aggregate) 50% of that share capital.

(2) In relation to a person who does not have a share capital—

(a) a reference to holding shares in that person is to holding a right or rights to share in the capital or, as the case may be, profits of that person;

(b) a reference to holding “more than 50% of the shares” in that person is to holding a right or rights to share in more than 50% of the capital or, as the case may be, profits of that person.

##### **Voting rights**

5.—(1) A reference to the voting rights in a person is to the rights conferred on shareholders in respect of their shares (or, in the case of a person not having a share capital, on members) to vote at general meetings of the person on all or substantially all matters.

(2) In relation to a person that does not have general meetings at which matters are decided by the exercise of voting rights—

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- (a) a reference to holding voting rights in the person is to be read as a reference to holding rights in relation to the person that are equivalent to those of a person entitled to exercise voting rights in a company;
- (b) a reference to holding “more than 50% of the voting rights” in the person is to be read as a reference to holding the right under the constitution of the person to block changes to the overall policy of the person or to the terms of its constitution.

6. In applying regulations 7(2) and 16(7) and this Schedule, the voting rights in a person are to be reduced by any rights held by the person itself.

### **Rights to appoint or remove members of the board**

7. A reference to the right to appoint or remove a majority of the board of directors of a person is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.

8. A reference to a board of directors, in the case of a person who does not have such a board, is to be read as a reference to the equivalent management body of that person.

### **Shares or rights held “indirectly”**

9.—(1) A person holds a share “indirectly” if the person has a majority stake in another person and that other person—

- (a) holds the share in question, or
- (b) is part of a chain of persons—
  - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
  - (ii) the last of whom holds the share.

(2) A person holds a right “indirectly” if the person has a majority stake in another person and that other person—

- (a) holds that right, or
- (b) is part of a chain of persons—
  - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
  - (ii) the last of whom holds that right.

(3) For these purposes, a person (“A”) has a “majority stake” in another person (“B”) if—

- (a) A holds a majority of the voting rights in B,
- (b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B,
- (c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B, or
- (d) A has the right to exercise, or actually exercises, dominant influence or control over B.

(4) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a person (“A”) is to be treated as having the right to appoint a director if—

- (a) any person’s appointment as director follows necessarily from that person’s appointment as director of A, or
- (b) the directorship is held by A itself.

### **Shares held by nominees**

**10.** A share held by a person as nominee for another is to be treated as held by the other (and not by the nominee).

### **Rights treated as held by person who controls their exercise**

**11.**—(1) Where a person controls a right, the right is to be treated as held by that person (and not by the person who in fact holds the right, unless that person also controls it).

(2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only—

- (a) by that person,
- (b) in accordance with that person’s directions or instructions, or
- (c) with that person’s consent or concurrence.

**12.** “Arrangement” includes—

- (a) any scheme, agreement or understanding, whether or not it is legally enforceable, and
- (b) any convention, custom or practice of any kind.

### **Rights exercisable only in certain circumstances etc.**

**13.**—(1) Rights that are exercisable only in certain circumstances are to be taken into account only—

- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
- (b) when the circumstances are within the control of the person having the rights.

(2) But rights that are exercisable by an administrator or by creditors while a person is subject to relevant insolvency proceedings are not to be taken into account while the person is subject to those proceedings.

(3) “Relevant insolvency proceedings” means—

- (a) administration within the meaning of the Insolvency Act 1986<sup>(55)</sup>
- (b) administration within the meaning of the Insolvency (Northern Ireland) Order 1989<sup>(56)</sup>, or
- (c) proceedings under the insolvency law of another country during which a person’s assets and affairs are subject to the control or supervision of a third party or creditor.

(4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

### **Rights attached to shares held by way of security**

**14.** Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person—

- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person’s instructions, and
- (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving

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<sup>(55)</sup> 1986 c.45.

<sup>(56)</sup> S.I. 1989/2405 (N.I. 19).



the value of the security, or of realising it, the rights are exercisable only in that person's interests.

## SCHEDULE 2

Regulations 16, 17 and 59

### Persons named in relation to financial restrictions

1. Sberbank
2. VTB bank
3. Gazprombank
4. Vnesheconombank (VEB)
5. Rosselkhozbank
6. OPK Oboronprom
7. United Aircraft Corporation
8. Uralvagonzavod
9. Rosneft
10. Transneft
11. Gazprom Neft

## SCHEDULE 3

Regulation 21

### Energy-related goods and infrastructure-related goods

## PART 1

### General

#### **Interpretation**

- 1.—(1) For the purposes of this Schedule—
  - (a) a thing “falls within” a commodity code if it is, or would be, classified under that commodity code, as set out in the Goods Classification Table;
  - (b) a thing “falls within” a chapter if it is, or would be, classified under that chapter, as set out in the Goods Classification Table;
  - (c) where a commodity code or chapter is preceded by “ex”, the goods specified in this Schedule constitute only a part of the scope of the commodity code or chapter and must fall within both the description given to that code or chapter in this Schedule and the scope of the code or chapter in the Goods Classification Table.
- (2) For the purposes of determining whether or not a thing is, or would be, “classified” in accordance with sub-paragraph (1), the rules of interpretation contained in the following have effect —

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- (a) Part Two (Goods Classification Table Rules of Interpretation) of the Tariff of the United Kingdom;
  - (b) notes to a section or chapter of the Goods Classification Table.
- (3) For the purposes of this paragraph—
- “commodity code” includes a code denoting a heading or sub-heading;
  - “the Goods Classification Table” means the table so named in Annex # in Part Three of the Tariff of the United Kingdom;
  - “the Tariff of the United Kingdom” means the document containing the legal classification and import rate for products being imported into the United Kingdom, entitled “The Tariff of the United Kingdom”, as revised or re-issued from time to time<sup>(57)</sup>.

## PART 2

### Energy-related goods

2. Any thing falling within the following commodity codes—
- 7304 11 00
  - 7304 19 10
  - 7304 19 30
  - 7304 19 90
  - 7304 22 00
  - 7304 23 00
  - 7304 29 10
  - 7304 29 30
  - 7304 29 90
  - 7305 11 00
  - 7305 12 00
  - 7305 19 00
  - 7305 20 00
  - 7306 11
  - 7306 19
  - 7306 21 00
  - 7306 29 00
  - 8207 13 00
  - 8207 19 10
  - 8413 82 00
  - 8413 92 00
  - 8430 49 00
  - 8705 20 00

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<sup>(57)</sup> The Tariff of the United Kingdom, Version 1.0, is available electronically from: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/785939/Tariff\\_Reference\\_Document\\_13\\_March\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785939/Tariff_Reference_Document_13_March_2019.pdf). A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

8905 20 00

8905 90 10

**3.** Any thing falling—

- (a) within a commodity code mentioned in column 1 of the following table; and
- (b) within the description in column 2 beside that code.

<i>Code</i>	<i>Description</i>
ex 8413 50	Reciprocating positive displacement pumps for liquids, power-driven with a maximum flow-rate greater than 18 m <sup>3</sup> /hour and a maximum outlet pressure greater than 40 bar, specially designed to pump drilling muds and/or cement into oil wells
ex 8413 60	Rotary positive displacement pumps for liquids, power-driven with a maximum flow-rate greater than 18 m <sup>3</sup> /hour and a maximum outlet pressure greater than 40 bar, specially designed to pump drilling muds and/or cement into oil wells
ex 8431 39 00	Parts suitable for use solely or principally with the oil field machinery of heading 8428
ex 8431 43 00	Parts suitable for use solely or principally with the oil field machinery of subheadings 8430 41 or 8430 49
ex 8431 49	Parts suitable for use solely or principally with the oil field machinery of heading 8426, 8429 and 8430

## PART 3

### Infrastructure-related goods

**4.** Any thing falling within the following chapters—

- (a) chapters 25 to 29;
- (b) chapters 72 to 76;
- (c) chapters 78 to 81;
- (d) chapter 86;
- (e) chapters 88 and 89; and
- (f) chapter 98.

**5.** Any thing falling within the following commodity codes—

3824

3826 00

8207 13 00

8207 19 10

8401 to 8418

8420 to 8432

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8435 to 8437  
8439 to 8443  
8444 00  
8445  
8447  
8448  
8449 00 00  
8450  
8452 to 8468  
8470 to 8484  
8486  
8487  
8501 to 8505  
8507  
8511  
8514  
8515  
8525 to 8548  
8701  
8702  
8704  
8705  
8706 00  
8709  
8710 00 00  
8716  
7106 to 7112  
9013 to 9015  
9025 to 9033

#### SCHEDULE 4

Regulations 32 to 38

##### Persons named in relation to dual-use items restrictions

1. JSC Sirius
2. OJSC Stankoinstrument
3. OAO JSC Chemcomposite
4. JSC Kalashnikov
5. JSC Tula Arms Plant

6. NPK Technologii Maschinostrojenija
7. OAO Wysokototschnye Kompleksi
8. OAO Almaz Antey
9. OAO NPO Bazalt

## SCHEDULE 5

Regulation 64(2)

Treasury licences: purposes

### PART 1

Asset-freeze etc.

#### Interpretation

1. In this Part of this Schedule—

“designated person” has the same meaning as it has in Chapter 1 of Part 3 (finance restrictions in relation to designated persons);

“frozen funds or economic resources” means funds or economic resources frozen by virtue of regulation 11, and any reference to a person’s frozen funds or economic resources is to funds or economic resources frozen as a consequence of the designation of that person for the purpose of that regulation.

#### Basic needs

2.—(1) To enable the basic needs of a designated person, or (in the case of an individual) any dependent family member of such a person, to be met.

- (2) In the case of an individual, in sub-paragraph (1) “basic needs” includes—

- (a) medical needs;
- (b) needs for—
  - (i) food;
  - (ii) payments of insurance premiums;
  - (iii) payments of tax;
  - (iv) rent or mortgage payments;
  - (v) utility payments.

(3) In the case of a person other than an individual, in sub-paragraph (1) “basic needs” includes needs for—

- (a) payment of insurance premiums;
- (b) payment of reasonable fees for the provision of property management services;
- (c) payment of remuneration, allowances or pensions of employees;
- (d) payment of tax;
- (e) rent or mortgage payments;
- (f) utility payments.

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(4) In sub-paragraph (1)—

“dependent” means financially dependent;

“family member” includes—

- (a) the wife or husband of the designated person;
- (b) the civil partner of the designated person;
- (c) any parent or other ascendant of the designated person;
- (d) any child or other descendant of the designated person;
- (e) any person who is a brother or sister of the designated person, or a child or other descendant of such a person.

### **Legal services**

3. To enable the payment of—

- (a) reasonable professional fees for the provision of legal services, or
- (b) reasonable expenses associated with the provision of legal services.

### **Maintenance of frozen funds and economic resources**

4. To enable the payment of—

- (a) reasonable fees, or
- (b) reasonable service charges,

arising from the routine holding or maintenance of frozen funds or economic resources.

### **Extraordinary expenses**

5. To enable an extraordinary expense of a designated person to be met.

### **Pre-existing judicial decisions etc.**

6. To enable, by the use of a designated person’s frozen funds or economic resources, the implementation or satisfaction (in whole or in part) of a judicial, administrative or arbitral decision or lien, provided that—

- (a) the funds or economic resources so used are the subject of the decision or lien,
- (b) the decision or lien—
  - (i) was made or established before the date on which the person became a designated person, and
  - (ii) is enforceable in the United Kingdom, and
- (c) the use of the frozen funds or economic resources does not directly or indirectly benefit any other designated person.

### **Extraordinary situation**

7. To enable anything to be done to deal with an extraordinary situation.

### **Prior obligations**

8. To enable, by the use of a designated person's frozen funds or economic resources, the satisfaction of an obligation of that person (whether arising under a contract, other agreement or otherwise), provided that—

- (a) the obligation arose before the date on which the person became a designated person, and
- (b) no payments are made to another designated person, whether directly or indirectly.

### **Consular posts**

9.—(1) To enable anything to be done in order that the functions of a consular post in Crimea, or of an international organisation enjoying immunities in accordance with international law, may be carried out.

(2) In this paragraph, “consular post” has the same meaning as in the Vienna Convention on Consular Relations done at Vienna on 24 April 1963<sup>(58)</sup>, and any reference to the functions of a consular post is to be read in accordance with that Convention.

## **PART 2**

### **Investment in Crimea**

#### **Consular posts**

10.—(1) To enable anything to be done in order that the functions of a consular post in Crimea, or of an international organisation enjoying immunities in accordance with international law, may be carried out.

(2) In this paragraph “consular post” has the same meaning as in the Vienna Convention on Consular Relations done at Vienna on 24 April 1963, and any reference to the functions of a consular post is to be read in accordance with that Convention.

#### **Medical and educational purposes**

11. To enable the carrying out of projects exclusively in support of—

- (a) hospitals, or other public health institutions providing medical services, or
- (b) civilian education establishments,  
located in Crimea.

12. To enable anything to be done in relation to the provision or maintenance of appliances or equipment for medical use in Crimea.

#### **Health and the environment**

13. To enable anything to be done for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health or safety, infrastructure or the environment.

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(58) United Nations Treaty Series, vol. 596, p. 261.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under the Sanctions and Anti-Money Laundering Act 2018 (c.13) to establish a sanctions regime under that Act in relation to Russia. These Regulations are made for the purpose of encouraging Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine. Following the UK's withdrawal from the European Union, these Regulations will replace the EU sanctions regimes in relation to Russia. The EU sanctions regimes are currently implemented via EU Council Decisions and Regulations.

The Regulations confer a power on the Secretary of State to designate persons who are, or have been, involved in destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine. Designated persons may be excluded from the United Kingdom and may be made subject to financial sanctions, including having their funds or economic resources frozen.

These Regulations also impose restrictions on trade in military goods and technology, on certain dual-use and energy-related items, and impose restrictions on supplying infrastructure-related goods and technology to Crimea and on importing goods from Crimea. These Regulations also restrict the provision of services related to the trade in those items. The Regulations also restrict persons from dealing with certain financial instruments, restrict the provision of finance and funds, and restrict investment in relation to Crimea.

The Regulations provide for certain exceptions to this sanctions regime, including in relation to financial sanctions (for example to allow for frozen accounts to be credited with interest or other earnings), trade sanctions and also acts done for the purpose of national security or the prevention of serious crime. The Regulations also confer powers on the Secretary of State and the Treasury to issue licences in respect of activities that would otherwise be prohibited under the financial and trade sanctions imposed. Schedule 5 of these Regulations sets out the purposes pursuant to which the Treasury will issue such licences.

The Regulations make it a criminal offence to contravene, or circumvent, any of the prohibitions in these Regulations and prescribe the mode of trial and penalties that apply to such offences. The Regulations also confer powers on specified maritime enforcement officers to stop and search ships in international and foreign waters for the purpose of enforcing specified trade sanctions and to seize goods found on board ships which are being, or have been, dealt with in contravention, or deemed contravention, of those prohibitions. The Regulations prescribe powers for the provision and sharing of information to enable the effective implementation and enforcement of the sanctions regime.

The Regulations revoke the relevant EU Regulations relating to the existing EU Russia sanctions regimes, in so far as those Regulations would have had effect in the UK after exit day. The Regulations also revoke existing UK trade and financial sanctions regulations relating to the existing EU Russia sanctions regimes.