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STATUTORY INSTRUMENTS

2022 No. 395

SANCTIONS

The Russia (Sanctions) (EU Exit) (Amendment) (No. 7) Regulations 2022

Approved by both Houses of Parliament

<i>Made</i>	- - - -	<i>29th March 2022</i>
		<i>at 11.00 a.m. on 30th</i>
<i>Laid before Parliament</i>		<i>March 2022</i>
		<i>at 5.00 p.m. on 30th</i>
<i>Coming into force</i>	- -	<i>March 2022</i>

The Secretary of State⁽¹⁾, considering that the requirements of section 45(2) of the Sanctions and Anti-Money Laundering Act 2018⁽²⁾ are met, makes the following Regulations in exercise of the powers conferred by sections 1, 3(1)(b)(ii) and (iii), (d)(ii) and (iii), (g)(iii) and (2)(c), 5, 6(7), 7(2) and (5), 9(2)(a), 10(2) to (4), 11(5), 12, 15(2)(a) and (b), (3) and (6), 17, 21(1), 45, 54(1)(c) and 62(6) of, and paragraphs 2(b), 3(b), 4(b), 6(a)(ii) and (b), 9(b), 11(a)(i) and (ii), 13(b), (c), (h), (m), (n), (t) and (w), 14(a), (e), (f) and (k), and 20 of Schedule 1 to, that Act:

Citation and commencement

1.—(1) These Regulations may be cited as the Russia (Sanctions) (EU Exit) (Amendment) (No. 7) Regulations 2022.

(2) These Regulations come into force at 5.00 p.m. on 30th March 2022.

Amendment of the Russia (Sanctions) (EU Exit) Regulations 2019

2. The Russia (Sanctions) (EU Exit) Regulations 2019⁽³⁾ are amended as set out in regulations 3 to 39.

(1) The power to make regulations under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 (c. 13) 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. Section 17(5)(b)(i) (enforcement) is amended by the Sentencing Act 2020 (c. 17), Schedule 24, paragraph 443(1). Sections 1, 11, 12 and 45 are amended by the Economic Crime (Transparency and Enforcement) Act 2022 (c. 10), sections 57 to 59.

(3) S.I. 2019/855, as amended by S.I. 2020/590; S.I. 2020/951; S.I. 2022/123; S.I. 2022/194; S.I. 2022/195; S.I. 2022/203; S.I. 2022/205; S.I. 2022/241; and by the Sentencing Act 2020 (c. 17).

Interpretation

3. In regulation 2 (interpretation), at the appropriate place insert—
- ““aircraft licence” means a licence under regulation 65A;”;
 - ““non-government controlled areas of the Donetsk and Luhansk oblasts” means the parts of the Donetsk oblast and the Luhansk oblast of Ukraine as determined in Decree Number 32/2019 issued by the President of Ukraine on 7th February 2019 under Article 1 of the Law of Ukraine of 18th January 2018 Nr. 2268-VIII “On the Peculiarities of State Policy on Ensuring the State Sovereignty of Ukraine over Temporarily Occupied Territories in Donetsk and Luhansk Oblasts”(4);”;
 - ““non-government controlled Ukrainian territory” means Crimea and non-government controlled areas of the Donetsk and Luhansk oblasts;”.

Application of prohibitions and requirements outside the United Kingdom

4. In regulation 3 (application of prohibitions and requirements outside the United Kingdom)—
- (a) in paragraph (3)(a), after “regulation 9(2)” insert “or 9B(2)”;
 - (b) in paragraph (5), after “a requirement imposed by a direction under regulation 57J(3) (direction by air traffic control to operator or pilot of Russian aircraft),” insert “or a requirement imposed by a condition of an aircraft licence.”.

Power to designate persons by description

5. In regulation 5 (power to designate persons)—
- (a) in paragraph (1), after sub-paragraph (b) insert—
 - “(bza) regulation 46A (technical assistance relating to aircraft and ships);”;
 - (b) after paragraph (1) insert—
 - “(1A) The Secretary of State may provide that persons of a description specified by the Secretary of State are designated persons for the purposes of any of the following—
 - (a) regulations 11 to 15 (asset-freeze etc.);
 - (b) regulation 17A (correspondent banking relationships etc.);
 - (c) regulation 20 (immigration);
 - (d) regulation 46A (technical assistance relating to aircraft and ships);
 - (e) regulations 57A and 57C to 57E (ships: prohibition on port entry etc.);
 - (f) regulations 57J and 57M (aircraft).”;
 - (c) in paragraph (2), after “paragraph (1)” insert “or (1A)”;
 - (d) at the end insert—
 - “(3) For the purposes of these Regulations, persons “designated under regulation 5” for the purpose of a particular regulation means—
 - (a) persons who are designated by name under paragraph (1) for the purposes of that particular regulation, and

(4) Law of Ukraine of 18th January 2018 Number 2268-VIII “On the Peculiarities of State Policy on Ensuring the State Sovereignty of Ukraine over Temporarily Occupied Territories in Donetsk and Luhansk Oblasts”. Verkhovna Rada of Ukraine Information of 09.03.2018 - 2018, No 10, p. 67. URL: <https://zakon.rada.gov.ua/laws/show/2268-19> (in Ukrainian). Presidential Decree Number 32/2019 “Decree of the President of Ukraine: On the the Borders and the List of Districts, Cities, Settlements and Villages, and parts of their territories, temporarily occupied in Donetsk and Luhansk Oblasts” was issued under Article 1 of that Law on 7th February 2019. URL: <https://zakon.rada.gov.ua/laws/show/32/2019> (in Ukrainian). A translation of these documents is available upon request from the Foreign, Commonwealth and Development Office.

- (b) where the Secretary of State makes provision under paragraph (1A) that persons of a specified description are designated persons for the purposes of that particular regulation, persons of that description.”

Designation criteria

6. In regulation 6 (designation criteria), in paragraph (3)(f), for “Crimea” substitute “non-government controlled Ukrainian territory”.

Conditions for the designation of persons by description

7. After regulation 6 (designation criteria) insert—

“Conditions for the designation of persons by description

6A.—(1) The Secretary of State may choose whether persons mentioned in regulation 5(1A) (power to designate persons by description) are designated persons under—

- (a) the standard procedure, or
- (b) the urgent procedure.

(2) Paragraph (3) applies where the Secretary of State chooses that persons mentioned in regulation 5(1A) are designated persons under the standard procedure.

(3) The Secretary of State may not provide that persons of a specified description are designated persons under regulation 5(1A) except where conditions A and C are met.

(4) Paragraphs (5) to (7) apply where the Secretary of State chooses that persons mentioned in regulation 5(1A) are designated persons under the urgent procedure.

(5) The Secretary of State may provide that persons of a specified description are designated persons where condition C is not met, but conditions A, D and E are met.

(6) The persons of the specified description cease to be designated persons at the end of the period of 56 days beginning with the day following the day on which the persons became designated persons unless, within that period, the Secretary of State certifies that—

- (a) conditions A and C are met, or
- (b) conditions A, D and E continue to be met.

(7) Where the Secretary of State makes a certification under paragraph (6)(b), the designation ceases to have effect at the end of the period of 56 days beginning with the day immediately following the period mentioned in paragraph (6), unless within that period the Secretary of State certifies that conditions A and C are met.

(8) Condition A is that the description of persons specified is such that a reasonable person would know whether that person fell within it.

(9) Condition C is that the Secretary of State has reasonable grounds to suspect—

- (a) in a case where the specified description is members of a particular organisation, that the organisation is an involved person, or
- (b) in the case of any other specified description, that any person falling within that description would necessarily be an involved person.

(10) Condition D is that the description of persons specified is of persons (or some persons) to which, or in relation to which, relevant provision (whenever made) applies under the law of—

- (a) the United States of America;

- (b) the European Union;
- (c) Australia;
- (d) Canada.

(11) Condition E is that the Secretary of State considers that it is in the public interest to provide that persons of a specified description are designated persons under the urgent procedure.

(12) For the purposes of Condition D, “relevant provision” is provision that the Secretary of State considers—

- (a) corresponds, or is similar, to the type of sanction or sanctions in these Regulations, or
- (b) is made for purposes corresponding, or similar, to any purpose of any type of sanction or sanctions in these Regulations.

(13) In this regulation—

- “involved person” has the meaning given in regulation 6 (designation criteria);
- “organisation” includes any body, association or combination of persons.”

Notification and publicity where power to designate by name is used

8. In regulation 8 (notification and publicity where designation power used), in paragraph (1)—

- (a) in sub-paragraph (a), for “regulation 5” substitute “regulation 5(1)”; and
- (b) in sub-paragraph (b), for “that regulation” substitute “that paragraph of that regulation”.

Notification and publicity where power to designate by description is used

9. After regulation 9 (confidential information in certain cases where designation power used) insert—

“Notification and publicity where power to designate by description is used

9A.—(1) Paragraph (2) applies where the Secretary of State—

- (a) has provided that persons of a specified description are designated persons under regulation 5(1A) (power to designate persons by description), or
- (b) has by virtue of section 22 of the Act varied or revoked a designation made under that paragraph of that regulation.

(2) The Secretary of State—

- (a) must without delay take such steps as are reasonably practicable to inform persons of the specified description 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)—

- (a) where the Secretary of State provides that persons of a specified description are designated persons under the standard procedure, must include a statement of reasons, or
- (b) where the Secretary of State provides that persons of a specified description are designated persons under the urgent procedure, must include a statement—
 - (i) that the provision is made under the urgent procedure,

- (ii) identifying the relevant provision by reference to which the Secretary of State considers that condition D is met in relation to persons of the specified description, and
 - (iii) setting out why the Secretary of State considers that condition E is met.
- (4) Where the Secretary of State provides that persons of a specified description are designated persons under the urgent procedure, the Secretary of State must, after the end of the period mentioned in paragraph (6) of regulation 6A (conditions for the designation of persons by description), or if the Secretary of State has made a certification under paragraph (6)(b) of that regulation the period mentioned in paragraph (7) of that regulation, but otherwise without delay—
 - (a) in a case where the persons cease to be designated persons, take such steps as are reasonably practicable to inform persons of the specified description that they have ceased to be designated persons, or
 - (b) in any other case, take such steps as are reasonably practicable to give each person of the specified description a statement of reasons.
- (5) In this regulation, a “statement of reasons”, in relation to a provision designating persons of a specified description, means a brief statement of the matters that the Secretary of State knows, or has reasonable cause to suspect, in relation to persons of the specified description—
 - (a) in the case of a designation under the standard procedure, which have led the Secretary of State to make the provision designating persons of that description, and
 - (b) in the case of a designation under the urgent procedure, as a result of which the persons do not cease to be designated persons at the end of the period mentioned in regulation 6A(6)(b) or (7) (as the case may be).
- (6) Matters that would otherwise be required by paragraph (5) 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.
- (7) 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—
 - (aa) a designation under the standard procedure, the statement of reasons relating to it, or
 - (bb) a designation under the urgent procedure, the contents of the statement required under paragraph (3)(b) relating to it;
 - (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—
 - (i) in the case of a designation under the standard procedure, of the contents of the statement of reasons relating to it, or