

Iraq Sanctions - Guidance



Isle of Man
Government

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Introduction

The Treasury has issued this guidance to assist in the implementation of, and compliance with the Iraq (Sanctions) (EU Exit) Regulations 2020, as those Regulations have effect in the Isle of Man.

The policy of the Isle of Man Government is to maintain the implementation of international sanctions measures in the Isle of Man in line with such measures have effect in the United Kingdom from time to time.

Legislation

The Iraq (Sanctions) EU Exit) Regulations 2020 have effect in the Isle of Man by the Iraq Sanctions (Application) Regulations 2020 [[SD 2020/0500](#)] ("the Regulations").

This document contains guidance on the prohibitions and requirements imposed by the Regulations. In addition it provides guidance on best practice from complying with the prohibitions and requirements; the enforcement of them; and circumstances where they do not apply.

Further guidance

This document should be read alongside the [Financial Sanctions - General Guidance](#).

Contact details for enquiries

Enquiries concerning this Notice may be made by –

- Email customs@gov.im
- Telephone 01624 648109

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1. Prohibitions and requirements imposed by the Regulations

These Regulations impose financial and trade sanctions for the purpose of ensuring compliance with UN Security Council resolution 1483 adopted by the Security Council on 22 May 2003.

In order to achieve their stated purposes, the Regulations impose a number of prohibitions and requirements in order to enforce these, the Regulations establish penalties and offences. These are set out in detail in the Annex.

The sanctions imposed by these Regulations apply within the territory of the Isle of Man (IOM) and in relation to the conducts of all Island persons wherever they are in the world. Island person includes –

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British overseas citizen who is resident in the Isle of Man;
- (b) a person who under the British Nationality Act 1981 (of Parliament)¹ is a British subject who is resident in the Isle of Man;
- (c) a British protected person within the meaning of that Act who is resident in the Isle of Man; or
- (d) a body incorporated under the law of the Isle of Man;

The maritime enforcement powers contained in Part 8 of the Regulations apply in relation to Manx ships in international or foreign waters, ships without nationality in international waters and foreign ships in international waters.

It is prohibited to intentionally participate in any activities if you know that the object or effect of them is to directly or indirectly circumvent the prohibitions imposed by these Regulations or to enable or facilitate the contravention of those prohibitions.

If you are unclear about any aspects of the Regulations, in particular about whether action you are considering taking could contravene these Regulations, you are advised to seek independent legal advice.

Prohibitions and requirements for the financial and trade sanctions contained in these Regulations are set out below.

1.1 Designation of persons

Where the UK Secretary of State has designated a person, that designation also has effect in the Isle of Man from the same time, and any variation or revocation of the designation will also have effect in the Island. The reasons for designation include, for example, being part of the former Government of Iraq and its state bodies, corporations or agencies, and those who are designated as being senior officials of the former Iraqi regime and their immediate family.

When these Regulations are in force a list of those persons designated under these Regulations and details of the sanctions in respect of which they have been designated, will be on [GOV.UK](https://www.gov.uk)

¹ 1981 Chapter 61.

1.2 Financial Sanctions

Asset Freeze

The Regulations impose financial sanctions through a partial asset freeze on the former Government of Iraq and its state bodies, corporations or agencies, as well as an asset freeze in relation to persons connected with the former Iraqi regime. The partial asset freeze only applies to “relevant funds and economic resources” (as defined in the Regulations) owned, held or controlled by the Government of Iraq and its state bodies, corporations or agencies, i.e. those located outside Iraq on 22 May 2003. There are also prohibitions on making funds or economic resources available to persons connected with the former Iraqi regime.

These asset freezes and prohibitions involve the freezing of funds and economic resources (non-monetary assets, such as property or vehicles) of designated persons and ensuring that funds and economic resources are not made available to or for the benefit of designated persons, either directly or indirectly.

More information on asset freezes can be found in the [Financial Sanctions - General Guidance](#).

1.3 Trade sanctions

The Regulations impose trade prohibitions relating to military goods and technology (as specified in Schedule 2 to the Export Control Order 2008).

There are circumstances (set out in the relevant lists of controlled items) in which certain items are not controlled, for example when body armour or a helmet is accompanying a person for that person’s own protection. Please check the relevant lists as applicable.

The Regulations also impose trade prohibitions relating to illegally removed cultural property. It is also prohibited for a person to provide associated brokering services.

Further details on these trade prohibitions, including key terminology used, is explained below. The relevant legislation contains full definitions of these terms.

For general guidance on export controls and trade sanctions, visit the [Export Control Joint Unit](#) website (the Isle of Man imposes the same export and trade controls as the UK).

Export of goods

The concept of “export” is set out in customs legislation, but is further detailed in the Regulations, which clarifies that “export” means export from the Isle of Man, but does not capture where goods are removed to the United Kingdom from the Isle of Man.

The export prohibition in the Regulations covers export to Iraq as well as exports that are for use in Iraq. This means that, even if the immediate destination is not Iraq, the prohibition may still apply. Exporters should check the ultimate end use of goods and may apply for a licence or contact the Export Control Joint Unit (ECJU) if you know or think the items may be used in Iraq.

For general guidance on export controls and trade sanctions, visit the Export Control Joint Unit website (the Isle of Man imposes the same export and trade controls as the UK).

Supply and delivery of goods

Supply and delivery prohibitions in the Regulations prohibit a person from directly or indirectly supplying or delivering goods from a third country to a place in Iraq. Regulation

18(4) specifies that a third country is a country that is not the UK, Isle of Man or Iraq.

Making goods and technology available

Prohibitions in the Regulations on making goods or technology available (e.g. through a sale) include directly or indirectly making them available for use in Iraq or to a person “connected with” Iraq. Regulation 16(4) sets out when a person is to be regarded as “connected with” Iraq (and this applies where the term is used in other trade prohibitions in this Part of the Regulations).

Transfer of technology

Prohibitions in the Regulations on the transfer of technology include transfer to a place in Iraq or a person “connected with” Iraq.

The term ‘transfer’ is defined in [Paragraph 37 of Schedule 1 to the Sanctions Act](#), which states that it ‘means a transfer by any means (or combination of means), including oral communication and the transfer of goods on which the technology is recorded or from which it can be derived, other than the export of such goods’.

Where military technology is contained within a good, it would be classified as a military good under the accompanying goods-related provisions. This includes information contained on USB memory devices, laptops, tablets and the like.

Brokering services

The definition of ‘brokering services’ is set out in regulation 16, which states that it means any service to secure, or otherwise in relation to, an arrangement, including (but not limited to):

- the selection or introduction of persons as parties or potential parties to the arrangement;
- the negotiation of the arrangement;
- the facilitation of anything that enables the arrangement to be entered into; and
- the provision of any assistance that in any way promotes or facilitates the arrangement.

The Regulations prohibit the direct or indirect provision of brokering services where they relate to specific arrangements. Those arrangements are set out in regulation 21.

Cultural property

The definition of “illegally removed Iraqi cultural property” is set out in regulation 15. The regulations prohibit the export and import and the direct or indirect supply, delivery, making available and acquisition of illegally removed Iraqi cultural property. They also prohibit the direct or indirect provision of financial services, funds or brokering services in connection with an arrangement whose object or effect is one of these prohibited acts. A person who holds or controls illegally removed Iraqi cultural property must secure its transfer to a constable.

1.4 Information and Record Keeping

Part 6 of the Regulations places obligations on relevant firms (the definition of which is set out in the Regulations) to report information to the Treasury about known or suspected designated persons or about persons who may have committed an offence under specified

provisions of the Regulations. The Treasury has designated the Financial Intelligence Unit (FIU) as the body to whom reports should be made, via [THEMIS](#).

It also grants powers to the Treasury to request information from, amongst others, a designated person, including powers to request the production of documents. It also establishes offences for failing to comply with these requests (including providing false information in respect of licences).

Part 6 also establishes information powers and record-keeping responsibilities in relation to the trade sanctions contained in the Regulations. It provides for offences for failing to comply with any of those requirements or intentionally obstructing an official in the exercise of those powers.

If you have obligations or responsibilities under Part 6 of these Regulations, it is important that you familiarise yourself with them. If you are unclear of your obligations or responsibilities, you are advised to seek independent legal advice.

2. How will these sanctions measures be enforced?

The Regulations make it a criminal offence to contravene the financial sanctions, as well as to enable or facilitate a contravention of, or to circumvent, any of the prohibitions in these Regulations. They also set out the penalties that apply to such offences.

In addition to the below, further details on offences and penalties can be found in the Annex.

2.1 Financial Sanctions

Breaches of financial sanctions are a serious criminal offence. Any breach of the main financial prohibitions in the Regulations carries a maximum sentence of 7 years' imprisonment or a fine (or both).

Committing an offence under regulations 40(6) or 44 (information offences in connection with financial sanctions under the Regulations) carries a maximum sentence of 6 months' imprisonment or a fine (or both).

The Treasury is responsible for monitoring compliance with financial sanctions and investigating suspected breaches.

The Treasury works with other parts of government, supervisory bodies and regulators to consider all cases reported to it, sharing relevant information accordingly.

If you find out that a person or organisation you are dealing with is subject to the financial sanctions detailed in the Regulations, you must immediately:

- stop dealing with them
- freeze any assets you're holding for them
- inform the FIU as soon as possible.

More detailed information on the Treasury's approach to compliance and enforcement can be found in the [Financial Sanctions - General Guidance](#).

2.2 Trade Sanctions

Any breach of the trade sanctions prohibitions in the Regulations is triable either way and carries a maximum sentence on indictment of 10 years' imprisonment or a fine (or both).

Any breach of the trade licensing provisions is also triable either way and carries a maximum sentence on indictment of 2 years' imprisonment or a fine (or both).

The Treasury is responsible for enforcing the trade prohibitions and investigating suspected offences.

If you discover that you have breached any of the trade prohibitions, you should report the irregularity to the FIU as soon as possible.

You should provide:

- details of the export or transaction, including dates
- any relevant documents, such as export documentation and commercial invoices
- details of how the breach was discovered, why it occurred.

3. Are there circumstances when I can get an authorisation or licence for a sanctioned activity?

Licensing and exception provisions are contained in Part 5 of the Regulations.

3.1 Exceptions

The Regulations set out the exceptions to some of the sanctions prohibitions which apply within certain defined circumstances. An exception applies automatically, and does not require you to obtain a licence issued in accordance with the Regulations. However, other types of licence, such as an export licence, might still be required.

The Regulations establish exceptions relating to financial sanctions. One such exception is for the crediting of a frozen or relevant account by a relevant institution. This applies to both the partial asset-freeze on the former Government of Iraq and its state bodies, corporations or agencies, as well as to the asset freeze in relation to persons connected with the former Iraqi regime. In respect of the asset freeze in relation to persons connected with the former Iraqi regime, any such interest or other earnings should be frozen in accordance with the relevant legislation underpinning the asset freeze.

An exception also exists to the asset freeze in relation to persons connected with the former Iraqi regime, to permit the transfer of funds to a frozen account in discharge (or partial discharge) of an obligation which arose before the recipient became a designated person.

The Regulations establish exceptions for the transfer of funds or economic resources owned, held or controlled by a designated person to the successor account to the Development Fund for Iraq, put in place by the Government of Iraq under the conditions set out in UNSCR 1483 and UNSCR 1956 (2010), and for the safe return of illegally removed Iraqi cultural property to Iraqi institutions, in accordance with the objectives of paragraph 7 of UNSCR 1483. An export licence may be required to return cultural property from the IOM to Iraq.

Regulation 33 establishes an exception to regulations 8 to 13 and Chapters 2 and 3 of Part 4 (Trade) which provides that prohibitions are not contravened if conduct is authorised by a licence which is issued under the law of the Channel Islands or any British Overseas Territory for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.

There is an exception to regulations 8 to 13 in respect of "relevant activity" (being any activity which would otherwise be prohibited by regulations 8 to 13) which is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by:

- (a) the United Nations, including its –
 - (i) programmes and funds,
 - (ii) other entities and bodies, and
 - (iii) specialised agencies and related organisations,
- (b) international organisations,
- (c) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations,
- (d) bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals, or humanitarian clusters coordinated by the United Nations Office for the Coordination of Humanitarian Affairs,
- (e) any grantee, subsidiary, or implementing partner of any organisation falling within sub-paragraphs (a) to (d) while and to the extent that they are acting in those capacities (reference in the regulations to an organisation (or entity) includes reference to the employees of that organisation while acting in that capacity),
- (f) any other persons authorised by the Committee for the purposes of resolution 2664.

This exception means the prohibitions of the asset freeze are not contravened by a person carrying out relevant activity which is necessary to ensure the timely delivery of humanitarian assistance or to carry out other activities that support basic human needs. This includes the provision, processing and payment of funds, other financial assets or economic resources, and the provision of goods and services necessary to ensure the timely delivery of such assistance or to support such activities.

The prohibitions of the asset freeze are not contravened where the person undertaking the relevant activity believes carrying it out is necessary to ensure the timely delivery of humanitarian assistance, or to carry out other activities that support basic human needs and there is no reasonable cause for them to suspect otherwise.

The Regulations also include an exception in relation to any prohibition or requirement imposed by the Regulations for actions which a responsible officer has determined to be in the interests of national security, or the prevention or detection of serious crime in the IOM or elsewhere.

If you are unsure whether an exception applies in your circumstances, you are advised to seek independent legal advice.

3.2. Licensing for financial sanctions

Where a person has been designated for the purposes of financial sanctions and had their assets frozen, the designated person or a representative may apply for a licence from the Treasury in order to be able to utilise their funds or economic resources (non-monetary assets, such as property or vehicles). Schedule 2 to the Regulations sets out the purposes pursuant to which, or for which activities, the Treasury may grant an individual licence. In summary these are:

- basic needs
- reasonable legal fees or reasonable expenses associated with the provision of legal services

- reasonable fees for the routine holding or maintenance of frozen funds and economic resources
- extraordinary expenses
- pre-existing judicial decisions etc.
- prior obligations
- diplomatic missions
- extraordinary situations

Further information can be found in the [Financial Sanctions - General Guidance](#).

3.3 Licensing for trade sanctions

Licenses may also be issued for certain trade activities that would otherwise be prohibited by the Regulations.

The Treasury is responsible for administering the licensing provisions for all trade sanctions.

In exercising these powers, the Treasury seeks and considers advice from other Isle of Man and United Kingdom government departments.

In making decisions on whether to grant a licence to permit something which would otherwise be prohibited under Part 5 of the Regulations, the Treasury will consider each application on a case-by-case basis to determine whether granting a licence would be consistent with the stated purposes of the sanctions regime and any UN or other relevant international law obligations.

For some prohibitions there are specific activities which the UK's Department for International Trade considers are likely to be consistent with the aims of the sanctions.

These can be found [here](#) (section 3.3).

If you think that your proposed activity falls within one of these specific descriptions you should make this clear and explain why you believe this to be the case in your application for a licence.

You should not assume that a licence will be granted or engage in any activities prohibited by the trade sanctions until your licence has been granted.

When you export goods, you may need to submit an electronic export declaration via the National Export System (NES), part of the Customs Handling of Import and Export Freight (CHIEF) system. Guidance is available on [how to make an export](#).

3.4 Overlap with strategic export licensing

Military goods and military technology

Please note that the export of and other trade in military goods and technology is also controlled under the Export Control Order 2008 and so you may also need a licence which is valid under that legislation. This means that all licence applications relating to military goods and technology will also need to be considered against the strategic export licensing criteria. A licence under these Regulations is unlikely to be granted if a licence is refused for the same activity under the Export Control Order 2008.

The way this will work in practice is that we will consider an application for a licence which relates to activities that are licensable under both these Regulations and the Export Control Order 2008 as an application under both pieces of legislation. This means that only a single licence application is required.

The application will be considered against the relevant licensing criteria. If a licence is granted it will be valid under both the Export Control Order 2008 and these Regulations.

Overlap between trade sanctions and financial sanctions

If you import or export goods, you need to consider if financial sanctions apply to you. For instance, where your licensable trade activity may also be making funds or an economic resource available to, or for the benefit of, a designated person. You may need a licence from the Treasury as well as from the UK's [Export Control Joint Unit](#).

Transit Control

Certain goods transiting the UK are still regarded as being exported when they leave the country and are therefore subject to control. Article 17 of the Export Control Order 2008 includes a transit and transshipment exception meaning that in many situations a licence is not required. This exception does not apply to goods destined for Iraq, meaning that a licence is required to transit goods through the IOM or to transship them in the IOM with a view to re-exportation to Iraq.

4. Further information

Sign up to receive [Notices to Exporters](#) for updates on trade sanctions.

To receive an email alerting you to any changes to the consolidated list of financial sanctions targets, you can subscribe to the RSS feed for Customs and Excise news releases by copying and pasting this URL: <https://www.gov.uk/categories/tax-vat-and-your-money/customs-and-excise/news/RssCategorisedNews> into your RSS feed reader or Microsoft Outlook RSS feeds folder. You can also view our [guidance on how to use RSS Feeds](#).

Annex A

Table of financial sanctions offences

Type of Sanctions offences	Specific offence	Relevant prohibition or requirement	Maximum penalty
Breach of partial asset freeze in relation to the former Government of Iraq and its state bodies, corporations or agencies	Dealing with funds or economic resources located outside Iraq on 22 nd May 2003 owned, held or controlled by a designated person	Reg.8	<p>Liable on summary conviction -</p> <ul style="list-style-type: none"> to custody for a term not exceeding 12 months, or to a fine not exceeding level 5 on the standard scale, or to both.
Breach of asset freeze in relation to persons connected with the former Iraqi regime	<ol style="list-style-type: none"> Dealing with funds or economic resources held or controlled by a designated person. Making funds available directly or indirectly to a designated person. Making funds available for the benefit of a designated person. Making economic resources available directly or indirectly to a designated person. Making economic resources available for the benefit of a designated person. 	<ol style="list-style-type: none"> Reg. 9 Reg.10 Reg.11 Reg.12 Reg.13 	<p>Liable on conviction on information -</p> <ul style="list-style-type: none"> to custody for a term not exceeding 7 years or to a fine, or to both.
Breach of requirements under Treasury licences	<ol style="list-style-type: none"> Knowingly or recklessly providing false information or providing a document that is not what it purports to be for the purpose of obtaining a Treasury licence Failing to comply with the conditions of a Treasury licence 	<ol style="list-style-type: none"> Reg.38 Reg.38 	
Breach of reporting obligations	<ol style="list-style-type: none"> Failure to inform the Treasury about knowledge or reasonable cause to suspect that a person is a designated person or has committed an offence under Part 3 of the Regulations or regulation 38 (finance: licensing offences) Failure to provide the Treasury with information on which the knowledge or suspicion is based or information by which the person can be identified. 	<ol style="list-style-type: none"> reg. 40 reg. 40 reg. 40 	<p>Liable on summary conviction -</p> <ul style="list-style-type: none"> to custody for a term not exceeding 12 months, or to a fine not exceeding level 5 on the standard scale, or to both.

	3. Failure to provide the Treasury with information about any funds or economic resources it holds for a designated person at the time when it first had knowledge or suspicion.		
Finance: Information Offences	1. Failure without reasonable excuse to provide information in the time and manner requested under reg. 42 2. Knowingly and recklessly providing false information in respect of information requested under reg. 42 3. Evasion of requests made under reg. 42 or reg. 43. 4. Obstruction of Treasury requests for information made under reg. 42 or reg. 43.	1. reg. 44 2. reg. 44 3. reg. 44 4. reg. 44	
Circumvention etc. of prohibitions	Circumventing directly or indirectly the prohibitions of regs. 8-13 (Part 3 Finance) or enabling or facilitating the contravention of such penalties.	Reg 14	

ANNEX B

Table of trade sanctions offences

Type of Sanctions offences	Specific offence	Relevant prohibition or requirement	Maximum penalty
Breach of controls on exporting military goods	Exporting military goods	Reg. 17. Offence contained within Customs and Excise Management Act 1986 s 69	<p>Liable on summary conviction</p> <p>To a penalty of £5,000 or of three times the value of the goods whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both.</p> <p>Liable on conviction on information</p> <p>To a penalty of any amount, or to imprisonment for a term not exceeding 10 years (this a modification to the 7 year maximum set out in the Customs and Excise Management Act 1986</p>
Breach of controls on military goods and technology	<ol style="list-style-type: none"> 1. Supplying or delivering military goods. 2. Making military goods or military technology available. 3. Transferring military technology. 4. Providing technical assistance relating to military goods or military technology. 	<ol style="list-style-type: none"> 1. Reg.18 2. Reg.19 3. Reg.20 4. Reg.21 	<p>Liable on summary conviction</p> <p>To imprisonment to a term not exceeding 12 months or a fine (or both).</p> <p>Liable on conviction on information</p> <p>To imprisonment for a term not exceeding 10 years or a fine (or both).</p>
Breach of controls on export and import of illegally removed Iraqi cultural property	<ol style="list-style-type: none"> 1. Export of illegally removed cultural property. 2. Import of illegally removed cultural property. 	<ol style="list-style-type: none"> 1. Reg.22(1) 2. Reg. 22(2) <p>Offence contained within Customs and Excise Management Act 1986 s46(2) (import) s69(export)</p>	

Breach of controls on illegally removed Iraqi cultural property	<ol style="list-style-type: none"> 1. 1. Supply or delivery of illegally removed Iraqi cultural property 2. Making available or acquisition of illegally removed Iraqi cultural property. 3. Providing financial services or funds relating to illegally removed Iraqi cultural property. 4. Providing brokering services relating to illegally removed Iraqi cultural property. 5. Failure to secure the transfer of illegally removed Iraqi cultural property held or controlled by a person or constable. 	<ol style="list-style-type: none"> 1. Reg.23 2. Reg.24 3. Reg.25 4. Reg.26 5. Reg.27 	<p>Liable on summary conviction</p> <p>To imprisonment to a term not exceeding 12 months or a fine (or both).</p> <p>Liable on conviction on information</p> <p>To imprisonment for a term not exceeding 10 years or a fine (or both).</p>
Circumvention etc. of prohibitions	Intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly to circumvent any of the prohibitions in regs. 17-25 (Trade) or to enable or facilitate the contravention of any such prohibition.	Reg. 28	<p>Liable on summary conviction</p> <p>To imprisonment to a term not exceeding 12 months or a fine (or both).</p> <p>Liable on conviction on information</p> <p>To imprisonment for a term not exceeding 10 years or a fine (or both).</p>
Licensing Offences	<ol style="list-style-type: none"> a. Knowingly or recklessly: <ol style="list-style-type: none"> i. Providing information that is false in a material respect, or ii. Providing or producing a document that is not what it purports to be, for the purpose of obtaining a trade licence. b. Purporting to act under the authority of a trade licence but failing to comply with any condition contained in the licence. 	Reg. 39	<p>Liable on summary conviction</p> <p>To imprisonment to a term not exceeding 12 months or a fine (or both).</p> <p>Liable on conviction on information</p> <p>To imprisonment for a term not exceeding 10 years or a fine (or both).</p>

Information Offences	<p>1. Failing to comply with record keeping requirements in reg. 46(2).</p> <p>(a) Intentionally obstructing an official in the performance of any of the official's functions</p> <p>(b) Failing to produce a register, record or document when reasonably required to do so by an official.</p>	<p>1. Reg. 46</p> <p>2. Reg. 47</p>	<p>Liable on summary conviction</p> <p>To imprisonment to a term not exceeding 12 months or a fine (or both).</p> <p>Liable on conviction on information</p> <p>To imprisonment for a term not exceeding 10 years or a fine (or both).</p>
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