Syria (Cultural Property) Sanctions - Guidance

Isle of Man Government

Reiltys Ellan Vannin

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Introduction

The Treasury has issued this guidance to assist in the implementation of, and compliance with the Syria (Sanctions) (United Nations)(Cultural Property)(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 Syria (Sanctions) (United Nations)(Cultural Property)(EU Exit) Regulations 2020 have effect in the Isle of Man by the Syria (Sanctions) (United Nations)(Cultural Property) Regulations 2020 [SD 2020/0522] ("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 guidance.

Contact details for enquiries

Enquiries concerning this Notice should be addressed to the address given below and marked for the attention of the Sanctions Officer.

Enquiries may also be made by –

- Email (customs@gov.im)
- Telephone (01624 648109)

The Sanctions Officer
Customs and Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

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1. Prohibitions and requirements imposed by the Regulations

These Regulations impose trade sanctions to prevent items of archaeological, historical, cultural, rare scientific and religious importance being illegally removed from Syria on or after 15 March 2011.

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;

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

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 immigration sanctions contained in these Regulations are set out below.

1.1 Trade Sanctions

The Regulations impose trade prohibitions, including restrictions on the export and import of, and trade in Syrian cultural property illegally removed from Syria on or after 15 March 2011. They also require a person who holds or controls illegally removed Syrian cultural property to secure its transfer to a constable.

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).

2. How will these sanctions measures be enforced?

The Regulations make it a criminal offence to contravene the trade 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.

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[1] 1981 Chapter 61.

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

2.1. Trade Sanctions

Any breach of the prohibitions relating to the trade sanctions contained in the Regulations is triable either way and carries a maximum sentence of 10 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 and what steps you have **put in place to ensure it does not happen again.**

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

Licensing and exception provisions contained in Part 3 of these 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.

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

3.2 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 2 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 declaration

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 Customs & Excise News feed

Annex A

Table of trade sanctions offences

Type of Sanctions offences	**Specific offence**	**Relevant prohibition or requirement**	**Maximum penalty**
Breach of controls on export and import of illegally removed Syrian cultural property.	1. Export of illegally removed Syrian cultural property 2. Import of illegally removed Syrian cultural property	1.Reg. 7 (1) 2. Reg.7 (1) Offence contained within Customs and Excise Management Act 1986 s46(2) (import) s69 (export)	Liable on summary conviction To a penalty of £20,000 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. Liable on conviction to indictment 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
Breach of controls on illegally removed cultural property	1. Supplying or delivering illegally removed Syrian cultural property. 2. Making available or acquisition of illegally removed Syrian cultural property. 3. Providing financial services or funds relating to illegally removed Syrian cultural property. 4. Providing brokering services relating removed Syrian cultural property. 5. Failure to secure the transfer of illegally removed Syrian cultural property held or controlled by a person to a constable.	1. Reg.8 2. Reg.9 3. Reg.10 4. Reg.11 5. Reg.12	Liable on summary conviction To imprisonment to a term not exceeding 12 months or a fine (or both). Liable on conviction to indictment To imprisonment for a term not exceeding 10 years or a fine (or both).
Circumvention etc. of prohibitions	Circumventing directly or indirectly the prohibitions of regs. 7-12 or enabling the contravention of prohibitions.	Reg. 13.	Liable on summary conviction To imprisonment to a term not exceeding 12

			months or a fine (or both). Liable on conviction on indictment To imprisonment for a term not exceeding 10 years or a fine (or both).