

Statutory Document No. 2023/0200



European Union and Trade Act 2019

RUSSIA SANCTIONS (APPLICATION) (NO. 2) REGULATIONS 2023

*Approved by Tynwald:
Coming into operation in accordance with regulation 2*

The Council of Ministers makes the following Regulations under section 19 of the European Union and Trade Act 2019.

The Council of Ministers is of the opinion that, by reason of urgency, it is necessary to make these Regulations subject to the Tynwald procedure set out in section 31 of the Legislation Act 2015 (“affirmative”) instead of the “approval required” Tynwald procedure applied by virtue of section 19(1) of the European Union and Trade Act 2019.

1 Title

These Regulations are the Russia Sanctions (Application) (No. 2) Regulations 2023.

2 Commencement

These Regulations come into operation immediately after they are made¹.

3 Application of the Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2023

- (1) The Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2023² (“the applied legislation”) apply to the Island, as part of the law of the Island, subject to the following modifications.
- (2) In regulation 1 (citation and commencement) —
 - (a) in the heading, omit “and commencement”; and

¹ Paragraph 7 of Schedule 4 to the European Union and Trade Act 2019 provides that if a statutory document contains a declaration that the Council of Ministers is of the opinion that, by reason of urgency, it is necessary to make the statutory document subject to the Tynwald procedure set out in section 31 of the Legislation Act 2015 (“affirmative”), that procedure applies to the statutory document instead of the “approval required” Tynwald procedure applied by virtue of any provision of the European Union and Trade Act 2019.

² SI 2023/665.

- (b) omit paragraph (2).
- (3) In regulation 2 (amendments to the Russia (Sanctions) (EU Exit) Regulations 2019), after “2019”, insert **6A**, as they have effect in the Island³, **6B**.
- (4) In regulation 5 (export of relevant restricted goods to non-government controlled Ukrainian territory), in the substituted regulation 30B, in paragraph (4), for “section 68(1)”, substitute **6A** section 69(1) **6B**.
- (5) In regulation 6 (export of infrastructure-related goods to non-government controlled Ukrainian territory), in the substituted regulation 48, in paragraph (4), for “section 68(1)”, substitute **6A** section 69(1) **6B**.
- (6) In regulation 7(b) (export of restricted goods), in the inserted paragraph (2), for “section 68(1)”, substitute **6A** section 69(1) **6B**.
- (7) Omit regulation 8 (ports directions).
- (8) For regulation 11 (penalties for offences), substitute —
- 6A** 11. In regulation 80 (penalties for offences), omit “57 (Crimean ports direction or Donetsk ports direction),”. **6B**.
- (9) The text of the applied legislation is annexed to these Regulations.

4 Application of the Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2023

- (1) The Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2023⁴ (“the applied legislation”) apply to the Island, as part of the law of the Island, subject to the following modifications.
- (2) In regulation 1 (citation and commencement) —
- (a) in the heading, omit “and commencement”; and
- (b) omit paragraph (2).

³ SI 2019/855, as amended by SI 2020/590 and SI 2020/951, was applied to the Island by SD 2020/0504. SI 2019/855 has subsequently been amended by SI 2022/194, which was applied to the Island by SD 2022/0098, SI 2022/195, which was applied to the Island by SD 2022/0098, SI 2022/203, which was applied to the Island by SD 2022/0101, SI 2022/205, which was applied to the Island by SD 2022/0102, SI 2022/241, which was applied to the Island by SD 2022/0117, SI 2022/395, which was applied to the Island by SD 2022/0139, SI 2022/452, which was applied to the Island by SD 2022/0161, SI 2022/477, which was applied to the Island by SD 2022/0168, SI 2022/792, which was applied to the Island by SD 2022/0238, SI 2022/801, which was applied to the Island by SD 2022/0240, SI 2022/814, which was applied to the Island by SD 2022/0240, SI 2022/818, which was applied to the Island by SD 2022/0250, SI 2022/850, which was applied to the Island by SD 2022/0245, SI 2022/1110 which was applied to the Island by SD 2022/0304, SI 2022/1122 which was applied to the Island by SD 2022/0321, SI 2022/1331 which was applied to the Island by SD 2022/0346 and SD 2023/0136, and SI 2023/440 which was applied to the Island by SD 2023/0157.

⁴ SI 2023/713.

- (3) In regulation 2 (amendments to the Russia (Sanctions) (EU Exit) Regulations 2019), after “2019”, insert **66**, as they have effect in the Island⁵, **62**.
- (4) In regulation 3(2) (amendments to Chapter 6B of Part 5 (trade: professional and business services)), in the inserted regulation 54D (legal advisory services) —
- (a) for “a United Kingdom person” wherever occurring, substitute **66**an Island person **62**; and
- (b) for “United Kingdom” wherever occurring, substitute **66**Isle of Man **62**.
- (5) In regulation 4 (amendments to regulation 60DA (trade: exceptions relating to professional and business services)) —
- (a) in paragraph (a) —
- (i) for “subsidiary undertaking”, substitute **66**subsidiary **62**; and
- (ii) for “UK subsidiary undertaking”, substitute **66**IOM subsidiary **62**;
- (b) in paragraph (b), in the inserted paragraph (5A)(a) —
- (i) omit the first “UK”;
- (ii) before the second “UK”, insert **66**Isle of Man or **62**;
- (c) in paragraph (d) —
- (i) for “after the definition of “subsidiary undertaking””, substitute **66**in the appropriate alphabetical position **62**;
- (ii) for the definition of “UK subsidiary undertaking”, substitute —
- 66**“IOM subsidiary” means a subsidiary that is incorporated or formed under the law of the Isle of Man **62**;
- (iii) for the definition of “UK undertaking”, substitute —

⁵ SI 2019/855, as amended by SI 2020/590 and SI 2020/951, was applied to the Island by SD 2020/0504. SI 2019/855 has subsequently been amended by SI 2022/194, which was applied to the Island by SD 2022/0098, SI 2022/195, which was applied to the Island by SD 2022/0098, SI 2022/203, which was applied to the Island by SD 2022/0101, SI 2022/205, which was applied to the Island by SD 2022/0102, SI 2022/241, which was applied to the Island by SD 2022/0117, SI 2022/395, which was applied to the Island by SD 2022/0139, SI 2022/452, which was applied to the Island by SD 2022/0161, SI 2022/477, which was applied to the Island by SD 2022/0168, SI 2022/792, which was applied to the Island by SD 2022/0238, SI 2022/801, which was applied to the Island by SD 2022/0240, SI 2022/814, which was applied to the Island by SD 2022/0240, SI 2022/818, which was applied to the Island by SD 2022/0250, SI 2022/850, which was applied to the Island by SD 2022/0245, SI 2022/1110 which was applied to the Island by SD 2022/0304, SI 2022/1122 which was applied to the Island by SD 2022/0321, SI 2022/1331 which was applied to the Island by SD 2022/0346 and SD 2023/0136, and SI 2023/440 which was applied to the Island by SD 2023/0157.

“undertaking” means —

- (a) a body corporate or partnership; or
- (b) an unincorporated association carrying on a trade or business, with or without a view to profit,
that is incorporated or formed under the law of the Isle of Man or the United Kingdom.

- (6) In regulation 5 (insertion of regulation 60DB), in the inserted regulation 60DB (trade: exception relating to legal advisory services) —
 - (a) in paragraph (2), for “UK”, substitute Isle of Man;
 - (b) in paragraph (4)(b), for “Secretary of State”, substitute Treasury.
- (7) Omit regulation 7 (amendment to regulation 82 (jurisdiction to try offences)).
- (8) In regulation 8 (amendment to regulation 85 (trade enforcement: application of CEMA)), omit paragraph (b).
- (9) Omit regulation 9 (amendment to regulation 87 (application of Chapter 1 of Part 2 of Serious and Organised Crime and Police Act 2005)).
- (10) Omit regulation 10 (amendments to Schedule 3J (professional and business services)).
- (11) The text of the applied legislation is annexed to these Regulations.

MADE 30TH JUNE 2023

C RANDALL

Interim Chief Executive Officer (Isle of Man Government)

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

These Regulations further amend the Russia (Sanctions) (EU Exit) Regulations 2019, as those Regulations have effect in the Island (“the 2019 Regulations”) by applying to the Island the following United Kingdom Statutory Instruments —

- (a) the Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2023;
- (b) the Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2023.

These Regulations removes the existing definition of “non-government controlled areas of the Donetsk and Luhansk oblasts”, and substitutes a new definition of “non-government controlled Ukrainian territory” which includes also the additional territory of non-government controlled areas of the Kherson and Zaporizhzhia oblasts of Ukraine. The expanded definition has the effect of extending existing finance, shipping and trade sanctions relating to the Autonomous Republic of Crimea and city of Sevastopol (“Crimea”) and non-government controlled areas of the Donetsk and Luhansk oblasts, and relevant exceptions, to non-government controlled areas of the Kherson and Zaporizhzhia oblasts.

The Regulations also introduce a defence to the strict liability offence under section 69(1) of the Customs and Excise Management Act 1986 relating to the prohibition on exportation of certain goods to, or for use in, non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts.

These Regulations introduce a new prohibition on the provision of legal advisory services to persons who are not Island persons (as defined in the 2019 Regulations) where those services are provided in relation to, or in connection with, activity which would contravene other financial and trade sanctions prohibitions if carried out by a person in the Island, or where the activity occurs in the Island.

Exceptions to the new prohibition are also included, and further exceptions in relation to auditing services and in relation to the provision of expert evidence in connection with legal proceedings are added.

Annex

STATUTORY INSTRUMENTS

2023 No. 665

SANCTIONS

The Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2023

<i>Made</i>	<i>15th June 2023</i>
<i>Laid before Parliament</i>	<i>19th June 2023</i>
<i>Coming into force</i>	<i>20th June 2023</i>

The Secretary of State, considering that the condition in section 45(2) of the Sanctions and Anti-Money Laundering Act 2018⁶ is met, makes the following Regulations in exercise of the powers conferred by sections 1, 5, 7(2) and (5), 15(2)(a), 17 and 45 of, and paragraphs 2(b) and 28(1) of Schedule 1 to, that Act.

Citation and commencement

- (1) These Regulations may be cited as the Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2023.
- ~~(2) — These Regulations come into force on 20th June 2023.~~

Amendments to the Russia (Sanctions) (EU Exit) Regulations 2019

- The Russia (Sanctions) (EU Exit) Regulations 2019⁷, **as they have effect in the Island**⁸, are amended in accordance with the following regulations.

Interpretation

- In regulation 2 (interpretation)—

⁶ 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 and 45 are amended by the Economic Crime (Transparency and Enforcement) Act 2022 (c.10), sections 57 and 62. The power to make regulations under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 (c.13) ("SAML A") is conferred on an appropriate Minister. Section 1(9)(a) of SAML A defines an "appropriate Minister" as including the Secretary of State.

⁷ SI 2019/855, as amended by SI 2020/590; SI 2020/951; SI 2022/123; SI 2022/194; SI 2022/195; SI 2022/203; SI 2022/205; SI 2022/241; SI 2022/395; SI 2022/452; SI 2022/477; SI 2022/792; SI 2022/801; SI 2022/814; SI 2022/818; SI 2022/850; SI 2022/1110; SI 2022/1122; SI 2022/1331; and SI 2023/440; and by the Sentencing Act 2020.

⁸ SI 2019/855, as amended by SI 2020/590 and SI 2020/951, was applied to the Island by SD 2020/0504. SI 2019/855 has subsequently been amended by SI 2022/194, which was applied to the Island by SD 2022/0098, SI 2022/195, which was applied to the Island by SD 2022/0098, SI 2022/203, which was applied to the Island by SD 2022/0101, SI 2022/205, which was applied to the Island by SD 2022/0102, SI 2022/241, which was applied to the Island by SD 2022/0117, SI 2022/395, which was applied to the Island by SD 2022/0139, SI 2022/452, which was applied to the Island by SD 2022/0161, SI 2022/477, which was applied to the Island by SD 2022/0168, SI 2022/792, which was applied to the Island by SD 2022/0238, SI 2022/801, which was applied to the Island by SD 2022/0240, SI 2022/814, which was applied to the Island by SD 2022/0240, SI 2022/818, which was applied to the Island by SD 2022/0250, SI 2022/850, which was applied to the Island by SD 2022/0245, SI 2022/1110 which was applied to the Island by SD 2022/0304, SI 2022/1122 which was applied to the Island by SD 2022/0321, SI 2022/1331 which was applied to the Island by SD 2022/0346 and SD 2023/0136, and SI 2023/440 which was applied to the Island by SD 2023/0157.

- (a) omit the definition of “non-government controlled areas of the Donetsk and Luhansk oblasts”;
- (b) in the appropriate place insert—

“non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts” means the parts of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts which are for the time being controlled by an authority other than the Government of Ukraine;”
- (c) for the definition of “non-government controlled Ukrainian territory” substitute—

“non-government controlled Ukrainian territory” means Crimea and non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts;”.

Purposes

- 4. In regulation 4 (purposes)—
 - (a) after “for the purposes of” insert “—”;
 - (b) the remaining text becomes paragraph (a);
 - (c) after that paragraph insert—
 - “(b) promoting the payment of compensation by Russia for damage, loss or injury suffered by Ukraine on or after 24th February 2022 as a result of Russia’s invasion of Ukraine.”

Export of relevant restricted goods to non-government controlled Ukrainian territory

- 5. For regulation 30B (export of relevant restricted goods) substitute—
 - “**30B.** (1) The export of relevant restricted goods to, or for use in, Crimea is prohibited.
 - (2) The export of relevant restricted goods to, or for use in, non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts is prohibited.
 - (3) Paragraphs (1) and (2) are subject to Part 7 (Exceptions and licences).
 - (4) It is a defence for a person charged with the offence under ~~section 68(1)~~ **section 69(1)** (offences in relation to exportation of prohibited or restricted goods) of CEMA in relation to the prohibition in paragraph (2) to show that they did not know and had no reasonable cause to suspect that the export was, or would have been, to, or the goods were for use in, non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts.”

Export of infrastructure-related goods to non-government controlled Ukrainian territory

- 6. For regulation 48 (export of infrastructure-related goods to non-government controlled Ukrainian territory) substitute—

48. (1) The export of infrastructure-related goods to, or for use in, Crimea is prohibited.

(2) The export of infrastructure-related goods to, or for use in, non-government controlled areas of the Donetsk Kherson, Luhansk and Zaporizhzhia oblasts is prohibited.

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

(4) It is a defence for a person charged with the offence under ~~section 68(1)~~ **section 69(1)** (offences in relation to exportation of prohibited or restricted goods) of CEMA in relation to the prohibition in paragraph (2) to show that they did not know and had no reasonable cause to suspect that the export was, or would have been, to, or the goods were for use in, non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts."

Export of restricted goods

7. In regulation 53A (application of prohibitions and requirements in Chapter 2 of Part 5 to non-government controlled Ukrainian territory)—

(a) the existing text becomes paragraph (1);

(b) after that paragraph insert—

"(2) Paragraph (3) applies where the person is charged with the offence under ~~section 68(1)~~ **section 69(1)** (offences in relation to exportation of prohibited or restricted goods) of CEMA in relation to exportation of goods to, or for use in, non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts which is or would be contrary to the prohibition in regulation 22(1) (export of restricted goods), as it has effect by virtue of this regulation.

(3) It is a defence for a person charged with the offence mentioned in paragraph (2) to show that the person did not know and had no reasonable cause to suspect that the export was, or would have been, to, or the goods were for use in, non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts."

Ports directions

~~**8.** In regulation 57 (Crimean ports direction or Donetsk ports direction)—~~

~~(a) for the heading, substitute "Crimean ports direction, Donetsk ports direction or Kherson and Zaporizhzhia ports direction";~~

~~(b) in paragraph (1), for "Crimean ports direction or a Donetsk ports direction" substitute "Crimean ports direction, a Donetsk ports direction or a Kherson and Zaporizhzhia ports direction";~~

~~(c) after paragraph (2A) insert—~~

~~"(2B) In this regulation, a "Kherson and Zaporizhzhia ports direction" is a direction prohibiting a ship from entering a port or any ports located in non-government controlled areas of the Kherson and Zaporizhzhia oblasts.";~~

- (d) ~~in paragraph (4), for "Crimean ports direction or a Donetsk ports direction" substitute "Crimean ports direction, a Donetsk ports direction or a Kherson and Zaporizhzhia ports direction";~~
- (e) ~~in paragraph (5), for "Crimean ports direction or a Donetsk ports direction" substitute "Crimean ports direction, a Donetsk ports direction or a Kherson and Zaporizhzhia ports direction".~~

Exceptions relating to investments in relation to non-government controlled Ukrainian territory

9. In regulation 60 (exceptions relating to investments in relation to non-government controlled Ukrainian territory), after paragraph (3)(b), insert—

- "(c) in the case of investments in relation to non-government controlled areas of the Kherson and Zaporizhzhia oblasts, 20th June 2023."

Trade: exception for humanitarian assistance activity

10. In regulation 61ZA (trade: exception for humanitarian assistance activity in non-government controlled areas of the Donetsk and Luhansk oblasts)—

- (a) in the heading, for "Donetsk and Luhansk oblasts" substitute "Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts";
- (b) in paragraph (1), for "Donetsk and Luhansk oblasts" substitute "Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts";
- (c) in paragraph (2), in the definition of "humanitarian assistance activity" for "Donetsk and Luhansk oblasts" substitute "Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts".

Penalties for offences

11. In regulation 80(1) (penalties for offences), for "57 (Crimean ports direction or Donetsk ports direction)" substitute "57 (Crimean ports direction, Donetsk ports direction or Kherson and Zaporizhzhia ports direction) **(as that regulation has effect in the United Kingdom)**".

Maritime enforcement

12. In regulation 89(2)(ba) (exercise of maritime enforcement powers), for "non-government controlled Ukrainian technology" substitute "non-government controlled Ukrainian territory".

Andrew Mitchell

Minister of State

Foreign, Commonwealth and Development Office

15th June 2023

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) ("the Act") to amend the Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855) ("the 2019 Regulations") (as amended).

Under section 1 of the Act, the Secretary of State may make sanctions regulations for a purpose within subsection (2). In addition to the current purpose stated in regulation 4 (encouraging Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine), the Secretary of State considers that the 2019 Regulations are also appropriate for promoting the payment of compensation by Russia for losses suffered by Ukraine as a result of Russia's full-scale invasion of Ukraine on or after 24 February 2022. Regulation 4 of the 2019 Regulations is amended to refer to this additional purpose.

Regulation 3 removes the existing definition of non-government controlled areas of the Donetsk and Luhansk oblasts, and substitutes a new definition of non-government controlled Ukrainian territory which includes also the additional territory of non-government controlled areas of the Kherson and Zaporizhzhia oblasts of Ukraine.

The expanded definition has the effect of extending existing finance, shipping and trade sanctions relating to the Autonomous Republic of Crimea and city of Sevastopol ("Crimea") and non-government controlled areas of the Donetsk and Luhansk oblasts, and relevant exceptions, to non-government controlled areas of the Kherson and Zaporizhzhia oblasts.

The Regulations also introduce a defence to the strict liability offence under section 68(1) of the Customs and Excise Management Act 1979 relating to the prohibition on exportation of certain goods to, or for use in, non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. Instead a de minimis assessment has been prepared as this instrument is likely to entail some costs for businesses, but the net impact is estimated to be below £5 million per year.

STATUTORY INSTRUMENTS

2023 No. 713

SANCTIONS

The Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2023

<i>Made</i>	- - - -	27 th June 2023
<i>Laid before Parliament</i>		29 th June 2023
<i>Coming into force-</i>		30 th June 2023

The Secretary of State⁹, considering that the condition in section 45(2) of the Sanctions and Anti-Money Laundering Act 2018¹⁰ is met, makes the following Regulations in exercise of the powers conferred by sections 1, 5, 15(2), (3) and (6), 17, 21(1), 45 and 54(2) of, and paragraphs 11(a), 13, 14(a), (e), (f), (g) and (k) and 20 of Schedule 1 to, that Act:

Citation and commencement

- (1) These Regulations may be cited as the Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2023.
- ~~(2) These Regulations come into force on 30th June 2023.~~

Amendments to the Russia (Sanctions) (EU Exit) Regulations 2019

- The Russia (Sanctions) (EU Exit) Regulations 2019¹¹, **as they have effect in the Island**¹², are amended as set out in regulations 3 to 10.

Amendments to Chapter 6B of Part 5 (trade: professional and business services)

- (1) In regulation 54B¹³, after paragraph (g), insert—

⁹ 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.

¹⁰ 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 and 45 are amended by the Economic Crime (Transparency and Enforcement) Act 2022 (c.10), sections 57 and 62.

¹¹ S.I. 2019/855 as amended by S.I. 2020/590, 951; S.I. 2022/124; 194; 195; 203; 205; 241; 395; 452; 477; 500; 792; 801; 814; 850; 1110; 1122 and 1331, and S.I. 2023/149, 440 and 665.

¹² SI 2019/855, as amended by SI 2020/590 and SI 2020/951, was applied to the Island by SD 2020/0504. SI 2019/855 has subsequently been amended by SI 2022/194, which was applied to the Island by SD 2022/0098, SI 2022/195, which was applied to the Island by SD 2022/0098, SI 2022/203, which was applied to the Island by SD 2022/0101, SI 2022/205, which was applied to the Island by SD 2022/0102, SI 2022/241, which was applied to the Island by SD 2022/0117, SI 2022/395, which was applied to the Island by SD 2022/0139, SI 2022/452, which was applied to the Island by SD 2022/0161, SI 2022/477, which was applied to the Island by SD 2022/0168, SI 2022/792, which was applied to the Island by SD 2022/0238, SI 2022/801, which was applied to the Island by SD 2022/0240, SI 2022/814, which was applied to the Island by SD 2022/0240, SI 2022/818, which was applied to the Island by SD 2022/0250, SI 2022/850, which was applied to the Island by SD 2022/0245, SI 2022/1110, which was applied to the Island by SD 2022/0304, SI 2022/1122, which was applied to the Island by SD 2022/0321, SI 2022/1331, which was applied to the Island by SD 2022/0346 and SD 2023/0136, and SI 2023/440, which was applied to the Island by SD 2023/0157.

¹³ Regulations 54B and 54C were inserted by S.I. 2022/850 and amended by S.I. 2022/1331.

“(ga) “legal advisory services” has the meaning given in paragraph 8A of Schedule 3J;”.

(2) After regulation 54C, insert—

“Legal advisory services

54D. (1) A person must not directly or indirectly provide legal advisory services to any person who is not a ~~United Kingdom person~~ **an Island person** in relation to, or in connection with, any activity (“the relevant activity”) which satisfies the condition in paragraph (2), whether or not those services are provided to a person in the ~~United Kingdom~~ **Isle of Man**.

(2) The condition is that the relevant activity would—

(a) be prohibited under any of regulations 11 to 18C of Part 3 (Finance)¹⁴, Chapters 2 to 6 or Chapter 6B of Part 5 (Trade)¹⁵ if—

(i) the relevant activity was done by a ~~United Kingdom person~~ **an Island person**, or

(ii) the relevant activity was taking place in the ~~United Kingdom~~ **Isle of Man**, or

(b) contravene regulation 19 or 55 if—

(i) the relevant activity was done by a ~~United Kingdom person~~ **an Island person**, or

(ii) the relevant activity was taking place in the ~~United Kingdom~~ **Isle of Man**.

(3) Paragraph (1) is subject to Part 7 (exceptions and licences).

(4) A person who contravenes any of the prohibitions in paragraph (1) (“P”) commits an offence, but it is a defence for P to show that P did not know and had no reasonable cause to suspect that the relevant activity satisfied the condition in paragraph (2).

Amendments to regulation 60DA (trade: exceptions relating to professional and business services)

4. In regulation 60DA¹⁶—

(a) in paragraph (5)(a), for “~~subsidiary undertaking~~ **subsidiary**”, substitute “~~UK subsidiary undertaking~~ **IOM subsidiary**”;

(b) after paragraph (5), insert—

“(5A) The prohibitions in regulation 54C, in so far as they relate to auditing services, are not contravened by any act done by a person (“P”)—

(a) in satisfaction of an obligation arising from the appointment of P as the auditor of a ~~UK~~ undertaking (“U”) in respect of the provision of those services to U in relation to the discharge of or compliance with **Isle of Man or UK** statutory or regulatory obligations, and

(b) which results in the provision of those services directly or indirectly to a person connected with Russia in that person’s capacity as a member of U.”;

(c) after paragraph (7), insert—

¹⁴ Regulation 18C was inserted by S.I. 2022/1331.

¹⁵ Chapter 6B was inserted by S.I. 2022/850.

¹⁶ Regulation 60DA was inserted by S.I. 2022/1331.

“(7A) The prohibitions in regulation 54C are not contravened by any act done by a person as part of the provision of expert evidence provided in, or in anticipation of—

- (a) any proceedings before administrative agencies, courts or other duly constituted official tribunals, or
- (b) in any arbitral or mediation proceedings.”;

(d) in paragraph (9), after the definition of “subsidiary undertaking” in the **appropriate alphabetical position**, insert—

~~“UK subsidiary undertaking” means a subsidiary undertaking that is incorporated or formed under the law of the United Kingdom;~~

“IOM subsidiary” means a subsidiary that is incorporated or formed under the law of the Isle of Man;

~~“UK undertaking” means an undertaking within the meaning given in section 1161 of the Companies Act 2006¹⁷ that is incorporated or formed under the law of the United Kingdom.~~

“undertaking” means –

- (a) a body corporate or partnership;**
- (b) an unincorporated association carrying on a trade or business, with or without a view to profit,**

that is incorporated or formed under the law of the Isle of Man or the United Kingdom.”.

Insertion of regulation 60DB

5. After regulation 60DA (trade: exceptions relating to professional and business services) insert—

“Trade: exception relating to legal advisory services

60DB. (1) The prohibitions in regulation 54D (legal advisory services) are not contravened by any act done by a person that is necessary for the official purposes of a diplomatic mission or consular post in Russia, or of an international organisation enjoying immunities in accordance with international law.

(2) The prohibitions in regulation 54D are not contravened by any act done by a person in satisfaction of an obligation in respect of the provision of legal advisory services to any person where the services are provided in relation to the discharge of or compliance with ~~UK~~ **Isle of Man** statutory or regulatory obligations.

(3) The prohibitions in regulation 54D are not contravened by any act done by a person for the purpose of providing legal advice to any person as to whether an act or a proposed act complies with these Regulations.

(4) The prohibitions in regulation 54D are not contravened by any act done by a person (“P”) in satisfaction of an obligation arising under a contract concluded before 30th June 2023, or an ancillary contract necessary for the satisfaction of such a contract, provided that—

- (a) the act is carried out before the end of 29th September 2023, and
- (b) P notifies the ~~Secretary of State~~ **Treasury** of the provision of the services, before or after the act is carried out, by the end of 29th September 2023.

(5) In this regulation—

¹⁷ 2006 c.46.

“consular post” has the same meaning as in the Vienna Convention on Consular Relations done at Vienna on 24th April 1963¹⁸;

“diplomatic mission” is to be read in accordance with the Vienna Convention on Diplomatic Relations done at Vienna on 18th April 1961¹⁹;

“legal advisory services” has the meaning given in regulation 54B.”

Amendments to regulation 61 (trade: exception for emergencies in certain cases)

6. In regulation 61(1A)²⁰—

(a) at the beginning of sub-paragraph (e), insert “in”;

(b) after sub-paragraph (e), insert—

“(f) in regulation 54D (legal advisory services).”.

Amendment to regulation 82 (jurisdiction to try offences)

~~7. In regulation 82(1), after “and oil products),”, insert “regulation 54D (legal advisory services),”.~~

Amendment to regulation 85 (trade enforcement: application of CEMA)

8. In regulation 85—

(a) in paragraph (3)(a), at the end, insert “except regulation 54D (legal advisory services), but only insofar as the offence under that regulation relates to legal advisory services concerning relevant activity which would be prohibited under any of regulations 11 to 19”;

~~(b) after paragraph (3), insert—~~

~~“(3A) The Commissioners may not investigate the suspected commission of a relevant offence listed in paragraph (3B), unless the suspected offence has been the subject of—~~

~~(a) a referral to the Commissioners by—~~

~~(i) the Secretary of State,~~

~~(ii) the Treasury, or~~

~~(iii) OFCOM, where such referral relates to a suspected offence under regulation 54A(4)²¹;~~

~~(b) a decision by the Commissioners to treat the suspected offence as if it had been referred to them under sub-paragraph (a).~~

~~(3B) Paragraph (3A) applies to the suspected commission of a relevant offence under any of the following provisions—~~

~~(a) regulation 29(3);~~

~~(b) regulation 30C(3)²²;~~

~~(c) regulation 41(3);~~

~~(d) regulation 45(3);~~

~~(e) regulation 46B(4)²³ insofar as it relates to the prohibition at regulation 46B(2)(a);~~

¹⁸ United Nations Treaty Series, vol. 596, p.261.

¹⁹ United Nations Treaty Series, vol. 500, p.95.

²⁰ Paragraph (1A) was inserted by S.I. 2022/195.

²¹ Regulation 54A was inserted by S.I. 2022/477.

²² Regulation 30C was inserted by S.I. 2022/792.

²³ Regulations 46B and 46F were inserted by S.I. 2022/452.

- ~~(f) — regulation 46F(3);~~
- ~~(g) — regulation 46G(3)²⁴ insofar as it relates to the prohibition at regulation 46G(1)(c);~~
- ~~(h) — regulation 46H(3) insofar as it relates to the prohibition at regulation 46H(1)(c);~~
- ~~(i) — regulation 46K(3);~~
- ~~(j) — regulation 46N(4) insofar as it relates to the prohibition at regulation 46N(2)(a);~~
- ~~(k) — regulation 46Y(4)²⁵ insofar as it relates to the prohibition at regulation 46Y(2)(a);~~
- ~~(l) — regulation 46Z2(3) insofar as it relates to the prohibitions at regulation 46Z2(1)(e), (f) and (g);~~
- ~~(m) — regulation 46Z9B(8)²⁶;~~
- ~~(n) — regulation 46Z9B(9);~~
- ~~(o) — regulation 46Z9C(4);~~
- ~~(p) — regulation 46Z9C(5);~~
- ~~(q) — regulation 46Z9D(4);~~
- ~~(r) — regulation 46Z9D(5);~~
- ~~(s) — regulation 46Z30(4)²⁷ insofar as it relates to the prohibition at regulation 46Z30(2)(a);~~
- ~~(t) — regulation 46Z33(3) insofar as it relates to the prohibitions at regulation 46Z33(1)(e), (f) and (g);~~
- ~~(u) — regulation 49(3);~~
- ~~(v) — regulation 53(3);~~
- ~~(w) — regulation 54(3);~~
- ~~(x) — regulation 54A(4);~~
- ~~(y) — regulation 54C(3);~~
- ~~(z) — regulation 54D(4);~~
- ~~(z1) — regulation 67(1);~~
- ~~(z2) — regulation 67(2).~~

~~(3C) — Regulations 85(3A) also applies to the suspected commission of a relevant offence under any of regulations 68(1), 76(6) and 77(5) insofar as—~~

- ~~(a) — the suspected offence relates to a licence issued under regulation 65, and~~
- ~~(b) — the prohibited activity authorised by that licence would, if no licence had been issued, amount to an offence specified in paragraph (3B)(a) to (z)."~~

Amendment to regulation 87 (application of Chapter 1 of Part 2 of Serious Organised Crime and Police Act 2005)

~~9. — In regulation 87, after "and oil products)", insert ", regulation 54D (legal advisory services)".~~

²⁴ Regulations 46G, 46H, 46K and 46N were inserted by S.I. 2022/792.

²⁵ Regulation 46Y was inserted by S.I. 2022/850 and amended by S.I. 2022/1110.

²⁶ Regulations 46Z9B, 46Z9C and 46Z9D were inserted by S.I. 2022/1122.

²⁷ Regulations 46Z30 and 46Z33 were inserted by S.I. 2022/1110.

Amendments to Schedule 3J (professional and business services)

10. In Schedule 3J²⁸, after paragraph 8, insert—

~~“Meaning of legal advisory services~~

8A. (1) ~~“Legal advisory services”~~

(a) ~~means the provision of legal advice to a client in non-contentious matters, involving any of the following—~~

(i) ~~the application or interpretation of law;~~

(ii) ~~acting on behalf of a client, or providing advice on or in connection with, a commercial transaction, negotiation or any other dealing with a third party;~~

(iii) ~~the preparation, execution or verification of a legal document;~~

(b) ~~do not include any representation, advice, preparation of documents or verification of documents undertaken as part of legal representation services provided in, or in anticipation of—~~

(i) ~~any proceedings before administrative agencies, courts or other duly constituted official tribunals, or~~

(ii) ~~arbitral or mediation proceedings.~~

~~(2) In sub-paragraph (1)—~~

(a) ~~“legal document” includes any document which is governed in whole or in part by law, or which satisfies a legal requirement;~~

(b) ~~“legal representation services” include advice given in relation to a dispute or potential dispute, and on the settlement of a dispute, whether or not proceedings referred to in sub-paragraph (1)(b) are commenced in relation to the dispute.”.~~

27th June 2023

David Rutley
Parliamentary Under Secretary of State
Foreign, Commonwealth and Development Office

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 amend the Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855) (“the 2019 Regulations”).

Regulation 3 amends Chapter 6B (professional and business services) of Part 5 of the 2019 Regulations to introduce a new prohibition on the provision of legal advisory services where the legal advisory services are provided in relation to activity which would contravene certain prohibitions in the 2019 Regulations if that activity were carried out by a UK person, or in the United Kingdom.

Regulation 4 introduces new exceptions to the prohibition on the provision of professional and business services to a person connected with Russia for the provision of auditing services, and in relation to the provision of expert evidence in connection with legal proceedings.

²⁸ Schedule 3J was inserted by S.I. 2022/1331.

Regulation 5 introduces an exception from the new prohibition, inserting a new regulation 60DB in the 2019 Regulations, and regulation 6 amends regulation 61 to ensure that the new prohibition is not contravened by an act done to deal with an emergency.

Regulations 7 and 9 make consequential amendments to regulations 82 and 87 on the enforcement of the 2019 Regulations.

Regulation 8 amends regulation 85 so that the offences specified in regulation 85(3B) and (3C) may only be investigated by HM Revenue and Customs following a referral by either a Secretary of State, the Treasury or the Office of Communications, or a decision by the Commissioners for His Majesty's Revenue and Customs to treat a suspected offence as if it had been so referred to them.

Regulation 10 inserts a definition of "legal advisory services" into Schedule 3J.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public service is foreseen.