

**EXPLANATORY MEMORANDUM TO**  
**THE SANCTIONS REVIEW PROCEDURE (EU EXIT) REGULATIONS 2018**  
**2018 No. 1269**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 The purpose of this statutory instrument is to set out the procedure for requesting a review of sanctions designations and ship specifications and designations under the Sanctions and Anti-Money Laundering Act 2018 (“the Act”).

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This instrument is the first instrument to be laid under the Act.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.

**5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**6. Legislative Context**

- 6.1 The UK’s implementation of UN and other multilateral sanctions relies largely on the European Communities Act 1972. The European Union (Withdrawal) Act 2018 will repeal the European Communities Act 1972 and provides for some EU sanctions law to form part of domestic law after the UK has left the EU. However, the European Union (Withdrawal) Act does not provide powers to substantially amend that retained EU law and it does not provide powers to lift sanctions or impose new sanctions. In addition, the European Union (Withdrawal) Act does not retain the effect of certain sanctions (travel bans) which are in force by virtue of EU Council Decisions (rather than under EU Regulations). The Act was introduced to address these issues by providing the UK

with the legal framework necessary to allow the UK to implement sanctions autonomously.

- 6.2 The Act enables sanctions to be imposed for the purposes of compliance with United Nations obligations; compliance with other international obligations; furthering the prevention of terrorism; national security; promoting international peace and security; or furthering foreign policy objectives. This procedural instrument is the first of a series of instruments to be laid under the Act.

## 7. Policy background

### *What is being done and why?*

- 7.1 Sanctions are an important foreign policy and national security tool. They are restrictive measures which are designed to be temporary and can be used to coerce a change in behaviour, to constrain behaviour, or to communicate a clear political message to other countries or persons.
- 7.2 The UK currently implements over 30 sanctions regimes as an EU member state. The Prime Minister has committed that the UK will look to carry over all EU sanctions into UK law after the UK's departure from the EU. These include country-specific sanctions regimes, including in relation to Russia, North Korea and Iran, as well as regimes targeting Da'esh, Al Qaida and other terrorist groups. There are currently around 2,000 individuals and entities subject to sanctions implemented by the UK. These sanctions include asset freezes, travel bans and other financial and trade restrictions. Sanctions regimes will be brought into UK law through further Regulations made under the Act. The regime specific Regulations list the criteria against which a Minister may make a decision to designate a person as being subject to a travel ban or asset freeze ("**designated persons**"). Regulations may also specify ships if imposing shipping sanctions ("**specified ships**").
- 7.3 All decisions to designate a person will be taken on the basis of the evidence that is held, and whether it is considered to meet the legal tests in the Act and the criteria set out in Regulations. The names of designated persons are not included in Regulations but will be held on a separate administrative list on gov.uk to enable immediate publication following a decision to make or amend a designation. This limits the opportunity for designated persons to remove assets from the UK.
- 7.4 In recognition that the imposition of sanctions can have significant effects on those who are sanctioned, the Act contains a number of procedural safeguards to protect the rights of designated and affected persons. These include:
- The right of a designated person to request variation or revocation of their designation by the Minister who made the decision to designate them;
  - The right of those people affected by a ship specification ("**affected person**") to request the revocation of the sanction on the ship;
  - The right of those people who have been designated (or affected persons in relation to a ship designation) to fulfil a UN obligation, to ask the Secretary of State to use his best endeavours to have the listing/designation revoked at UN level.
- 7.5 This instrument sets out the procedural detail of how these requests are to be made and how designated persons shall be notified of decisions. Designated persons and affected persons seeking to have their designation revoked or varied, or a ship

specification/designation revoked, are required to do so in the first instance through this review process before challenging the designation/specification in the courts.

- 7.6 The purpose of this review procedure is to provide a swift means of challenge for the designated person or affected person. It enables them to ask the Minister to reconsider the decision to designate the person/entity/ship and make representations as to why the decision should be to delist. They may also provide the Minister with additional information that may not have been available to the Minister who took the decision to impose the sanction.
- 7.7 A request can be made at any time while the designation has effect, but once one request has been made, further requests can only be made on the grounds that a significant matter has not previously been considered by the Minister.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument is not made under the European Union (Withdrawal) Act but it relates to the withdrawal of the United Kingdom from the European Union. This is because the Act under which it is made was introduced to provide a basis in UK law for the existing sanctions regimes implemented via the EU. This instrument makes provision about the rights of designated and affected persons under the Act.

## **9. Consolidation**

- 9.1 This instrument does not amend or consolidate previous instruments.

## **10. Consultation outcome**

- 10.1 There is neither a requirement in the Act for public consultation on instruments made under the Act, nor is there any other legal obligation to consult in respect of this instrument. HMG will continue engagement with stakeholders on the implementation of UK sanctions.
- 10.2 HMG ran a public consultation on the Act itself. Over 30,000 individuals and companies received a copy of the White Paper, and 34 individuals provided written responses. Government officials held a number of roundtables with key sectors, including financial services, the legal profession, NGOs and industry professionals and regulators. The main areas of concern were procedural and surrounded the legal threshold for sanctions designations, rights of the designated person to challenge their designation and licensing procedures. These were addressed during the passage of the Act. As this instrument implements the powers in the Act, already a product of significant consultation, we have not run a separate public consultation on it.

## **11. Guidance**

- 11.1 Guidance on how to request a review of a designation or specification will be published on gov.uk before any designations or specifications are made. The guidance will include a template form on which requests for reviews can be made, with an accompanying explanatory note.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been produced for this instrument. An impact assessment was produced for the Act and can be found on Parliament's web pages on <https://publications.parliament.uk/pa/bills/lbill/2017-2019/0069/sanctions-and-anti-money-laundering-IA.pdf>. A hard copy is attached.

### **13. Regulating small business**

13.1 This instrument does not specifically apply to activities that are undertaken by small business. It provides for procedures to request reviews of sanctions designations or specifications which may be used by any sanctioned or affected person under the Act, which may include small business.

### **14. Monitoring & review**

14.1 There are no reporting or review requirements for this instrument under the Act.

### **15. Contact**

15.1 Esther Lawrence at the Foreign and Commonwealth Office: telephone: 020 7008 5356 or email: [Sanctions.SIs@fco.gov.uk](mailto:Sanctions.SIs@fco.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Qudsi Rasheed at the Foreign and Commonwealth Office can confirm that this explanatory memorandum meets the required standard.

15.3 The Rt Hon Sir Alan Duncan MP at the Foreign and Commonwealth Office can confirm that this explanatory memorandum meets the required standard.