

EXPLANATORY MEMORANDUM TO

THE SANCTIONS (EU EXIT) (MISCELLANEOUS AMENDMENTS) REGULATIONS 2019

2019 No. 843

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 These Regulations are made under the Sanctions and Anti-Money Laundering Act 2018 to correct minor errors (including errors identified by the Joint Committee on Statutory Instruments) in the Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/411), the Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 (S.I. 2019/461), the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/466) and the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/573).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 These Regulations correct errors identified by the JCSI (the Regulations amended by this instrument have not been reported by the JCSI as at the date this instrument was made).
- 3.2 This instrument is laid before Parliament under section 55(6) of the Sanctions and Anti-Money Laundering Act 2018 ("the Sanctions Act") and is subject to the negative procedure. This instrument will come into force on "exit day", which is the day on which the provisions which it amends come into force.
- 3.3 The European Union (Withdrawal) Act 2018 (Exit Day) (Amendment) Regulations 2019 provide that exit day will be 11.00pm on 22 May or 11.00 pm on 12 April 2019. In the event that exit day is on 12 April 2019, this instrument will come into force less than 21 days after the day on which it is laid. In order to ensure the instruments being corrected by these Regulations are operationally sound and as the amendments relate to exceptions which affect designated persons and to criminal offences and penalties, we consider it important for these corrections to come into force at the same time as the main prohibitions in the sanctions regulations, so that they apply immediately to individuals and entities affected by sanctions.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the same as the territorial extent of the instruments which it amends: that is, the whole of the UK.

4.2 The territorial application of this instrument is also the same as the territorial application of the instruments which it amends. That is, it applies to the whole of the UK. It also applies to conduct by UK persons outside the UK.

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 This instrument corrects a small number of errors in the Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, the Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 and the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019.

7. Policy background

What is being done and why?

7.1 This instrument corrects errors in SIs recently laid under the Sanctions Act creating sanctions regimes in relation to the DPRK, Iran Nuclear and ISIL (Da'esh) and Al-Qaida in preparation for EU exit.

7.2 This instrument amends the Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/411) to correct a cross reference, with the effect that a penalty is specified for the criminal offence of contravening certain prohibitions in Part 8 (Ships) of those Regulations.

7.3 It amends the Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 (S.I. 2019/461) to correct the defence specified in relation to an offence related to trade sanctions under those Regulations.

7.4 It amends the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/466) to correct cross references. These relate to exceptions from the asset-freeze provisions, the exception for acts done for purposes of national security or prevention of serious crime and the specification of certain provisions as not being financial sanctions legislation for the purposes of Part 8 of the Policing and Crime Act 2017. It also amends those Regulations to clarify a defence specified in relation to an offence related to trade sanctions under those Regulations.

7.5 It amends the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/466) to correct a definition and to clarify a defence specified in relation to an offence related to trade sanctions under those Regulations.

7.6 This instrument does not make any changes to existing policy.

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

8.1 This instrument is not being made under the European Union (Withdrawal) Act but it relates to the withdrawal of the UK from the EU. This is because this instrument amends Regulations that were made to replace, with substantially the same effect, existing EU sanctions legislation.

9. Consolidation

9.1 This instrument does not consolidate previous instruments.

10. Consultation outcome

10.1 No consultation has been carried out on this instrument. The Explanatory Memoranda to the Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, the Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 and the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019 explain the consultation that has been carried out in relation to the Sanctions Act.

11. Guidance

11.1 In accordance with section 43 of the Sanctions Act, guidance will be published in relation to the prohibitions and requirements under the Regulations which are amended by this instrument.

12. Impact

12.1 This instrument corrects Regulations which maintain existing sanctions measures that are already applicable to UK business, charities and voluntary bodies through EU law, and we therefore assess that there is no new substantial impact.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because as the instrument is intended to ensure existing sanctions remain in place following EU exit. This instrument is intended to substantially deliver the same policy effects as the existing EU sanctions. An impact assessment was, however, produced for the primary legislation and can be found at <https://publications.parliament.uk/pa/bills/lbill/20172019/0069/sanctions-and-anti-money-laundering-IA.pdf>. That assessment concluded that the introduction of the Act, and statutory instruments under it to transfer existing regimes into UK law, would overall reduce uncertainty for business and would not result in significant costs or impact, apart from some familiarisation costs for businesses associated with adapting to the new legislative framework.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 These Regulations are intended to continue the regulatory requirements under the existing EU sanctions regime. The Foreign and Commonwealth Office does not believe it is possible to exempt smaller businesses from the requirements to comply with these Regulations as this could provide a route for the circumvention or evasion of sanctions.

14. Monitoring & review

14.1 Section 30 of the Sanctions Act requires regular reviews of the Regulations which are amended by this instrument. However, section 30 does not apply to these Regulations, by virtue of section 45(6) of the Sanctions Act. As such, the Minister does not consider that a review clause in this instrument is appropriate.

15. Contact

- 15.1 Catherine O'Neill at the Foreign and Commonwealth Office telephone: 020 7008 4670 or email: Sanctions.SIs@fco.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Qudsi Rasheed, Deputy Director 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, Minister of State at the Foreign and Commonwealth Office, can confirm that this Explanatory Memorandum meets the required standard.