



Sanctions tracker: UK amends legal services restrictions

06 September 2024

When the UK introduced restrictions on the provision of legal services to Russia in June 2023 (as summarised in our [previous post](#)) the drafting of the legislation prompted a number of concerns in the legal industry about potentially unintended consequences of the restrictions.

This resulted in the issuance of a new general licence (the "GL") which sought to provide a short-term fix but did not resolve all of the concerns with the restrictions. Indeed, the GL created further complications, including in relation to its record keeping and inspection provisions (as discussed in our [previous post](#)).

Following much debate and further consultation, the UK has now introduced the [Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2024](#) (the "Amending Regulations") in an attempt to provide a longer term solution. Among other things, the amendments reflect the terms of the GL, which was [revoked](#) with the coming into force of the Amending Regulations on 6 September 2024.

Summary of the amendments

The Amending Regulations seek to clarify certain aspects of the legal services restrictions, particularly the knowledge requirement as set out in Regulation 54D of the Russia (Sanctions) (EU Exit) Regulations 2019 (the "UK Regulations"), and extend the exceptions to the prohibition.

Both the [statutory guidance](#) on the UK Regulations and the Department for Business & Trade's [specific guidance](#) on professional and business services restrictions have been amended to reflect the coming into force of the Amending Regulations.

Clarification of knowledge requirement and scope of restrictions

Regulation 54D(4) previously provided that it was a defence to show that a person "*did not know and had no reasonable cause to suspect*" that the provision of relevant legal advisory services was caught by the restriction. The new amendments introduced have amended the drafting of the restriction in Regulation 54D(1), such that it only applies where a person knows that the object or effect of the legal advisory services provided is to enable or facilitate a relevant activity that is caught by the restrictions. As such, the offence now requires actual knowledge of the non-sanctions compliant nature of the underlying activity, rather than knowledge or reasonable cause to suspect. The previous defence in Regulation 54D(4) has been removed from the UK Regulations as the redrafting of the relevant restriction has made it redundant.

The scope of the restriction has also been narrowed slightly such that it only applies to legal advisory services that "enable or facilitate" activities which would be in breach of UK sanctions if done in the UK or by a UK person. The previous restriction had applied to any legal advisory services which were provided "in relation to or in connection with" such activities, which can be interpreted more broadly.

Extension of exceptions

Prior to the introduction of the Amending Regulations, the legal services restrictions were only subject to an exception in respect of advice as to whether an act or proposed act complied with the UK Regulations. This did not cover, for example, advice relating to compliance with EU or US sanctions, which meant that UK lawyers / firms were restricted from assisting non-UK clients from complying with non-UK sanctions regimes, and were required to rely on the GL to provide this type of compliance advice, as mentioned above and in our previous post.

This issue has been resolved by the amendment of Regulation 60DB and the insertion of a new exception, which provides that the prohibition in Regulation 54D will not be contravened by the provision of advice on or in connection with:

- compliance with, or the consequences of non-compliance with, any relevant law,
- the discharge of obligations under any relevant law, or
- the potential, or actual, application of punitive measures.

The definition of "relevant law" is broad and includes any sanction (regardless of jurisdiction), any Russian "counter-sanctions" or any criminal law imposed by any jurisdiction.

Definition of "Legal advisory services"

Finally, the definition of "Legal advisory services" has also been amended to, firstly, clarify that the carve-out for contentious proceedings applies to proceedings in any jurisdiction and, second, to add an additional carve out for "*the provision of legal advice or other services in connection with the management of claims under a contract of insurance or reinsurance*".

These new amendments appear to address some of the primary concerns with the legal services restrictions by seeking to better target the restrictions and only criminalise the conduct initially intended to be prohibited (ie conduct which could be seen as supporting the circumvention of sanctions, as set out in the [Explanatory Memorandum](#) to the Amending Regulations). However, the practical effects of the amendments remain to be seen and lawyers/ firms will still need to give careful thought to the extent of the advice that they provide to non-UK clients where the relevant matter involves activities which relate to Russia and/or the activities restricted by the UK Regulations.

Lawyers and firms who have previously relied on the GL to give compliance advice which would otherwise have been prohibited should of course ensure that they continue to comply with the GL's record-keeping requirements in respect of the relevant advice (the GL required records to be kept for a period of four years).