



## DEMOCRATIC REPUBLIC OF THE CONGO SANCTIONS (APPLICATION) REGULATIONS 2020

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Statutory Document No. 2020/0475



*European Union and Trade Act 2019*

## **DEMOCRATIC REPUBLIC OF THE CONGO SANCTIONS (APPLICATION) REGULATIONS 2020<sup>1</sup>**

*Approved by Tynwald: 15 December 2020  
Coming into operation in accordance with regulation 2*

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The Council of Ministers makes the following Regulations under section 19 of, and Schedule 4 to, the European Union and Trade Act 2019.

### **1 Title**

These Regulations are the Democratic Republic of the Congo Sanctions (Application) Regulations 2020.

### **2 Commencement**

If approved by Tynwald, these Regulations come into operation on IP completion day<sup>1</sup>.

### **3 Interpretation**

In these Regulations, “IP completion day” has the same meaning as in the European Union and Trade Act 2019.

### **4 Application of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019**

- (1) The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019<sup>2</sup> (“the applied legislation”) apply to the Island, as part of the law of the Island, subject to the exceptions, modifications and adaptations specified in the Schedule.
- (2) The text of the applied legislation is annexed to these Regulations.

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<sup>1</sup> Tynwald approval is required under section 19 of the European Union and Trade Act 2019.

<sup>2</sup> SI 2019/433, as amended by SI 2020/591 and SI 2020/950.

## 5 Application of the Sanctions and Anti-Money Laundering Act 2018

Subject to the modifications set out in sub-paragraphs (a) and (b), the following provisions of the Sanctions and Anti-Money Laundering Act 2018 apply to the Island, as part of the law of the Island, for the purposes of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019, as they have effect in the Island by these Regulations –

- (a) section 43 (guidance about regulations under section 1), except that –
  - (i) the reference to subsection (1) of that section to regulations under section 1 is to be read as a reference to the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019, as they have effect in the Island by these Regulations; and
  - (ii) the reference in subsection (1) of that section to the appropriate Minister who made the regulations is to be read as a reference to the Treasury; and
- (b) section 53 (saving for prerogative powers), except that the reference in that section to the United Kingdom is to be read as a reference to the Isle of Man.

## 6 Revocations

The following instruments are revoked –

- (a) the European Union (Democratic Republic of the Congo Sanctions) Order 2018<sup>3</sup>; and
- (b) the Democratic Republic of the Congo (Sanctions) Regulations 2018<sup>4</sup>.

**MADE 12 NOVEMBER 2020**

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<sup>3</sup> SD 2018/0137.

<sup>4</sup> SD 2018/0138.

## SCHEDULE

[Regulation 4]

### EXCEPTIONS, MODIFICATIONS AND ADAPTATIONS OF THE APPLIED LEGISLATION

#### 1 General

In this Schedule, a reference to a numbered regulation or Schedule (without more) is a reference to that regulation or Schedule so numbered of the applied legislation.

#### 2 Specific modifications to the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019

- (1) The applied legislation is modified as follows.
- (2) In regulation 1 (citation and commencement) —
  - (a) in the heading, omit “and commencement”; and
  - (b) omit paragraph (2).
- (3) After regulation 1 (citation and commencement), insert —

**1A. Crown application**

For the avoidance of doubt, nothing in these Regulations affects Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947<sup>5</sup> (of Parliament))<sup>6</sup>.
- (4) In regulation 2 (interpretation) —
  - (a) in the definition of “the Act”, at the end insert <sup>7</sup>(of Parliament)<sup>6</sup>;
  - (b) after the definition of “arrangement”, insert —

<sup>7</sup>“*British Islands*” has the meaning given in the Interpretation Act 2015 (of Tynwald)<sup>7</sup>;
  - (c) in the definition of “CEMA”, for “1979”, substitute <sup>8</sup>1986 (of Tynwald)<sup>8</sup>;
  - (d) omit the definition of “the Commissioners”;
  - (e) after the definition of “conduct”, insert —

<sup>8</sup>“*country*” includes any territory, region or other place;

<sup>5</sup> 1947 Chapter 44.

<sup>6</sup> 2018 Chapter 13.

<sup>7</sup> AT 11 of 2015.

<sup>8</sup> AT 34 of 1986.

- “*Department of Home Affairs*” means the Department of Home Affairs of the Isle of Man established under section 1 of the Government Departments Act 1987 (of Tynwald)<sup>9</sup>; ~~22~~;
- (f) after the definition of “document”, insert —
- “*economic resources*” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services; ~~22~~;
- (g) in the definition of “the EU DRC Regulation”, for “as it has effect in EU law”, substitute ~~22~~ as it has effect in the Isle of Man immediately before IP completion day<sup>10</sup> ~~22~~;
- (h) after the definition of “the EU DRC Regulation”, insert —
- ~~22~~ “*Export Control Order 2008*” means the Export Control Order 2008 (of Parliament), as that order has effect in the Isle of Man<sup>11</sup> from time to time;
- “*financial products*” means —
- (a) money market instruments (including cheques, bills and certificates of deposit);
  - (b) foreign exchange;
  - (c) derivative products (including futures and options);
  - (d) exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
  - (e) transferable securities;
  - (f) other negotiable instruments and financial assets (including bullion);
- “*financial services*” means any service of a financial nature, including (but not limited to) —
- (a) insurance-related services consisting of —
    - (i) direct life assurance;
    - (ii) direct insurance other than life assurance;
    - (iii) reinsurance and retrocession;
    - (iv) insurance intermediation, such as brokerage and agency;
    - (v) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;
  - (b) banking and other financial services consisting of —

<sup>9</sup> AT 13 of 1987.

<sup>10</sup> Council Regulation (EU) No 1183/2005 applies to the Isle of Man by SD 2018/0137.

<sup>11</sup> SI 2008/3231, as applied in the Isle of Man by SD 104/09 (as amended).

- (i) accepting deposits and other repayable funds;
- (ii) lending (including consumer credit, mortgage credit, factoring and financing of commercial transactions);
- (iii) financial leasing;
- (iv) payment and money transmission services (including credit, charge and debit cards, travellers' cheques and bankers' drafts);
- (v) providing guarantees or commitments;
- (vi) financial trading;
- (vii) participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues;
- (viii) money brokering;
- (ix) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- (x) settlement and clearing services for financial assets (including securities, derivative products and other negotiable instruments);
- (xi) providing or transferring financial information, and financial data processing or related software (but only by suppliers of other financial services);
- (xii) providing advisory and other auxiliary financial services in respect of any activity listed in sub-paragraphs (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy);

“*financial trading*” means trading for own account or for account of customers, whether on an investment exchange, in an over-the-counter market or otherwise, in financial products;

“*funds*” means financial assets and benefits of every kind, including (but not limited to) –

- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;

- (b) deposits, balances on accounts, debts and debt obligations;
- (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative products;
- (d) interest, dividends and other income on or value accruing from or generated by assets;
- (e) credit, rights of set-off, guarantees, performance bonds and other financial commitments;
- (f) letters of credit, bills of lading and bills of sale;
- (g) documents providing evidence of an interest in funds or financial resources;
- (h) any other instrument of export finance;

“*international obligation*” means an obligation of the United Kingdom and the Isle of Man created or arising by or under any international agreement;

“*IP completion day*” has the meaning given in the Interpretation Act 2015 (of Tynwald)<sup>12</sup>;

“*Island person*” means —

- (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)<sup>13</sup> 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; **22**;

- (i) in the definition of “non-governmental person”, omit the footnote after “person” in the second place it occurs;
- (j) after the definition of “non-governmental person”, insert —

**23** “*person*” includes (in addition to an individual and a body of persons corporate or unincorporate) any organisation and any association or combination of persons;

<sup>12</sup> AT 11 of 2015.

<sup>13</sup> 1981 Chapter 61.



- “*Public Services Commission*” means the Public Services Commission established by the Public Services Commission Act 2015 (of Tynwald)<sup>14</sup>; **22**;
- (k) after the definition of “resolution 2360”, insert —
- 22** “*standard scale*” means the standard scale contained in section 55 of the Interpretation Act 2015 (of Tynwald)<sup>15</sup>;
- “*territorial sea*” (without more) means the territorial sea adjacent to the Isle of Man; **22**;
- (l) after the definition of “trade licence”, insert —
- 22** “*Treasury*” has the meaning given in the Interpretation Act 2015 (of Tynwald)<sup>16</sup>; **22**;
- (m) after the definition of “Treasury licence”, insert —
- 22** “*UN obligation*” means an obligation that the United Kingdom has in relation to the Isle of Man by virtue of a UN Security Council Resolution;
- “*UN Security Council Resolution*” means a resolution adopted by the Security Council of the United Nations. **22**;
- (n) omit the definition of “United Kingdom person”;
- (o) number the existing text as paragraph (1); and
- (p) after paragraph (1), insert —
- 22** (2) In these Regulations, all references to Manx legislation (within the meaning of section 9 of the Interpretation Act 2015 (of Tynwald)<sup>17</sup>) shall be construed as references to that legislation as amended from time to time. **22**.
- (5) In regulation 3 (application of prohibitions and requirements outside the United Kingdom) —
- (a) in the heading, for “United Kingdom”, substitute **22** Isle of Man **22**;
- (b) in paragraphs (1) and (4), for “A United Kingdom person”, substitute **22** An Island person **22**;
- (c) in paragraphs (1), (4) and (7), for “the United Kingdom”, wherever occurring, substitute **22** the Isle of Man **22**;
- (d) in paragraphs (2) and (5), for “the territorial sea”, wherever occurring, substitute **22** the Isle of Man or in the territorial sea **22**; and
- (e) in paragraph (7), for “Nothing”, substitute **22** For the avoidance of doubt, nothing **22**.

<sup>14</sup> AT 1 of 2015.

<sup>15</sup> AT 11 of 2015.

<sup>16</sup> AT 11 of 2015.

<sup>17</sup> AT 11 of 2015.

- (6) In regulation 4 (purposes) —
- (a) in paragraph (1) for “The regulations contained in this instrument that are made under section 1 of the Act”, substitute **“These Regulations”**; and
  - (b) in paragraphs (3) and (4), for “United Kingdom has”, wherever occurring, substitute **“United Kingdom and the Isle of Man have”**.
- (7) Omit regulation 5 (power to designate persons).
- (8) Omit regulation 6 (designation criteria).
- (9) For regulation 8 (notification and publicity where designation power used), substitute —
- 8. Requirement to publish a list of designated persons**
- (1) Subject to paragraph (2), the Treasury must —
    - (a) publish a list of designated persons; and
    - (b) keep the list up to date.
  - (2) Where, in accordance with regulation 8 (notification and publicity where designation power used) (as it has effect in the United Kingdom) the Secretary of State is not required to publicise generally a designation, variation or revocation, the Treasury must not include in the list under paragraph (1) any details of that designation, variation or revocation.
  - (3) The Treasury may publish the list under paragraph (1) in any form the Treasury considers appropriate, including by means of a website.
  - (4) For the purpose of this regulation, “designated person” means any person for the time being designated by the Secretary of State under regulation 5 of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (of Parliament). **”**
- (10) In regulation 9 (confidential information in certain cases where designation power used) —
- (a) in the heading, omit “where designation power used”;
  - (b) omit paragraph (1);
  - (c) in paragraph 2(a), for “that is to be treated as confidential in accordance with paragraph (1)”, substitute **“which the Secretary of State has specified is to be treated as confidential under regulation 9(1) of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (of Parliament)”**;

- (d) in paragraph 4(c), for “enactment”, substitute **¶** Manx legislation (within the meaning of section 9 of the Interpretation Act 2015 (of Tynwald)<sup>18</sup> **¶**; and
- (e) omit paragraphs (7) and (8).
- (11) In regulation 10 (designation of persons named by or under UN Security Council Resolutions) —
  - (a) omit the footnote at the end of paragraph (1); and
  - (b) omit paragraph (2).
- (12) For regulation 11 (meaning of “designated person” in Part 3), substitute —

**¶11 Meaning of “designated person” in Part 3**

In this Part a “designated person” means —

- (a) a person who is designated by the Secretary of State from time to time under regulation 5 of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (of Parliament)<sup>19</sup> for the purposes of regulations 12 to 16 of those Regulations; and
- (b) a person who is a designated person for the purposes of regulations 12 to 16 (asset-freeze etc) by reason of regulation 10,

and cognate expressions shall be construed accordingly.

*Note for sub-paragraph (a):*

*Under provisions of the Sanctions and Anti-Money Laundering Act 2018 (of Parliament)<sup>20</sup>, a person’s designation may be varied or revoked. Any such variation or revocation would have effect in the Isle of Man. ¶.*

- (13) For regulation 18 (immigration), substitute —

**¶18 Immigration**

A person who is designated by the Secretary of State from time to time under regulation 5 of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (of Parliament)<sup>21</sup> for the purposes of regulation 18 of those Regulations is an excluded person for the purposes of section 8B of the Immigration Act 1971 (of Parliament)<sup>22</sup> (as it has effect in the Isle of Man)<sup>23</sup>. **¶.**

<sup>18</sup> AT 11 of 2015.

<sup>19</sup> SI 2019/433.

<sup>20</sup> 2018 Chapter 13.

<sup>21</sup> SI 2019/433.

<sup>22</sup> 1971 Chapter 77.

<sup>23</sup> The Immigration Act 1971 (of Parliament) was extended to the Isle of Man by SI 2008/680 (as amended).

- (14) In regulation 19 (definition of “military goods” and “military technology”), in the definition of “military goods”, omit the footnote after “Schedule 2 to the Export Control Order 2008”.
- (15) In regulation 20 (interpretation of other expressions used in this Part) —
- (a) for paragraph (1), substitute —
- (1) In this Part —
- (a) “*export*” means export from the Isle of Man;
- (b) goods removed to the United Kingdom from the Isle of Man are not to be regarded as exported; and
- (c) goods transported out of the Isle of Man by aircraft or ship as stores within the meaning of CEMA (see section 184(1) and (4) of that Act) are to be regarded as exported. **22**;
- (b) in paragraph (2), for “United Kingdom”, substitute **23** Isle of Man **22**; and
- (c) in paragraph (3) —
- (i) before the definition of “brokering service”, insert —
- 23** “*aircraft*” includes unmanned aircraft and aircraft capable of spaceflight activities; **22**;
- (ii) after the definition of “brokering service”, insert —
- 23** “*place*” includes —
- (a) any vehicle, ship or aircraft;
- (b) any installation (including a floating installation or one resting on the seabed or its subsoil or on other land covered with water or its subsoil); or
- (c) any tent or movable structure;
- “*ship*” includes every description of vessel (including a hovercraft) used in navigation; **22**; and
- (iii) for the definition of “transfer”, substitute —
- 23** “*transfer*”, in relation to any technology, means a transfer by any means (or combination of means), including oral communication and the transfer of goods on which technology is recorded or from which it can be derived, other than the export of such goods. **22**.
- (16) In regulation 27 (brokering services: non-UK activity relating to military goods and military technology) —
- (a) in the heading and in paragraph (1), for “non-UK”, wherever occurring, substitute **23** non-IOM **22**; and
- (b) in paragraph (4) —

- (i) omit the definition of “non-UK country”;
  - (ii) before the definition of “third country”, insert —
    - ▮ “*non-IOM country*” means a country that is not the Isle of Man; ▮; and
  - (iii) in the definition of “third country”, in paragraph (b), for “United Kingdom”, substitute ▮ Isle of Man ▮.
- (17) In regulation 28 (enabling or facilitating the conduct of armed hostilities) —
- (a) in paragraph (1)(d), for “non-UK”, substitute ▮ non-IOM ▮; and
  - (b) in paragraph (4) —
    - (i) omit the definition of “non-UK country”; and
    - (ii) before the definition of “technical assistance”, insert —
      - ▮ “*non-IOM country*” means a country that is not the Isle of Man; ▮.
- (18) In regulation 31 (finance: exceptions from prohibitions) —
- (a) omit paragraph (6);
  - (b) in paragraph (7), for the definition of “relevant institution”, substitute —
    - ▮ “*relevant institution*” means —
      - (a) a person who is licensed under the Financial Services Act 2008 (of Tynwald)<sup>24</sup> to carry on a regulated activity within the meaning of section 3 of that Act;
      - (b) a person who is authorised or registered under the Insurance Act 2008 (of Tynwald)<sup>25</sup> or holds a permit under that Act;
      - (c) a person who is registered under the Moneylenders Act 1991 (of Tynwald)<sup>26</sup> to carry on the business of lending money;
      - (d) a person who is acting as a trustee or an administrator of a retirement benefits scheme within the meaning of the Retirement Benefits Schemes Act 2008 (of Tynwald)<sup>27</sup>. ▮; and
  - (c) omit paragraph (8).
- (19) For regulation 31A (exception for authorised conduct in a relevant country), substitute —
  - ▮ **31A. Exception for authorised conduct outside the Isle of Man**

<sup>24</sup> AT 8 of 2008.

<sup>25</sup> AT 16 of 2008.

<sup>26</sup> AT 6 of 1991.

<sup>27</sup> AT 14 of 2008.

- (1) Where a person's conduct outside the Isle of Man would, in the absence of this paragraph, contravene a prohibition in any of regulations 12 to 16 (asset-freeze etc.) or Chapters 2 and 3 of Part 5 (Trade) ("the relevant prohibition"), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation issued under regulation 33 (Treasury licences) or 34 (Trade licences), as those regulations have effect in the United Kingdom.
- (2) Where a person's conduct in a relevant country would, in the absence of this paragraph, contravene the relevant prohibition, the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued —
  - (a) under the law of the relevant country; and
  - (b) for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.
- (3) In this regulation, "relevant country" means —
  - (a) any of the Channel Islands;
  - (b) any British overseas territory.
- (4) Nothing in this regulation affects the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply. **22**.

- (20) For regulation 32 (exception for acts done for purposes of national security or prevention of serious crime), substitute —

**22 32. Exception for acts done for purposes of national security or prevention of serious crime**

- (1) Where an act would, in the absence of this paragraph, be prohibited by regulation 9(2) (confidentiality) or any prohibition in Part 3 (Finance) or Part 5 (Trade), that prohibition does not apply to the act if the act is one which —
  - (a) a UK responsible officer has determined would be in the interests of national security or the prevention or detection of serious crime in the United Kingdom or elsewhere; or
  - (b) an Island responsible officer has determined would be in the interests of the prevention or detection of serious crime in the Isle of Man or elsewhere.
- (2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 7 (Information and records) or Part 9 (Maritime enforcement), that requirement does not apply if —

- (a) a UK responsible officer has determined that not doing the thing in question would be in the interests of national security or the prevention or detection of serious crime in the United Kingdom or elsewhere; or
    - (b) an Island responsible officer has determined that not doing the thing in question would be in the interests of the prevention or detection of serious crime in the Isle of Man or elsewhere.
  - (3) In this regulation —
    - “*Island responsible officer*” means a person —
      - (a) in the service of the Crown or holding office under the Crown in the Isle of Man;
      - (b) appointed by the Public Services Commission; or
      - (c) appointed as a constable by the Department of Home Affairs,acting in the course of that person’s duty;
    - “*UK responsible officer*” means a person in the service of the Crown or holding office under the Crown in the United Kingdom, acting in the course of that person’s duty. **22**.
- (21) In regulation 33 (Treasury licences) —
- (a) in paragraphs (2) and (3) for “the Treasury consider”, in both places, substitute **23** the Treasury considers **22**; and
  - (b) for paragraph (4)(b), substitute —
    - 23**(b) a person who is designated by the Secretary of State from time to time under regulation 5 of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (of Parliament)<sup>28</sup> for the purposes of regulations 12 to 16 of those Regulations and whose designation is (in the opinion of the Secretary of State) required by a provision mentioned in regulation 4(3) of those Regulations. **22**.
- (22) In regulation 34 (trade licences), for “Secretary of State”, substitute **23** Treasury **22**.
- (23) In regulation 35 (licences: general provisions), for paragraphs (5) to (7), substitute —
- 23**(5) The Treasury may vary, revoke or suspend a licence at any time.

<sup>28</sup> SI 2019/433.

- (6) If the Treasury issues, varies, revokes or suspends a licence which authorises acts by a particular person, the Treasury must give written notice to that person of the issue, variation, revocation or suspension of the licence.
- (7) If the Treasury issues, varies, revokes or suspends a general licence or a licence which authorises acts by persons of a particular description, the Treasury must take such steps as it considers appropriate to publicise the issue, variation, revocation or suspension of the licence. **22**.
- (24) In regulation 38 (section 8B(1) to (3) of the Immigration Act 1971: directions) –
- (a) for paragraph (1), substitute –
- 23**(1) Any direction of the Secretary of State from time to time under regulation 38 of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (of Parliament)<sup>29</sup> that section 8B(1) and (2) of the Immigration Act 1971 (as it has effect in the United Kingdom)<sup>30</sup>, or section 8B(3) of that Act (as it has effect there), have effect subject to specified exceptions in relation to any person whose name is specified or who is of a specified description, has the same effect in the Isle of Man and references to section 8B(1), (2) or (3) of the Immigration Act 1971 (of Parliament) shall be construed as references to those subsections as they have effect in the Isle of Man<sup>31</sup>.
- Note:*  
*Under provisions of the Sanctions and Anti-Money Laundering Act 2018 (of Parliament) (2018 Chapter 13) a direction may be varied, revoked or suspended. Any such variation, revocation or suspension would have effect in the Isle of Man. **22**; and*
- (b) omit paragraphs (2) to (5).
- (25) In regulation 39 (finance: reporting obligations) –
- (a) in paragraph (5), omit sub-paragraph (b) and the preceding “, or” in sub-paragraph (a);
- (b) in paragraph (7), for the definition of “relevant firm”, substitute –
- 24** “relevant firm” means –
- (a) a business in the regulated sector within the meaning of Schedule 4 to the Proceeds of Crime Act 2008 (of

<sup>29</sup> SI 2019/433.

<sup>30</sup> 1971 Chapter 77.

<sup>31</sup> The Immigration Act 1971 (of Parliament) was extended to the Isle of Man by SI 2008/680 (as amended).



- Tynwald)<sup>32</sup> (see in particular paragraph 2 of that Schedule);
- (b) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging articles made from gold, silver, platinum, palladium, precious stones or pearls;<sup>33</sup> and
- (c) after paragraph (7), insert –
- (8)** For the purposes of paragraph (a) of the definition of “relevant firm” in paragraph (7), the definition of “estate agent” in Schedule 4 to the Proceeds of Crime Act 2008 (of Tynwald) is to be read as if references to the sale or proposed sale of land in section 15 of the Estate Agents Act 1975 (of Tynwald)<sup>33</sup> included references to the sale or proposed sale of land outside the Isle of Man.<sup>34</sup>
- (26) Omit regulation 40 (“relevant firm”).
- (27) In regulation 41 (finance: powers to request information), in paragraphs (4) and (6), for “the Treasury believe”, in both places, substitute **the Treasury believes**.
- (28) In regulation 42 (finance: production of documents), in paragraphs (2) and (3), for “the Treasury request”, in both places, substitute **the Treasury requests**.
- (29) In regulation 43 (finance: information offences), in paragraph (1)(d), for “their”, substitute **its**.
- (30) In regulation 44 (trade: application of information powers in CEMA), in paragraph (1) –
- (a) for “Section 77A of CEMA”, substitute **Section 78A of CEMA (information powers)**; and
- (b) in sub-paragraph (a), for “Customs Controls on Importation of Goods Regulations 1991”, substitute **Customs Controls on Importation of Goods Regulations 1994 (of Tynwald)**<sup>34</sup>.
- (31) In regulation 45(4) (general trade licences: records), for “Secretary of State”, substitute **Treasury**.
- (32) In regulation 46(1) (general trade licences: inspection of records), for “Secretary of State or the Commissioners”, substitute **Treasury**.
- (33) In regulation 47 (disclosure of information) –
- (a) in paragraph (1), for “The Secretary of State, the Treasury, or the Commissioners”, substitute **The Treasury**;

<sup>32</sup> AT 13 of 2008.

<sup>33</sup> AT 6 of 1975.

<sup>34</sup> SD 211/94.

- (b) in paragraph (2) –
- (i) after sub-paragraph (c), insert –
    - ☐(ca) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the Isle of Man for an offence under any provisions of these Regulations;☐;
  - (ii) in sub-paragraph (d)(i), after “Regulations”, insert ☐(as they have effect in the United Kingdom)☐;
  - (iii) in sub-paragraph (d)(ii) –
    - (A) for “CEMA”, substitute ☐the Customs and Excise Management Act 1979 (of Parliament)<sup>35</sup>☐; and
    - (B) after “regulation 21(1) (export of military goods)”, insert ☐(as that regulation has effect in the United Kingdom)☐;
  - (iv) in sub-paragraph (e), omit “, the Isle of Man”;
  - (v) omit the footnote at the end of sub-paragraph (f); and
  - (vi) in sub-paragraph (g), for “United Kingdom”, substitute ☐Isle of Man☐; and
- (c) for paragraph (3), substitute –
- ☐(3) Information referred to in paragraph (1) may be disclosed to the following persons –
    - (a) a police officer;
    - (b) any person holding or acting in any office under or in the service of –
      - (i) the Government of the Isle of Man;
      - (ii) the Crown in right of the Government of the United Kingdom;
      - (iii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government;
      - (iv) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark; or
      - (v) the Government of any British overseas territory;
    - (c) any law officer of the Crown in any of the British Islands;
    - (d) the Legal Aid Agency in England and Wales, the Scottish Legal Aid Board or the Legal Services Agency Northern Ireland;

<sup>35</sup> 1979 Chapter 2.

- (e) the Isle of Man Financial Services Authority and any body of any other part of the British Islands exercising an equivalent function;
  - (f) any other regulatory body (whether or not in the Isle of Man);
  - (g) any organ of the United Nations;
  - (h) any person in the service of the United Nations, the Council of the European Union, the European Commission or the European External Action Service;
  - (i) the Government of any country;
  - (j) any other person where the Treasury considers that it is appropriate to disclose the information. **22**.
- (34) In regulation 48 (Part 7: supplementary) –
- (a) for paragraph (2), substitute –
    - 23**(2) But nothing in that regulation authorises a disclosure –
      - (a) that contravenes the data protection legislation;
      - (b) of intercepted material that is not otherwise permitted under the safeguards arrangements relating to a warrant issued under the Interception of Communications Act 1988 (of Tynwald)<sup>36</sup>. **22**;
  - (b) in paragraph (3), for “counsel or solicitor”, substitute **24** an advocate or lawyer **22**; and
  - (c) in paragraph (6) –
    - (i) for the definition of “the data protection legislation”, substitute –
      - 25** “the data protection legislation” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018 (of Tynwald)<sup>37</sup>; **22**; and
    - (ii) in the definition of “privileged information” omit “(in Scotland, to confidentiality of communications)”.
- (35) For regulation 49 (penalties for offences), substitute –
- 26** **49 Penalties for offences**
    - (1) A person guilty of an offence under any provision of Part 3 (finance) or regulation 36 (finance: licensing offences), is liable –

<sup>36</sup> At 18 of 1988.

<sup>37</sup> SD 2018/0145.

- (a) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on information, to custody for a term not exceeding 7 years or to a fine, or to both.
- (2) A person guilty of an offence under any provision of Part 5 (trade) is liable —
- (a) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on information, to custody for a term not exceeding 10 years or to a fine, or to both.
- (3) A person guilty of an offence under regulation 9(6) (confidentiality), 37, 45(6) or 46(5) (offences in connection with trade licences) is liable —
- (a) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both.
- (4) A person guilty of an offence under regulation 39(6) or 43 (information offences in connection with Part 3) is liable on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both. **22**.
- (36) In regulation 50(4) (liability of officers of bodies corporate etc), for “Section 171(4)”, substitute **23** Section 179(3) **22**.
- (37) In regulation 51 (jurisdiction to try offences) —
- (a) omit paragraph (1);
- (b) in paragraph (2) —
- (i) for “United Kingdom”, in both places, substitute **24** Isle of Man **22**;
- (ii) in sub-paragraph (a), omit “at any place”; and
- (iii) in sub-paragraph (b), for “at any such place”, substitute **25** in the Isle of Man **22**; and
- (c) omit paragraphs (3) and (4).
- (38) In regulation 52 (procedure for offences by unincorporated bodies) —
- (a) in paragraph (2), for “England and Wales or Northern Ireland”, substitute **26** the Isle of Man **22**;
- (b) for paragraph (3)(b)(i), substitute —

- (c) omit paragraph (3)(b)(ii).
- (39) In regulation 53 (time limit for proceedings for summary offences) —
- (a) in paragraph (1) —
- (i) for “prosecutor”, substitute **66** Attorney General **62**; and
- (ii) for “prosecutor’s”, substitute **66** Attorney General’s **62**;
- (b) in paragraph (3) —
- (i) for “prosecutor”, substitute **66** Attorney General **62**; and
- (ii) for “prosecutor’s”, substitute **66** Attorney General’s **62**;
- (c) omit paragraph (4); and
- (d) at the end, insert —
- 66**(5) In this regulation, “Attorney General” has the meaning given in the Interpretation Act 2015 (of Tynwald) <sup>39</sup>. **62**.
- (40) In regulation 54 (trade enforcement: application of CEMA) —
- (a) in paragraph (1), for “Commissioners investigate or propose”, substitute **66** Treasury investigates or proposes **62**;
- (b) in paragraph (2), for “section 1(1)”, substitute **66** section 184(1) **62**;
- (c) in paragraph (4), for “Section 138”, substitute **66** Section 145 **62**;
- (d) in paragraph (5) —
- (i) in sub-paragraph (b), for “section 145(6)”, substitute **66** section 152(5) **62**;
- (ii) in sub-paragraph (c), for “section 151”, substitute **66** section 158 **62**; and
- (iii) in sub-paragraph (d), for “section 154(2)”, substitute **66** section 161(2) **62**; and
- (e) in paragraph (6), for “sections 145, 146, 147, 148(1), 150, 151, 152, 154 and 155”, substitute **66** sections 152, 153, 154(5), 157, 158, 159, 161 and 162 **62**.
- (41) In regulation 55 (trade offences in CEMA: modification of penalty) —
- (a) in paragraph (1), for “section 68(2)”, substitute **66** section 69(2) **62**;
- (b) in paragraph (2), for “section 68(3)(b)”, substitute **66** section 69(3)(b) **62**;
- (c) in paragraph (3), for “section 170(2)”, substitute **66** section 178(2) **62**; and

<sup>38</sup> AT 15 of 1989.

<sup>39</sup> AT 11 of 2015.

- (d) in paragraph (4), for “section 170(3)(b)”, substitute **█**section 178(3)(b) **█**.
- (42) Omit regulation 56 (application of Chapter 1 of Part 2 of Serious Organised Crime and Police Act 2005).
- (43) Omit regulation 57 (monetary penalties).
- (44) In regulation 58 (exercise of maritime enforcement powers), in paragraph (1)(a), for “British ship”, substitute **█**Manx ship **█**.
- (45) In regulation 59 (maritime enforcement officers) —
- (a) in paragraph (1)(b), after “section 1 of the Ministry of Defence Police Act 1987”, insert **█**(Act of Parliament)<sup>40</sup> **█**;
- (b) in paragraph (1)(c)(ii), after “section 99 of the Police and Fire Reform (Scotland) Act 2012”, insert **█**(an Act of the Scottish Parliament)<sup>41</sup> **█**;
- (c) in paragraph (1)(d)(i), after “section 27 of the Police Act 1996”, insert **█**(Act of Parliament)<sup>42</sup> **█**;
- (d) in paragraph (1)(d)(ii), after “section 9 of the Police and Fire Reform (Scotland) Act 2012”, insert **█**(an Act of the Scottish Parliament)<sup>43</sup> **█**;
- (e) in paragraph (1)(d)(iii), after “section 79 of the Harbours, Docks, and Piers Clauses Act 1847”, insert **█**(Act of Parliament)<sup>44</sup> **█**;
- (f) in paragraph (1)(f) —
- (i) after “section 7 of the Marine Navigation Act 2013”, insert **█**(Act of Parliament)<sup>45</sup> **█**; and
- (ii) after “section 16 of the Harbours Act 1964”, insert **█**(Act of Parliament)<sup>46</sup> **█**;
- (g) in paragraph (1)(g), after “Part 1 of the Borders, Citizenship and Immigration Act 2009”, insert **█**(Act of Parliament)<sup>47</sup> **█**;
- (h) after paragraph (1)(h), insert —
- █**(i) an officer within the meaning given under section 184(1) of the Customs and Excise Management Act 1986 (of Tynwald)<sup>48</sup>; and

<sup>40</sup> 1987 Chapter 4.

<sup>41</sup> 2012 asp 8.

<sup>42</sup> 1996 Chapter 16.

<sup>43</sup> 2012 asp 8.

<sup>44</sup> 1847 Chapter 27.

<sup>45</sup> 2013 Chapter 23.

<sup>46</sup> 1964 Chapter 40.

<sup>47</sup> 2009 Chapter 11.

<sup>48</sup> AT 34 of 1986.

- (j) a constable appointed by the Department of Home Affairs. ~~22~~; and
  - (i) in paragraph (2)(a), after “section 10 of the Crime and Courts Act 2013”, insert ~~63~~(Act of Parliament)<sup>49</sup> ~~22~~.
- (46) In regulation 60 (power to stop, board, search etc), in paragraph (2)(c), for “United Kingdom”, substitute ~~63~~ Isle of Man ~~22~~.
- (47) In regulation 62 (restrictions on exercise of maritime enforcement powers) —
- (a) before paragraph (1), insert —
    - ~~63~~(A1) A maritime enforcement officer must not by virtue of these Regulations exercise any maritime enforcement powers in relation to a British ship (other than a Manx ship) in foreign waters or international waters. ~~22~~;
  - (b) in paragraphs (1)(a) and (2), for “British ship”, wherever occurring, substitute ~~63~~ Manx ship ~~22~~; and
  - (c) in paragraph (3), for “United Kingdom”, in both places where the words occur, substitute ~~63~~ United Kingdom and the Isle of Man ~~22~~.
- (48) For regulation 63 (interpretation of Part 9), substitute —
- ~~63~~ **63 Interpretation of Part 9**
    - (1) In this Part —
      - “*British ship*” has the meaning given in section 19 of the Act;
      - “*foreign ship*” means a ship which —
        - (a) is registered in a territory other than the Isle of Man, or
        - (b) is not so registered but is entitled to fly the flag of a territory other than the Isle of Man;
      - “*foreign waters*” means the sea and other waters within the seaward limits of the territorial sea adjacent to any territory other than the Isle of Man;
      - “*home state*”, in relation to a foreign ship, means —
        - (a) the State in which the ship is registered, or
        - (b) the State whose flag the ship is otherwise entitled to fly;
      - “*international waters*” means the waters beyond the territorial sea of the Isle of Man or of any other State or territory;
      - “*Manx ship*” means a ship which —

<sup>49</sup> 2013 Chapter 22.

- (a) is registered under Part I, II, III or IV of the Merchant Shipping Registration Act 1991 (of Tynwald)<sup>50</sup>, or
- (b) is not registered under the law of a country outside the Isle of Man but is wholly owned by persons each of whom has an Isle of Man connection;

“*prohibited goods*” means goods which have been, or are being, dealt with in contravention of any prohibition specified in regulation 58(2)(a) to (e);

“*relevant British possession*” means —

- (a) any of the Channel Islands,
- (b) the Isle of Man, or
- (c) any British overseas territory;

“*relevant goods*” means goods in relation to which relevant non-IOM conduct is occurring or has occurred;

“*relevant non-IOM conduct*” means conduct outside the Isle of Man by a person other than an Island person that would constitute a contravention of a prohibition specified in regulation 58(2)(a) to (e) if the conduct had been —

- (a) in the Isle of Man, or
- (b) by an Island person;

“*ship*” includes every description of vessel (including a hovercraft) used in navigation, except the naval, military or air-force ships of any country;

“*ship without nationality*” means a ship which —

- (a) is not registered in, or otherwise entitled to fly the flag of, any State or relevant British possession, or
- (b) sails under the flags of two or more States or relevant British possessions, or under the flags of a State and a relevant British possession, using them according to convenience.

- (2) In the definition of “*relevant non-IOM conduct*” in paragraph (1), the reference to conduct that would constitute a contravention of a prohibition specified in regulation 58(2)(a) to (e) if the conduct had been in the Isle of Man or by an Island person includes a reference to a case where —

<sup>50</sup> AT 15 of 1991.



- (a) arrangements relating to goods have been entered into that have not been fully implemented, and
    - (b) if those arrangements were to be fully implemented (and if the conduct had been in the Isle of Man or by an Island person) the goods would be dealt with in contravention of that prohibition.
  - (3) For the purposes of paragraph (b) of the definition of “*Manx ship*”, a person has an “*Isle of Man connection*” if the person is —
    - (a) a British citizen, a British overseas territories citizen or a British overseas citizen who is resident in the Isle of Man,
    - (b) an individual who is habitually resident in the Isle of Man, or
    - (c) a body corporate which is established under the law of the Isle of Man and has its principal place of business in the Isle of Man. **22**.
- (49) In regulation 64 (notices) —
  - (a) in paragraph (5)(b), for “United Kingdom”, in both places, substitute **64** Isle of Man **22**; and
  - (b) in paragraph (6), in the definition of “registered company”, for “in force in the United Kingdom”, substitute **64** in operation in the Isle of Man **22**.
- (50) After regulation 66 (trade: overlapping offences), insert —
  - 64 66A** **Protection for acts done for purposes of compliance**
    - (1) A person is not liable to any civil proceedings to which that person would, in the absence of this regulation, have been liable in respect of an act if that act is done in the reasonable belief that the act is in compliance with these Regulations.
    - (2) In this regulation, “*act*” includes an omission. **22**.
- (51) Omit regulation 67 (revocation of the EU DRC Regulation).
- (52) Omit regulation 68 (other revocations and amendments).
- (53) In regulation 69 (transitional provision: Treasury licences) —
  - (a) in paragraph (1)(a), for “regulation 9 of the 2012 Regulations”, substitute **64** regulation 11 of the 2018 Regulations **22**;
  - (b) in paragraphs (3), (4), (5) and (7), for “2012 Regulations”, wherever occurring, substitute **64** 2018 Regulations **22**;
  - (c) in paragraph (7), for “Democratic Republic of the Congo (United Nations Measures) Order 2005”, substitute **64** Democratic Republic

- of the Congo (United Nations Sanctions) (Isle of Man) Order 2005<sup>51</sup>; and
- (d) for paragraph (8), substitute —
- (8) In this regulation —
- “the 2018 Regulations” means the Democratic Republic of the Congo (Sanctions) Regulations 2018 (of Tynwald)<sup>52</sup>;
- “the relevant date” means IP completion day.<sup>53</sup>
- (54) In regulation 70 (transitional provision: trade licences) —
- (a) in paragraphs (1) to (4), for “Secretary of State”, wherever occurring, substitute Treasury<sup>54</sup>;
- (b) in paragraph (5), after “Export Control (Democratic Republic of the Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015”, insert (8), as it has effect in the Isle of Man<sup>53</sup>; and
- (c) for paragraph (7), substitute —
- (7) In this regulation, “the relevant date” means IP completion day.<sup>53</sup>
- (55) In regulation 71 (transitional provision: pending applications for trade licences) —
- (a) in paragraph (3), after “Export Control (Democratic Republic of Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015”, insert (8), as it has effect in the Isle of Man<sup>54</sup>; and
- (b) for paragraph (5), substitute —
- (5) In this regulation, “the relevant date” means IP completion day.<sup>53</sup>
- (56) In regulation 72 (transitional provisions: prior obligations) —
- (a) in paragraph (1), after “the date on which the person was named in that Annex”, insert (8) and that Annex had effect in the Isle of Man<sup>53</sup>; and
- (b) in paragraph (4), for the definition of “the relevant date”, substitute —
- (8) “the relevant date” means IP completion day.<sup>53</sup>
- (57) In Schedule 1 (rules for interpretation of regulation 7(2)), in paragraph 13 (rights exercisable only in certain circumstances etc), omit sub-paragraphs (2) and (3).

<sup>51</sup> SI 2005/1469.

<sup>52</sup> SD 2018/0138.

<sup>53</sup> SI 2015/1546, as applied in the Island by SD 2015/0296.

<sup>54</sup> SI 2015/1546, as applied in the Island by SD 2015/0296.

- (58) In Schedule 2 (Treasury licences: purposes), in paragraph 6 (pre-existing judicial decisions etc), in sub-paragraph (b)(ii), for “United Kingdom”, substitute **“Isle of Man”**.



ANNEX

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**STATUTORY INSTRUMENTS**

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**2019 No. 433**

**EXITING THE EUROPEAN UNION  
SANCTIONS**

**The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019**

Made - - - 4<sup>th</sup> March 2019  
Laid before Parliament 5<sup>th</sup> March 2019  
Coming into force in accordance with regulation 1(2)

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### **PART 1**

#### **General**

#### **Citation and commencement**

- 1. (1) These Regulations may be cited as the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019.
- ~~(2) These Regulations come into force in accordance with regulations made under section 56 of the Act.~~

## Crown application

**1A For the avoidance of doubt, nothing in these Regulations affects Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947<sup>55</sup> (of Parliament)).**

## Interpretation

2. **(1)** In these Regulations—
- “the Act” means the Sanctions and Anti-Money Laundering Act 2018 **(of Parliament)**<sup>56</sup>;
  - “arrangement” includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable (but see paragraph 12 of Schedule 1 for the meaning of that term in that Schedule);
  - “British Islands” has the meaning given in the Interpretation Act 2015 (of Tynwald)**<sup>57</sup>;
  - “CEMA” means the Customs and Excise Management Act ~~1979~~ 1986 (of Tynwald)<sup>58</sup>;
  - ~~“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;~~
  - “the Committee” means the Committee of the Security Council established in accordance with paragraph 8 of resolution 1533 (2004) adopted by the Security Council on 12 March 2004;
  - “conduct” includes acts and omissions;
  - “country” includes any territory, region or other place;**
  - “Department of Home Affairs” means the Department of Home Affairs of the Isle of Man established under section 1 of the Government Departments Act 1987 (of Tynwald)**<sup>59</sup>;
  - “document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include producing a copy of the information in legible form;
  - “economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;**
  - “the EU DRC Regulation” means Council Regulation (EC) No 1183/2005 of 18 July 2005, imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo<sup>60</sup>, ~~as it has effect in EU law~~ **as it has effect in the Isle of Man immediately before IP completion day**<sup>61</sup>;
  - “Export Control Order 2008” means the Export Control Order 2008 (of Parliament), as that order has effect in the Isle of Man**<sup>62</sup>;
  - “financial products” means —
    - (a) **money market instruments (including cheques, bills and certificates of deposit);**
    - (b) **foreign exchange;**
    - (c) **derivative products (including futures and options);**
    - (d) **exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);**
    - (e) **transferable securities;**
    - (f) **other negotiable instruments and financial assets (including bullion);**
  - “financial services” means any service of a financial nature, including **(but not limited to) —**

<sup>55</sup> 1947 Chapter 47.

<sup>56</sup> 2018 Chapter 13.

<sup>57</sup> AT 11 of 2015.

<sup>58</sup> AT 34 of 1986.

<sup>59</sup> AT 13 of 1987.

<sup>60</sup> OJ L193, 23.7.2005, p.1.

<sup>61</sup> Council Regulation (EC) No 1183/2005 applies to the Isle of Man by SD 2018/0137.

<sup>62</sup> SI 2008/3231, as applied in the Isle of Man by SD 104/09 (as amended).



- (a) **insurance-related services consisting of —**
  - (i) **direct life assurance;**
  - (ii) **direct insurance other than life assurance;**
  - (iii) **reinsurance and retrocession;**
  - (iv) **insurance intermediation, such as brokerage and agency;**
  - (v) **services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;**
- (b) **banking and other financial services consisting of —**
  - (i) **accepting deposits and other repayable funds;**
  - (ii) **lending (including consumer credit, mortgage credit, factoring and financing of commercial transactions);**
  - (iii) **financial leasing;**
  - (iv) **payment and money transmission services (including credit, charge and debit cards, travellers' cheques and bankers' drafts);**
  - (v) **providing guarantees or commitments;**
  - (vi) **financial trading;**
  - (vii) **participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues;**
  - (viii) **money brokering;**
  - (ix) **asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;**
  - (x) **settlement and clearing services for financial assets (including securities, derivatives products and other negotiable instruments);**
  - (xi) **providing or transferring financial information and financial data processing or related software (but only by suppliers of other financial services);**
  - (xii) **providing advisory and other auxiliary financial services in respect of any activity listed in sub-paragraphs (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy);**

**"financial trading" means trading for own account or for account of customers, whether on an investment exchange, in an over-the-counter market or otherwise, in financial products;**

**"funds" means financial assets and benefits of every kind, including (but not limited to) —**

- (a) **cash, cheques, claims on money, drafts, money orders and other payment instruments;**
- (b) **deposits, balances on accounts, debts and debt obligations;**
- (c) **publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative products;**
- (d) **interest, dividends and other income on or value accruing from or generated by assets;**
- (e) **credit, rights of set-off, guarantees, performance bonds and other financial commitments;**
- (f) **letters of credit, bills of lading and bills of sale;**

- (g) documents providing evidence of an interest in funds or financial resources;
- (h) any other instrument of export finance;
- “international obligation” means an obligation of the United Kingdom and the Isle of Man created or arising by or under any international agreement;**
- “IP completion day” has the meaning given in the Interpretation Act 2015 (of Tynwald)<sup>63</sup>;**
- “Island person” means —**
- (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)<sup>64</sup> 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;
- “non-governmental person” means a person who is not the Government of the Democratic Republic of the Congo or its public bodies, corporations or agencies or any person acting on its behalf or at its direction;**
- “person” includes (in addition to an individual and a body of persons corporate or unincorporate) any organisation and any association or combination of persons;**
- “Public Services Commission” means the Public Services Commission established by the Public Services Commission Act 2015 (of Tynwald)<sup>65</sup>;**
- “resolution 1807” means resolution 1807 (2008) adopted by the Security Council on 31 March 2008<sup>66</sup>;**
- “resolution 1857” means resolution 1857 (2008) adopted by the Security Council on 22 December 2008;**
- “resolution 1952” means resolution 1952 (2010) adopted by the Security Council on 29 November 2010;**
- “resolution 2078” means resolution 2078 (2012) adopted by the Security Council on 28 November 2012;**
- “resolution 2136” means resolution 2136 (2014) adopted by the Security Council on 30 January 2014;**
- “resolution 2198” means resolution 2198 (2015) adopted by the Security Council on 29 January 2015;**
- “resolution 2293” means resolution 2293 (2016) adopted by the Security Council on 23 June 2016;**
- “resolution 2360” means resolution 2360 (2017) adopted by the Security Council on 21 June 2017;**
- “standard scale” means the standard scale contained in section 55 of the Interpretation Act 2015 (of Tynwald)<sup>67</sup>;**
- “territorial sea” (without more) means the territorial sea adjacent to the Isle of Man;**
- “trade licence” means a licence under regulation 34;**

<sup>63</sup> AT 11 of 2015.

<sup>64</sup> 1981 Chapter 61.

<sup>65</sup> AT 1 of 2015.

<sup>66</sup> Various provisions of resolution 1807 have been extended by resolution 1857, resolution 1896 (2009) adopted by the Security Council on 30 November 2009, resolution 1952, resolution 2021 (2011) adopted by the Security Council on 29 November 2011, resolution 2078, resolution 2136, resolution 2198, resolution 2293, resolution 2360, and resolution 2424 (2018) adopted by the Security Council on 29 June 2018.

<sup>67</sup> AT 11 of 2015.

**“Treasury” has the meaning given in the Interpretation Act 2015 (of Tynwald)<sup>68</sup>;**

**“Treasury licence” means a licence under regulation 33(1);**

**“UN obligation” means an obligation that the United Kingdom has in relation to the Isle of Man by virtue of a UN Security Council Resolution;**

**“UN Security Council Resolution” means a resolution adopted by the Security Council of the United Nations.**

~~“United Kingdom person” has the same meaning as in section 21 of the Act.~~

**(2) In these Regulations, all references to Manx legislation (within the meaning of section 9 of the Interpretation Act 2015 (of Tynwald)<sup>69</sup>) shall be construed as references to that legislation as amended from time to time.**

**Application of prohibitions and requirements outside the ~~United Kingdom~~ Isle of Man**

~~3. (1) A United Kingdom person~~ **An Island person** may contravene a relevant prohibition by conduct wholly or partly outside ~~the United Kingdom~~ **the Isle of Man.**

~~(2) Any person may contravene a relevant prohibition by conduct in the territorial sea~~ **the Isle of Man or in the territorial sea.**

~~(3) In this regulation a “relevant prohibition” means any prohibition imposed by—~~

- ~~(a) regulation 9(2) (confidential information),~~
- ~~(b) Part 3 (Finance),~~
- ~~(c) Part 5 (Trade), or~~
- ~~(d) a condition of a Treasury licence or a trade licence.~~

~~(4) A United Kingdom person~~ **An Island person** may comply, or fail to comply, with a relevant requirement by conduct wholly or partly outside ~~the United Kingdom~~ **the Isle of Man.**

~~(5) Any person may comply, or fail to comply, with a relevant requirement by conduct in the territorial sea~~ **the Isle of Man or in the territorial sea.**

~~(6) In this regulation a “relevant requirement” means any requirement imposed—~~

- ~~(a) by or under Part 7 (Information and records), or by reason of a request made under a power conferred by that Part, or~~
- ~~(b) by a condition of a Treasury licence or a trade licence.~~

~~(7) Nothing~~ **For the avoidance of doubt, nothing** in this regulation is to be taken to prevent a relevant prohibition or a relevant requirement from applying to conduct (by any person) in ~~the United Kingdom~~ **the Isle of Man.**

**Purposes**

~~4. (1) The regulations contained in this instrument that are made under section 1 of the Act~~ **These Regulations** have the following purposes—

- ~~(a) compliance with the relevant UN obligations, and~~
- ~~(b) the additional purposes mentioned in paragraph (2).~~

~~(2) Those additional purposes are to promote—~~

- ~~(a) resolution of the armed conflict in the Democratic Republic of the Congo;~~
- ~~(b) respect for human rights, and compliance with international humanitarian law, including, in particular, in relation to—~~
  - ~~(i) the right of persons not to be subjected to torture or cruel, inhuman or degrading treatment or punishment in the Democratic Republic of the Congo, including in the context of—~~
    - ~~(aa) rape, mass rape and other forms of sexual and gender-based violence;~~
    - ~~(bb) deliberate targeting of civilians, schools and hospitals;~~
    - ~~(cc) recruitment or use of children as soldiers;~~
  - ~~(ii) the right of persons in the Democratic Republic of the Congo to the freedom of expression and peaceful assembly;~~

<sup>68</sup> AT 11 of 2015.

<sup>69</sup> AT 11 of 2015.

- (c) respect for democracy, the rule of law and good governance in the Democratic Republic of the Congo;

otherwise than by compliance with the relevant UN obligations.

(3) In this regulation, “the relevant UN obligations” means—

- (a) the obligations the ~~United Kingdom has~~ **United Kingdom and the Isle of Man have** by virtue of paragraph 1<sup>70</sup> of resolution 1807 (arms embargo and military services provision);
- (b) the obligations the ~~United Kingdom has~~ **United Kingdom and the Isle of Man have** by virtue of paragraph 11<sup>71</sup> of resolution 1807 (asset freeze) to take the measures required by that provision in respect of persons for the time being named for the purposes of that provision by the Security Council or the Committee;
- (c) the obligations the ~~United Kingdom has~~ **United Kingdom and the Isle of Man have** by virtue of paragraph 11 of resolution 1807 (asset freeze) in respect of persons—
  - (i) acting on behalf of or at the direction of, or
  - (ii) owned or controlled by,the persons for the time being named by the Security Council or the Committee for the purposes of paragraph 11 of resolution 1807.

(4) In this regulation, any reference to the obligations that the ~~United Kingdom has~~ **United Kingdom and the Isle of Man have** by virtue of paragraph 11 of resolution 1807 (asset freeze) is to that provision read with—

- (a) paragraph 4 of resolution 1857;
- (b) paragraph 9 of resolution 1952;
- (c) paragraph 4 of resolution 2078;
- (d) paragraph 4 of resolution 2136;
- (e) paragraph 5 of resolution 2198;
- (f) paragraph 7 of resolution 2293; and
- (g) paragraph 3 of resolution 2360.

## **PART 2**

### **Designation of persons**

#### **Power to designate persons**

5. ~~(1) The Secretary of State may designate persons by name for the purposes of any of the following—~~

- ~~(a) regulations 12 to 16 (asset freeze etc.); and~~
- ~~(b) regulation 18 (Immigration);~~

~~(2) The Secretary of State may designate different persons for the purposes of different provisions mentioned in paragraph (1).~~

#### **Designation criteria**

6. ~~(1) The Secretary of State may not designate a person under regulation 5 unless the Secretary of State—~~

- ~~(a) has reasonable grounds to suspect that that person is an involved person, and~~
- ~~(b) considers that the designation of that person is appropriate, having regard to—~~
  - ~~(i) the purposes stated in regulation 4, and~~

<sup>70</sup> Paragraph 1 of resolution 1807 was renewed by paragraph 1 of resolution 1857, paragraph 1 of resolution 1896 (2009) adopted by the Security Council on 30 November 2009, paragraph 1 of resolution 1952, paragraph 1 of resolution 2021 (2011) adopted by the Security Council on 29 November 2011, paragraph 1 of resolution 2078, paragraph 1 of resolution 2136, paragraph 1 of resolution 2198, paragraph 1 of resolution 2293, paragraph 1 of resolution 2360, and paragraph 1 of resolution 2424 (2018) adopted by the Security Council on 29 June 2019.

<sup>71</sup> Paragraph 11 of resolution 1807 was renewed by paragraph 3 of resolution 1857, paragraph 3 of resolution 1896 (2009) adopted by the Security Council on 30 November 2009, paragraph 3 of resolution 1952, paragraph 3 of resolution 2021 (2011) adopted by the Security Council on 29 November 2011, paragraph 3 of resolution 2078, paragraph 3 of resolution 2136, paragraph 3 of resolution 2198, paragraph 5 of resolution 2293, paragraph 1 of resolution 2360 and paragraph 1 of resolution 2424 (2018) adopted by the Security Council on 29 June 2018.

- (ii) — the likely significant effects of the designation on that person (as they appear to the Secretary of State to be on the basis of the information that the Secretary of State has).
- (2) — In this regulation an “involved person” means a person who —
- (a) — is or has been involved in —
    - (i) — the commission of a serious human rights violation or abuse, or violation of international humanitarian law, in the Democratic Republic of the Congo including, in particular, in relation to —
      - (aa) — rape, mass rape and other forms of sexual and gender-based violence;
      - (bb) — deliberate targeting of civilians, schools and hospitals;
      - (cc) — recruitment or use of children as soldiers;
      - (dd) — the suppression of freedom of expression and peaceful assembly;
    - (ii) — obstructing or undermining respect for democracy, the rule of law and good governance in the Democratic Republic of the Congo;
  - (b) — is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person who is or has been so involved;
  - (c) — is acting on behalf of or at the direction of a person who is or has been so involved; or
  - (d) — is a member of, or associated with, a person who is or has been so involved.
- (3) — Any reference in this regulation to being involved in the commission of a serious human rights violation or abuse, a violation of international humanitarian law, or obstructing or undermining respect for democracy, the rule of law and good governance in the Democratic Republic of the Congo includes being so involved in whatever way and wherever any actions constituting the involvement take place, and in particular includes —
- (a) — being responsible for, engaging in, providing support for, or promoting, any serious human rights violation or abuse, any violation of international humanitarian law or the obstruction of, or the undermining of respect for, democracy, the rule of law and good governance in the Democratic Republic of the Congo;
  - (b) — providing financial services, or making available funds or economic resources, that could contribute to any serious human rights violation or abuse, any violation of international humanitarian law or obstructing or undermining respect for democracy, the rule of law and good governance in the Democratic Republic of the Congo;
  - (c) — being involved in the supply to the Democratic Republic of the Congo of military goods or military technology or of material related to such goods or technology, or in providing financial services relating to such supply;
  - (d) — being involved in the supply to the Democratic Republic of the Congo of goods or technology which could contribute to any serious human rights violation or abuse, any violation of international humanitarian law or the obstruction of, or the undermining of respect for, democracy, the rule of law and good governance in the Democratic Republic of the Congo, or in providing financial services relating to such supply;
  - (e) — being involved in assisting the contravention or circumvention of any relevant provision.
- (4) — In this regulation “relevant provision” means —
- (a) — any provision of Parts 3 (Finance) or 5 (Trade);
  - (b) — any provision of the law of a country other than the United Kingdom made for purposes corresponding to a purpose of any provision of Parts 3 (Finance) or 5 (Trade);
  - (c) — any provision of resolution 2078, 2136, 2198, 2293 or 2360.

~~(5) Nothing in any sub-paragraph of paragraph (3) is to be taken to limit the meaning of any of the other sub-paragraphs of that paragraph.~~

~~(6) In this regulation, "military goods" and "military technology" have the meanings given by Part 5.~~

**Meaning of "owned or controlled directly or indirectly"**

7. (1) A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).

(2) The first condition is that P—

- (a) holds directly or indirectly more than 50% of the shares in C,
- (b) holds directly or indirectly more than 50% of the voting rights in C, or
- (c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.

(3) Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).

(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.

**Notification and publicity where designation power used**

~~8. (1) Paragraph (2) applies where the Secretary of State—~~

- ~~(a) has made a designation under regulation 5, or~~
- ~~(b) has by virtue of section 22 of the Act varied or revoked a designation made under that regulation.~~

~~(2) The Secretary of State—~~

- ~~(a) must without delay take such steps as are reasonably practicable to inform the designated person of the designation, variation or revocation, and~~
- ~~(b) must take steps to publicise the designation, variation or revocation.~~

~~(3) The information given under paragraph (2)(a) where a designation is made must include a statement of reasons.~~

~~(4) In this regulation a "statement of reasons", in relation to a designation, means a brief statement of the matters that the Secretary of State knows, or has reasonable grounds to suspect, in relation to the designated person which have led the Secretary of State to make the designation.~~

~~(5) Matters that would otherwise be required by paragraph (4) to be included in a statement of reasons may be excluded from it where the Secretary of State considers that they should be excluded—~~

- ~~(a) in the interests of national security or international relations,~~
- ~~(b) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or~~
- ~~(c) in the interests of justice.~~

~~(6) The steps taken under paragraph (2)(b) must—~~

- ~~(a) unless one or more of the restricted publicity conditions is met, be steps to publicise generally—~~
  - ~~(i) the designation, variation or revocation, and~~
  - ~~(ii) in the case of a designation, the statement of reasons;~~
- ~~(b) if one or more of those conditions is met, be steps to inform only such persons as the Secretary of State considers appropriate of the designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons.~~

~~(7) The "restricted publicity conditions" are as follows—~~

- ~~(a) the designation is of a person believed by the Secretary of State to be an individual under the age of 18;~~
- ~~(b) the Secretary of State considers that disclosure of the designation, variation or revocation should be restricted—~~
  - ~~(i) in the interests of national security or international relations,~~

- (ii) ~~for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or~~
  - (iii) ~~in the interests of justice.~~
- (8) ~~Paragraph (9) applies if—~~
- (a) ~~when a designation is made, one or more of the restricted publicity conditions is met, but~~
  - (b) ~~at any time when the designation has effect, it becomes the case that none of the restricted publicity conditions is met.~~
- (9) ~~The Secretary of State must—~~
- (a) ~~take such steps as are reasonably practicable to inform the designated person that none of the restricted publicity conditions is now met, and~~
  - (b) ~~take steps to publicise generally the designation and the statement of reasons relating to it.~~

#### **Requirement to publish a list of designated persons**

**8. (1) Subject to paragraph (2), the Treasury must—**

- (a) publish a list of designated persons, and**
- (b) keep the list up to date.**

**(2) Where, in accordance with regulation 8 (notification and publicity where designation power used) (as it has effect in the United Kingdom) the Secretary of State is not required to publicise generally a designation, variation or revocation, the Treasury must not include in the list under paragraph (1) any details of that designation, variation or revocation.**

**(3) The Treasury may publish the list under paragraph (1) in any form the Treasury considers appropriate, including by means of a website.**

**(4) For the purpose of this regulation, “designated person” means any person for the time being designated by the Secretary of State under regulation 5 of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (of Parliament).**

### **Confidential information in certain cases where designation power used**

9. (1) ~~Where the Secretary of State in accordance with regulation 8(6)(b) informs only certain persons of a designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons, the Secretary of State may specify that any of that information is to be treated as confidential.~~

(2) A person ("P") who—

- (a) ~~is provided with information that is to be treated as confidential in accordance with paragraph (1)~~ **which the Secretary of State has specified is to be treated as confidential under regulation 9(1) of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (of Parliament)**, or

(b) otherwise obtains such information,

must not, subject to paragraph (3), disclose it if P knows, or has reasonable cause to suspect, that the information is to be treated as confidential.

(3) The prohibition in paragraph (2) does not apply to any disclosure made by P with lawful authority.

(4) For this purpose information is disclosed with lawful authority only if and to the extent that—

- (a) the disclosure is by, or is authorised by, the Secretary of State,  
(b) the disclosure is by or with the consent of the person who is or was the subject of the designation,  
(c) the disclosure is necessary to give effect to a requirement imposed under or by virtue of these Regulations or any other enactment **Manx legislation (within the meaning of section 9 of the Interpretation Act 2015 (of Tynwald)<sup>72</sup>**, or  
(d) the disclosure is required, under rules of court, tribunal rules or a court or tribunal order, for the purposes of legal proceedings of any description.

(5) This regulation does not prevent the disclosure of information that is already, or has previously been, available to the public from other sources.

(6) A person who contravenes the prohibition in paragraph (2) commits an offence.

(7) ~~The High Court (in Scotland, the Court of Session) may, on the application of—~~

- (a) ~~the person who is the subject of the information, or~~  
(b) ~~the Secretary of State,~~

~~grant an injunction (in Scotland, an interdict) to prevent a breach of the prohibition in paragraph (2).~~

(8) ~~In paragraph (4)(c), "enactment" has the meaning given by section 54(6) of the Act.~~

### **Designation of persons named by or under UN Security Council Resolutions**

10. (1) Each person for the time being named for the purposes of paragraph 13 of resolution 1807 by the Security Council or the Committee is a designated person for the purposes of regulations 12 to 16 (asset-freeze etc.) (whose purposes include compliance with the UN obligation mentioned in regulation 4(3)(b)).

(2) ~~Nothing in this regulation affects the power under regulation 5 to designate persons (in addition to those designated by this regulation) for the purposes of regulations 12 to 16.~~

## **PART 3**

### **Finance**

#### **Meaning of "designated person" in Part 3**

11. In this Part a "designated person" means—

- (a) a person who is designated under regulation 5 for the purposes of regulations 12 to 16 (asset freeze etc.), or  
(b) a person who is a designated person for the purposes of those regulations by reason of regulation 10.

#### **Meaning of "designated person" in Part 3**

**11 In this Part a "designated person" means —**

<sup>72</sup> AT 11 of 2015.



- (a) a person who is designated by the Secretary of State from time to time under regulation 5 of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (of Parliament)<sup>73</sup> for the purposes of regulations 12 to 16 of those Regulations; and
- (b) a person who is a designated person for the purposes of regulations 12 to 16 (asset-freeze etc) by reason of regulation 10,

and cognate expressions shall be construed accordingly.

*Note for sub-paragraph (a):*

*Under provisions of the Sanctions and Anti-Money Laundering Act 2018 (of Parliament)<sup>74</sup>, a person's designation may be varied or revoked. Any such variation or revocation would have effect in the Isle of Man.*

#### **Asset-freeze in relation to designated persons**

12. (1) A person ("P") must not deal with funds or economic resources owned, held or controlled, by a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.
- (2) Paragraph (1) is subject to Part 6 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.
- (4) For the purposes of paragraph (1) a person "deals with" funds if the person—
- (a) uses, alters, moves, transfers or allows access to the funds,
  - (b) deals with the funds in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or
  - (c) makes any other change, including portfolio management, that would enable use of the funds.
- (5) For the purposes of paragraph (1) a person "deals with" economic resources if the person—
- (a) exchanges the economic resources for funds, goods or services, or
  - (b) uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise).
- (6) The reference in paragraph (1) to funds or economic resources that are "owned, held or controlled" by a person includes, in particular, a reference to—
- (a) funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources;
  - (b) any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in the possession of the person.
- (7) For the purposes of paragraph (1) funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.
- (8) For the avoidance of doubt, the reference in paragraph (1) to a designated person includes P if P is a designated person.

#### **Making funds available to designated person**

13. (1) A person ("P") must not make funds available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.
- (2) Paragraph (1) is subject to Part 6 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.
- (4) The reference in paragraph (1) to making funds available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

<sup>73</sup> SI 2019/433.

<sup>74</sup> 2018 Chapter 13.

### **Making funds available for benefit of designated person**

14. (1) A person ("P") must not make funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.
- (2) Paragraph (1) is subject to Part 6 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.
- (4) For the purposes of this regulation—
- (a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and
  - (b) "financial benefit" includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

### **Making economic resources available to designated person**

15. (1) A person ("P") must not make economic resources available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect—
- (a) that P is making the economic resources so available, and
  - (b) that the designated person would be likely to exchange the economic resources for, or use them in exchange for, funds, goods or services.
- (2) Paragraph (1) is subject to Part 6 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.
- (4) The reference in paragraph (1) to making economic resources available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

### **Making economic resources available for benefit of designated person**

16. (1) A person ("P") must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.
- (2) Paragraph (1) is subject to Part 6 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.
- (4) For the purposes of paragraph (1)—
- (a) economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and
  - (b) "financial benefit" includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

### **Circumventing etc. prohibitions**

17. (1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—
- (a) to circumvent any of the prohibitions in regulations 12 to 16, or
  - (b) to enable or facilitate the contravention of any such prohibition.
- (2) A person who contravenes a prohibition in paragraph (1) commits an offence.

## **PART 4**

### **Immigration**

#### **Immigration**

18. ~~A person who is designated under regulation 5 for the purposes of this regulation is an excluded person for the purposes of section 8B of the Immigration Act 1971.~~

#### **Immigration**

**18 A person who is designated by the Secretary of State from time to time under regulation 5 of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (of Parliament)<sup>75</sup> for the purposes of regulation 18 of those**

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<sup>75</sup> SI 2019/433.

**Regulations is an excluded person for the purposes of section 8B of the Immigration Act 1971 (of Parliament)<sup>76</sup> (as it has effect in the Isle of Man)<sup>77</sup>.**

**PART 5**

**Trade**

**CHAPTER 1**

**Interpretation**

**Definition of "military goods" and "military technology"**

19. In this Part—

"military goods" means—

- (a) any thing for the time being specified in Schedule 2 to the Export Control Order 2008, other than any thing which is military technology, and
- (b) any tangible storage medium on which military technology is recorded or from which it can be derived;

"military technology" means any thing for the time being specified in Schedule 2 to the Export Control Order 2008 which is described as software or technology.

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<sup>76</sup> 1971 Chapter 77.

<sup>77</sup> The Immigration Act 1971 (of Parliament) was extended to the Isle of Man by SI 2008/680 (as amended).

### Interpretation of other expressions used in this Part

20. (1) ~~Paragraph 32 of Schedule 1 to the Act (trade sanctions) applies for the purpose of interpreting expressions in this Part.~~

**(1) In this Part —**

- (a) “export” means export from the Isle of Man;**
- (b) goods removed to the United Kingdom from the Isle of Man are not to be regarded as exported; and**
- (c) goods transported out of the Isle of Man by aircraft or ship as stores within the meaning of CEMA (see section 184(1) and (4) of that Act) are to be regarded as exported.**

(2) In this Part, any reference to the ~~United Kingdom~~ **Isle of Man** includes a reference to the territorial sea.

(3) In this Part—

**“aircraft” includes unmanned aircraft and aircraft capable of spaceflight activities;**

**“brokering service” means any service to secure, or otherwise in relation to, an arrangement, including (but not limited to)—**

- (a) the selection or introduction of persons as parties or potential parties to the arrangement,
- (b) the negotiation of the arrangement,
- (c) the facilitation of anything that enables the arrangement to be entered into, and
- (d) the provision of any assistance that in any way promotes or facilitates the arrangement;

**“place” includes —**

- (a) any vehicle, ship or aircraft;**
- (b) any installation (including a floating installation or one resting on the seabed or its subsoil or on other land covered with water or its subsoil); or**
- (c) any tent or movable structure;**

**“ship” includes every description of vessel (including a hovercraft) used in navigation;**

**“technical assistance”, in relation to goods or technology, means—**

- (a) technical support relating to the repair, development, production, assembly, testing, use or maintenance of the goods or technology, or
- (b) any other technical service relating to the goods or technology;

~~“transfer” has the meaning given by paragraph 37 of Schedule 1 to the Act.~~

**“transfer”, in relation to any technology, means a transfer by any means (or combination of means), including oral communication and the transfer of goods on which technology is recorded or from which it can be derived, other than the export of such goods.**

## CHAPTER 2

### Military goods and military technology

#### Export of military goods

21. (1) The export of military goods to a non-governmental person operating in the Democratic Republic of the Congo is prohibited.

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

#### Supply and delivery of military goods

22. (1) A person must not directly or indirectly supply or deliver military goods from a third country to a non-governmental person operating in the Democratic Republic of the Congo.

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for a nongovernmental person operating in the Democratic Republic of the Congo.

(4) In this regulation, “third country” means a country that is not the United Kingdom, the Isle of Man or the Democratic Republic of the Congo.

### **Making military goods and military technology available**

23. (1) A person must not directly or indirectly make military goods or military technology available to a non-governmental person operating in the Democratic Republic of the Congo.

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with the offence of contravening paragraph (1) ("P") to show that P did not know and had no reasonable cause to suspect that the non-governmental person was operating in the Democratic Republic of the Congo;

### **Transfer of military technology**

24. (1) A person must not transfer military technology to a non-governmental person operating in the Democratic Republic of the Congo.

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with the offence of contravening paragraph (1) to show that the person did not know and had no reasonable cause to suspect that the transfer was to a nongovernmental person operating in the Democratic Republic of the Congo.

### **Technical assistance relating to military goods and military technology**

25. (1) A person must not directly or indirectly provide technical assistance relating to military goods or military technology to a non-governmental person operating in the Democratic Republic of the Congo.

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with the offence of contravening paragraph (1) ("P") to show that P did not know and had no reasonable cause to suspect that the non-governmental person was operating in the Democratic Republic of the Congo.

### **Financial services and funds relating to military goods and military technology**

26. (1) A person must not directly or indirectly provide financial services to a nongovernmental person operating in the Democratic Republic of the Congo in pursuance of, or in connection with, an arrangement whose object or effect is—

- (a) the export of military goods,
- (b) the direct or indirect supply or delivery of military goods,
- (c) directly or indirectly making military goods or military technology available to a person,
- (d) the transfer of military technology, or
- (e) the direct or indirect provision of technical assistance relating to military goods or military technology.

(2) A person must not directly or indirectly make funds available to a non-governmental person operating in the Democratic Republic of the Congo in pursuance of, or in connection with, an arrangement mentioned in paragraph (1).

(3) A person must not directly or indirectly provide financial services or funds in pursuance of, or in connection with, an arrangement whose object or effect is—

- (a) the export of military goods to a non-governmental person operating in the Democratic Republic of the Congo,
- (b) the direct or indirect supply or delivery of military goods to a non-governmental person operating in the Democratic Republic of the Congo,
- (c) directly or indirectly making military goods or military technology available to a nongovernmental person operating in the Democratic Republic of the Congo,
- (d) the transfer of military technology to a non-governmental person operating in the Democratic Republic of the Congo, or
- (e) the direct or indirect provision of technical assistance relating to military goods or military technology to a non-governmental person operating in the Democratic Republic of the Congo.

(4) Paragraphs (1) to (3) are subject to Part 6 (Exceptions and licences).

(5) A person who contravenes a prohibition in any of paragraphs (1) to (3) commits an offence, but—

- (a) it is a defence for a person charged with an offence of contravening paragraph (1) or (2) ("P") to show that P did not know and had no reasonable cause to suspect that the nongovernmental person was operating in the Democratic Republic of the Congo;
- (b) it is a defence for a person charged with an offence of contravening a prohibition in paragraph (3) to show that the person did not know and had no reasonable cause to suspect that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in that paragraph.

**Brokering services: ~~non-UK~~ non-IOM activity relating to military goods and military technology**

27. (1) A person must not directly or indirectly provide brokering services in relation to an arrangement ("arrangement A") whose object or effect is—

- (a) the direct or indirect supply or delivery of military goods from a third country to a nongovernmental person operating in the Democratic Republic of the Congo,
- (b) directly or indirectly making military goods available in a third country for direct or indirect supply or delivery to a non-governmental person operating in the Democratic Republic of the Congo,
- (c) directly or indirectly making military technology available in a third country for transfer to a non-governmental person operating in the Democratic Republic of the Congo,
- (d) the transfer of military technology from a place in a third country to a non-governmental person operating in the Democratic Republic of the Congo,
- (e) the direct or indirect provision, in a ~~non-UK~~ **non-IOM** country, of technical assistance relating to military goods or military technology to a non-governmental person operating in the Democratic Republic of the Congo,
- (f) the direct or indirect provision, in a ~~non-UK~~ **non-IOM** country, of financial services—
  - (i) to a non-governmental person operating in the Democratic Republic of the Congo, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(1), or
  - (ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(3),
- (g) directly or indirectly making funds available, in a ~~non-UK~~ **non-IOM** country, to a nongovernmental person operating in the Democratic Republic of the Congo, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(1), or
- (h) the direct or indirect provision of funds from a ~~non-UK~~ **non-IOM** country, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(3).

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the brokering services were provided in relation to an arrangement mentioned in that paragraph.

(4) In this regulation—

"~~non-UK country~~" means a country that is not the United Kingdom;

**“non-IOM country” means a country that is not the Isle of Man;**

“third country” means—

- (a) for the purposes of paragraph (1) (a) and (b), a country that is not the United Kingdom, the Isle of Man or the Democratic Republic of the Congo, and
- (b) for the purposes of any other provision of paragraph (1), a country that is not the ~~United Kingdom~~ **Isle of Man** or the Democratic Republic of the Congo.

### CHAPTER 3

#### Enabling or facilitating the conduct of armed hostilities

##### Enabling or facilitating the conduct of armed hostilities

28. (1) A person must not directly or indirectly provide to a non-governmental person operating in the Democratic Republic of the Congo—

- (a) technical assistance,
- (b) armed personnel,
- (c) financial services or funds, or
- (d) brokering services in relation to an arrangement whose object or effect is to provide, in a ~~non-UK~~ **non-IOM** country, any of the services mentioned in sub-paragraphs (a) to (c),

where such provision enables or facilitates the conduct of armed hostilities in the Democratic Republic of the Congo.

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the provision as mentioned in paragraph (1) would enable or facilitate the conduct of armed hostilities in the Democratic Republic of the Congo.

(4) In paragraph (1) of this regulation—

~~“non-UK country” means a country that is not the United Kingdom;~~

**“non-IOM country” means a country that is not the Isle of Man;**

“technical assistance” means the provision of technical support or any other technical service.

(5) Nothing in this regulation is to be taken to limit the meaning of any of the prohibitions contained in Chapter 2.

### CHAPTER 4

#### Further provision

##### Circumventing etc prohibitions

29. (1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

- (a) to circumvent any of the prohibitions in Chapter 2 or 3 of this Part, or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person who contravenes a prohibition in paragraph (1) commits an offence.

##### Defences

30. (1) Paragraph (2) applies where a person relies on a defence under Chapter 2 or 3 of this Part.

(2) If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

### PART 6

#### Exceptions and licences

##### Finance: exceptions from prohibitions

31. (1) The prohibition in regulation 12 (asset-freeze in relation to designated persons) is not contravened by an independent person (“P”) transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—

- (a) is held by P, and
- (b) is not held jointly with the designated person.

(2) In paragraph (1) “independent person” means a person who—

- (a) is not the designated person, and
- (b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

(3) The prohibitions in regulations 12 to 14 (asset-freeze in relation to, and making funds available to, or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account with interest or other earnings due on the account.

(4) The prohibitions in regulations 13 and 14 (making funds available to, or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account where it receives funds transferred to that institution for crediting to that account.

(5) The prohibitions in regulations 13 and 14 are not contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.

~~(6) The prohibitions in regulations 12 to 14 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—~~

~~(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,~~

~~(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and~~

~~(c) accounts A and B are held or controlled (directly or indirectly) by P.~~

(7) In this regulation—

"designated person" has the same meaning as it has in Part 3 (Finance);

"frozen account" means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person;

~~"relevant institution" means a person that has permission under Part 4A of the Financial Services and Markets Act 2000 (permission to carry on regulated activity);~~

**"relevant institution" means —**

**(a) a person who is licensed under the Financial Services Act 2008 (of Tynwald)<sup>78</sup> to carry on a regulated activity within the meaning of section 3 of that Act;**

**(b) a person who is authorised or registered under the Insurance Act 2008 (of Tynwald)<sup>79</sup> or who holds a permit under that Act;**

**(c) a person who is registered under the Moneylenders Act 1991 (of Tynwald)<sup>80</sup> to carry on the business of lending money;**

**(d) a person who is acting as a trustee or an administrator of a retirement benefits scheme within the meaning of the Retirement Benefits Schemes Act 2008 (of Tynwald)<sup>81</sup>.**

~~(8) The definition of "relevant institution" in paragraph (7) is to be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.~~

**Exception for authorised conduct in a relevant country**

31A. (1) Where a person's conduct in a relevant country would, in the absence of this regulation, contravene a prohibition in any of regulations 12 to 16 (asset-freeze etc.) or Chapters 2 and 3 of Part 5 (Trade) ("the relevant prohibition"), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued—

(a) under the law of the relevant country, and

(b) for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.

<sup>78</sup> AT 8 of 2008.

<sup>79</sup> AT 16 of 2008.

<sup>80</sup> AT 6 of 1991.

<sup>81</sup> AT 14 of 2008.



- (2) — In this regulation —  
“relevant country” means —  
(a) — any of the Channel Islands,  
(b) — the Isle of Man, or  
(c) — any British overseas territory.
- (3) — Nothing in this regulation affects the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.

**Exception for authorised conduct outside the Isle of Man**

**31A. (1) Where a person’s conduct outside the Isle of Man would, in the absence of this paragraph, contravene a prohibition in any of regulations 12 to 16 (asset-freeze etc.) or Chapters 2 and 3 of Part 5 (Trade) (“the relevant prohibition”), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation issued under regulation 33 (Treasury licences) or 34 (Trade licences), as those regulations have effect in the United Kingdom.**

**(2) Where a person’s conduct in a relevant country would, in the absence of this paragraph, contravene the relevant prohibition, the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued —**

- (a) under the law of the relevant country, and**
- (b) for the purpose of disappling a prohibition in that jurisdiction which corresponds to the relevant prohibition.**

**(3) In this regulation, “relevant country” means —**

- (a) any of the Channel Islands;**
- (b) any British overseas territory.**

**(4) Nothing in this regulation affects the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.**

**~~Exception for acts done for purposes of national security or prevention of serious crime~~**

~~32. (1) — Where an act would, in the absence of this paragraph, be prohibited by the prohibition in regulation 9(2) (confidentiality) or any prohibition in Part 3 (Finance) or 5 (Trade), that prohibition does not apply to the act if the act is one which a responsible officer has determined would be in the interests of —~~

- ~~(a) — national security, or~~
- ~~(b) — the prevention or detection of serious crime in the United Kingdom or elsewhere.~~

~~(2) — Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 7 (Information and records) or Part 9 (Maritime enforcement), that requirement does not apply if a responsible officer has determined that not doing the thing in question would be in the interests of —~~

- ~~(a) — national security, or~~
- ~~(b) — the prevention or detection of serious crime in the United Kingdom or elsewhere.~~

~~(3) — In this regulation “responsible officer” means a person in the service of the Crown or holding office under the Crown, acting in the course of that person’s duty.~~

~~(4) — Nothing in this regulation affects the application of a prohibition or requirement in a case where it would be incompatible with a UN obligation for the prohibition or requirement not to apply.~~

**Exception for acts done for purposes of national security or prevention of serious crime**

**32. (1) Where an act would, in the absence of this paragraph, be prohibited by regulation 9(2) (confidentiality) or any prohibition in Part 3 (Finance) or Part 5 (Trade), that prohibition does not apply to the act if the act is one which—**

- (a) a UK responsible officer has determined would be in the interests of national security or the prevention or detection of serious crime in the United Kingdom or elsewhere; or**
- (b) an Island responsible officer has determined would be in the interests of the prevention or detection of serious crime in the Isle of Man or elsewhere.**

**(2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 7 (Information and records) or Part 9 (Maritime enforcement), that requirement does not apply if—**

- (a) a UK responsible officer has determined that not doing the thing in question would be in the interests of national security or the prevention or detection of serious crime in the United Kingdom or elsewhere; or**
- (b) an Island responsible officer has determined that not doing the thing in question would be in the interests of the prevention or detection of serious crime in the Isle of Man or elsewhere.**

**(3) In this regulation—**

**“Island responsible officer” means a person—**

- (a) in the service of the Crown or holding office under the Crown in the Isle of Man,**
- (b) appointed by the Public Services Commission, or**
- (c) appointed as a constable by the Department of Home Affairs,**  
**acting in the course of that person’s duty;**

**“UK responsible officer” means a person in the service of the Crown or holding office under the Crown in the United Kingdom, acting in the course of that person’s duty.**

### **Treasury licences**

**33. (1) The prohibitions in regulations 12 to 16 (asset-freeze etc.) do not apply to anything done under the authority of a licence issued by the Treasury under this paragraph.**

**(2) The Treasury may issue a licence which authorises acts by a particular person in relation to a non-UN designated person only where ~~the Treasury consider~~ **the Treasury considers** that it is appropriate to issue the licence for a purpose set out in Schedule 2.**

**(3) The Treasury may issue a licence which authorises acts in relation to a UN designated person only where ~~the Treasury consider~~ **the Treasury considers** that it is appropriate to issue the licence for a purpose set out in Part 2 of Schedule 2.**

**(4) In this regulation “UN designated person” means—**

- (a) a person who is a designated person for the purposes of regulations 12 to 16 by reason of regulation 10 (designation of persons named by or under UN Security Council resolutions), or**
- ~~**(b) a person who is designated under regulation 5 (power to designate persons) for the purposes of regulations 12 to 16 and whose designation is (in the opinion of the Secretary of State) required by a provision mentioned in regulation 4(3).**~~

**(b) a person who is designated by the Secretary of State from time to time under regulation 5 of the Democratic Republic of the**

**Congo (Sanctions) (EU Exit) Regulations 2019 (of Parliament)<sup>82</sup>  
for the purposes of regulations 12 to 16 of those Regulations  
and whose designation is (in the opinion of the Secretary of  
State) required by a provision mentioned in regulation 4(3) of  
those Regulations.**

**Trade licences**

34. The prohibitions in Chapters 2 and 3 of Part 5 (Trade) do not apply to anything done under the authority of a licence issued by the ~~Secretary of State~~ **Treasury** under this regulation.

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<sup>82</sup> SI 2019/433.

### **Licences: general provisions**

35. (1) This regulation applies in relation to Treasury licences and trade licences.
- (2) A licence must specify the acts authorised by it.
- (3) A licence may be general or may authorise acts by a particular person or persons of a particular description.
- (4) A licence may —
- (a) contain conditions;
  - (b) be of indefinite duration or a defined duration.
- ~~(5) A person who issues a licence may vary, revoke or suspend it at any time.~~
- ~~(6) A person who issues, varies, revokes or suspends a licence which authorises acts by a particular person must give written notice to that person of the issue, variation, revocation or suspension of the licence.~~
- ~~(7) A person who issues, varies, revokes or suspends a general licence or a licence which authorises acts by persons of a particular description must take such steps as that person considers appropriate to publicise the issue, variation, revocation or suspension of the licence.~~
- (5) The Treasury may vary, revoke or suspend a licence at any time.**
- (6) If the Treasury issues, varies, revokes or suspends a licence which authorises acts by a particular person, the Treasury must give written notice to that person of the issue, variation, revocation or suspension of the licence.**
- (7) If the Treasury issues, varies, revokes or suspends a general licence or a licence which authorises acts by persons of a particular description, the Treasury must take such steps as it considers appropriate to publicise the issue, variation, revocation or suspension of the licence.**

### **Finance: licensing offences**

36. (1) A person ("P") commits an offence if P knowingly or recklessly—
- (a) provides information that is false in a material respect, or
  - (b) provides or produces a document that is not what it purports to be,
- for the purpose of obtaining a Treasury licence (whether for P or anyone else).
- (2) A person who purports to act under the authority of a Treasury licence but who fails to comply with any condition of the licence commits an offence.

### **Trade: licensing offences**

37. (1) A person ("P") commits an offence if P knowingly or recklessly—
- (a) provides information that is false in a material respect, or
  - (b) provides or produces a document that is not what it purports to be,
- for the purpose of obtaining a trade licence (whether for P or anyone else).
- (2) A person who purports to act under the authority of a trade licence but who fails to comply with any condition of the licence commits an offence.
- (3) A licence in respect of which an offence under paragraph (1) has been committed is to be treated as void from the time at which it was issued.

### **Section 8B(1) to (3) of Immigration Act 1971: directions**

38. ~~(1) The Secretary of State may direct that, in relation to any person within regulation 18 whose name is specified, or who is of a specified description, section 8B(1) and (2) of the Immigration Act 1971, or section 8B(3) of that Act, have effect subject to specified exceptions.~~

**(1) Any direction of the Secretary of State from time to time under regulation 38 of the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (of Parliament)<sup>83</sup> that section 8B(1) and (2) of the Immigration Act 1971 (as it has effect in the United Kingdom)<sup>84</sup>, or section 8B(3) of that Act (as it has effect there), have effect subject to specified exceptions in relation to any person whose name is specified or who is of a specified description, has the same effect in the Isle of Man and references to section 8B(1), (2) or (3) of the Immigration Act 1971 (of Parliament) shall be construed as references to those subsections as they have effect in the Isle of Man<sup>85</sup>.**

#### **Note:**

<sup>83</sup> SI 2019/433.

<sup>84</sup> 1971 Chapter 77.

<sup>85</sup> The Immigration Act 1971 (of Parliament) was extended to the Isle of Man by SI 2008/680 (as amended).

*Under the provisions of the Sanctions and Anti-Money Laundering Act 2018 (of Parliament) (2018 Chapter 13) a direction may be varied, revoked or suspended. Any such variation, revocation or suspension would have effect in the Isle of Man.*

~~(2) A direction may contain conditions.~~

~~(3) A direction must be of a defined duration (and that duration may be expressed in any way, including, for example, being expressed in a way such that the direction ceases to have effect on, or within a specified period after, the occurrence of a specified event).~~

~~(4) The Secretary of State may vary, revoke or suspend a direction at any time.~~

~~(5) On the issue, variation, revocation or suspension of a direction, the Secretary of State may take such steps as the Secretary of State considers appropriate to publicise the issue, variation, revocation or suspension of the direction.~~

~~(6) In this regulation "specified" means specified in a direction.~~

## **PART 7**

### **Information and records**

#### **Finance: reporting obligations**

39. (1) A relevant firm must inform the Treasury as soon as practicable if—
- (a) it knows, or has reasonable cause to suspect, that a person—
    - (i) is a designated person, or
    - (ii) has committed an offence under any provision of Part 3 (Finance) or regulation 36 (finance: licensing offences), and
  - (b) the information or other matter on which the knowledge or cause for suspicion is based came to it in the course of carrying on its business.
- (2) Where a relevant firm informs the Treasury under paragraph (1), it must state—
- (a) the information or other matter on which the knowledge or suspicion is based, and
  - (b) any information it holds about the person by which the person can be identified.
- (3) Paragraph (4) applies if—
- (a) a relevant firm informs the Treasury under paragraph (1) that it knows, or has reasonable cause to suspect, that a person is a designated person, and
  - (b) that person is a customer of the relevant firm.
- (4) The relevant firm must also state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion.
- (5) A relevant institution must inform the Treasury without delay if that institution—
- (a) credits a frozen account in accordance with regulation 31(4) (finance: exceptions from prohibitions), ~~or~~
  - (b) ~~transfers funds from a frozen account in accordance with regulation 31(6) (finance: exceptions from prohibitions).~~
- (6) A person who fails to comply with a requirement in paragraph (1), (2) or (4) commits an offence.
- (7) In this regulation—
- "designated person" has the same meaning as it has in Part 3 (Finance);
  - "frozen account" has the same meaning as it has in regulation 31;
  - ~~"relevant firm" is to be read in accordance with regulation 40;~~

#### **"relevant firm" means —**

- (a) **a business in the regulated sector within the meaning of Schedule 4 to the Proceeds of Crime Act 2008 (of Tynwald)**<sup>86</sup> (see in particular paragraph 2 of that Schedule);
- (b) **a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging articles made from gold, silver, platinum, palladium, precious stones or pearls;**

<sup>86</sup> AT 13 of 2008.

"relevant institution" has the same meaning as it has in regulation 31.

**(8) For the purposes of paragraph (a) of the definition of "relevant firm" in paragraph (7), the definition of "estate agent" in Schedule 4 to the Proceeds of Crime Act 2008 (of Tynwald) is to be read as if references to the sale or proposed sale of land in section 15 of the Estate Agents Act 1975 (of Tynwald)<sup>87</sup> included references to the sale or proposed sale of land outside the Isle of Man.**

**"Relevant firm"**

40. (1) The following are relevant firms for the purposes of regulation 39—
- (a) a person that has permission under Part 4A of the Financial Services and Markets Act 2000 (permission to carry on regulated activity);
  - (b) an undertaking that by way of business—
    - (i) operates a currency exchange office;
    - (ii) transmits money (or any representation of monetary value) by any means, or
    - (iii) cashes cheques that are made payable to customers;
  - (c) a firm or sole practitioner that is—
    - (i) a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (statutory auditors), or
    - (ii) a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014 (general requirements for audit);
  - (d) a firm or sole practitioner that provides to other persons, by way of business—
    - (i) accountancy services;
    - (ii) legal or notarial services;
    - (iii) advice about tax affairs, or
    - (iv) trust or company services within the meaning of paragraph (2);
  - (e) a firm or sole practitioner that carries out, or whose employees carry out, estate agency work;
  - (f) the holder of a casino operating licence within the meaning given by section 65(2)(a) of the Gambling Act 2005 (nature of a licence);
  - (g) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging—
    - (i) articles made from gold, silver, platinum or palladium, or
    - (ii) precious stones or pearls.
- (2) In paragraph (1) "trust or company services" means any of the following services—
- (a) forming companies or other legal persons;
  - (b) acting, or arranging for another person to act—
    - (i) as a director or secretary of a company;
    - (ii) as a partner of a partnership, or
    - (iii) in a similar capacity in relation to other legal persons;
  - (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
  - (d) acting, or arranging for another person to act, as—
    - (i) a trustee of an express trust or similar legal arrangement, or
    - (ii) a nominee shareholder for a person.
- (3) In paragraph (1)—
- "estate agency work" is to be read in accordance with section 1 of the Estate Agents Act 1979, but as if references in that section to disposing of or acquiring an interest in land included (despite anything in section 2 of that Act) references to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest;

<sup>87</sup> AT 6 of 1975.

~~"firm" means any entity that, whether or not a legal person, is not an individual, and includes a body corporate and a partnership or other unincorporated body.~~

~~(4) Paragraph (1)(a) and (b) is to be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.~~

~~(5) For the purposes of regulation 39(1), information or another matter comes to a relevant firm "in the course of carrying on its business" if the information or other matter comes to the firm—~~

- ~~(a) in the case of a relevant firm within paragraph (1)(a), in the course of carrying on an activity in respect of which the permission mentioned in that provision is required;~~
- ~~(b) in the case of a relevant firm within paragraph (1)(c)(i), in the course of carrying out statutory audit work within the meaning of section 1210 of the Companies Act 2006 (meaning of statutory auditor);~~
- ~~(c) in the case of a relevant firm within paragraph (1)(c)(ii), in the course of carrying out an audit required by the Local Audit and Accountability Act 2014;~~
- ~~(d) in the case of a relevant firm within paragraph (1)(f), in the course of carrying on an activity in respect of which the licence mentioned in that provision is required;~~
- ~~(e) in the case of a relevant firm within any other provision of paragraph (1), in the course of carrying on an activity mentioned in that provision.~~

#### **Finance: powers to request information**

41. (1) The Treasury may request a designated person to provide information about—
- (a) funds or economic resources owned, held or controlled by, or on behalf of, the designated person, or
  - (b) any disposal of such funds or economic resources.
- (2) The Treasury may request a designated person to provide such information as the Treasury may reasonably require about expenditure—
- (a) by the designated person, or
  - (b) for the benefit of the designated person.
- (3) For the purposes of paragraph (2), expenditure for the benefit of a designated person includes expenditure on the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.
- (4) The power in paragraph (1) or (2) is exercisable only where ~~the Treasury believe~~ **the Treasury believes** that it is necessary for the purpose of monitoring compliance with or detecting evasion of any provision of Part 3 (Finance).
- (5) The Treasury may request a person acting under a Treasury licence to provide information about—
- (a) funds or economic resources dealt with under the licence, or
  - (b) funds or economic resources made available under the licence.
- (6) The Treasury may request a person to provide information within paragraph (7) if ~~the Treasury believe~~ **the Treasury believes** that the person may be able to provide the information.
- (7) Information within this paragraph is such information as the Treasury may reasonably require for the purpose of—
- (a) establishing for the purposes of any provision of Part 3 (Finance)—
    - (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by, or on behalf of, a designated person,
    - (ii) the nature and amount or quantity of any funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person, or
    - (iii) the nature of any financial transactions entered into by a designated person;
  - (b) monitoring compliance with or detecting evasion of—
    - (i) any provision of Part 3,

- (ii) regulation 39 (finance: reporting obligations), or
- (iii) any condition of a Treasury licence;
- (c) detecting or obtaining evidence of the commission of an offence under Part 3 or regulation 36 (finance: licensing offences) or 39 (finance: reporting obligations).

(8) The Treasury may specify the way in which, and the period within which, information is to be provided.

(9) If no such period is specified, the information which has been requested must be provided within a reasonable time.

(10) A request may include a continuing obligation to keep the Treasury informed as circumstances change, or on such regular basis as the Treasury may specify.

(11) Information requested under this regulation may relate to any period of time during which a person is, or was, a designated person.

(12) Information requested by virtue of paragraph (1)(b), (2) or (7)(a)(iii) may relate to any period before a person became a designated person (as well as, or instead of, any subsequent period).

(13) Expressions used in this regulation have the same meaning as they have in Part 3.

**Finance: production of documents**

42. (1) A request under regulation 41 may include a request to produce specified documents or documents of a specified description.

(2) Where ~~the Treasury request~~ **the Treasury requests** that documents be produced, the Treasury may—

- (a) take copies of or extracts from any document so produced,
- (b) request any person producing a document to give an explanation of it, and
- (c) where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is—
  - (i) in the case of a partnership, a present or past partner or employee of the partnership, or
  - (ii) in any other case, a present or past officer or employee of the body concerned,
 to give such an explanation.

(3) Where ~~the Treasury request~~ **the Treasury requests** a designated person or a person acting under a Treasury licence to produce documents, that person must—

- (a) take reasonable steps to obtain the documents (if they are not already in the person's possession or control);
- (b) keep the documents under the person's possession or control (except for the purpose of providing them to the Treasury or as the Treasury may otherwise permit).

(4) In this regulation "designated person" has the same meaning as it has in Part 3 (Finance).

**Finance: information offences**

43. (1) A person commits an offence if that person—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request under regulation 41 (finance: powers to request information);
- (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;
- (c) with intent to evade any provision of regulation 41 (finance: powers to request information) or 42 (finance: production of documents), destroys, mutilates, defaces, conceals or removes any document;
- (d) otherwise intentionally obstructs the Treasury in the exercise of ~~their~~ **its** powers under regulation 41 (finance: powers to request information) or 42 (finance: production of documents).



(2) Where a person is convicted of an offence under this regulation, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

**Trade: application of information powers in CEMA**

44. (1) ~~Section 77A of CEMA~~ **Section 78A of CEMA (information powers)** applies in relation to a person carrying on a relevant activity as it applies in relation to a person concerned in the importation or exportation of goods but as if—

- (a) in subsection (1), the reference to a person concerned in the importation or exportation of goods for which for that purpose an entry is required by regulation 5 of the ~~Customs Controls on Importation of Goods Regulations 1991~~ **Customs Controls on Importation of Goods Regulations 1994 (of Tynwald)**<sup>88</sup> or an entry or specification is required by or under CEMA were to a person carrying on a relevant activity;
  - (b) any other reference to importation or exportation were to a relevant activity;
  - (c) any other reference to goods were to the goods, technology, services or funds to which the relevant activity relates.
- (2) For the purposes of paragraph (1), a “relevant activity” means an activity—
- (a) which would, unless done under the authority of a trade licence, constitute a contravention of any prohibition in Chapter 2 or 3 of Part 5 (Trade) except the prohibition in regulation 21(1), or
  - (b) which would constitute a contravention of a the prohibition in regulation 29 (circumventing etc. prohibitions).

**General trade licences: records**

45. (1) This regulation applies in relation to a person (“P”) who does any act authorised by a general licence issued under regulation 34 (trade licences) (“the licence”).

(2) P must keep a register or record containing such details as may be necessary to allow the following information to be identified in relation to each act done under the authority of the licence—

- (a) a description of the act;
  - (b) a description of any goods, technology, services or funds to which the act relates;
  - (c) the date of the act or the dates between which the act took place;
  - (d) the quantity of any goods or funds to which the act relates;
  - (e) P’s name and address;
  - (f) the name and address of any consignee of goods to which the act relates or any recipient of technology, services or funds to which the act relates;
  - (g) in so far as it is known to P, the name and address of the end-user of the goods, technology, services or funds to which the act relates;
  - (h) if different from P, the name and address of the supplier of any goods to which the act relates;
  - (i) any further information required by the licence.
- (3) The register or record relating to an act must be kept until the end of the calendar year in which the register or record is created and for a further period of 4 years from the end of that calendar year.
- (4) P must notify the ~~Secretary of State~~ **Treasury** in writing of P’s name and the address at which the register or record may be inspected, and must make a further such notification if those details change.
- (5) A notification under paragraph (4) must be given no later than 30 days after—
- (a) P first does any act authorised by the licence, or
  - (b) there is any change to the details previously notified.
- (6) A person who fails to comply with a requirement in paragraph (2), (3) or (4) commits an offence.

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<sup>88</sup> SD 211/94.

### General trade licences: inspection of records

46. (1) A person authorised by the ~~Secretary of State or the Commissioners~~ **Treasury** (an "official") may at any reasonable hour enter premises notified under regulation 45(4) for the purposes of monitoring compliance with, or detecting evasion of, regulation 45(2) or (3).
- (2) An official may require any person on the premises to produce any register or record required to be kept under regulation 45, or any document included in such a register or record, that is in the person's possession or control.
- (3) An official may inspect and copy any such register, record or document.
- (4) An official must, if requested to do so, produce documentary evidence that he or she is authorised to exercise a power conferred by this regulation.
- (5) A person commits an offence if, without reasonable excuse, the person—
- (a) intentionally obstructs an official in the performance of any of the official's functions under this regulation, or
  - (b) fails to produce a register, record or document when reasonably required to do so by an official under this regulation.

### Disclosure of information

47. (1) ~~The Secretary of State, the Treasury, or the Commissioners~~ **The Treasury** may, in accordance with this regulation, disclose—
- (a) any information obtained under or by virtue of Part 6 (Exceptions and licences), this Part or Part 9 (Maritime enforcement), or
  - (b) any information held in connection with—
    - (i) anything done under or by virtue of Part 2 (Designation of persons), Part 3 (Finance), Part 5 (Trade), or
    - (ii) any exception or licence under Part 6 or anything done in accordance with such an exception or under the authority of such a licence.
- (2) Information referred to in paragraph (1) may be disclosed for, or in connection with, any of the following purposes—
- (a) the exercise of functions under these Regulations;
  - (b) any purpose stated in regulation 4;
  - (c) facilitating, monitoring or ensuring compliance with these Regulations;
  - (ca) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the Isle of Man for an offence under any provisions of these Regulations;**
  - (d) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the United Kingdom —
    - (i) for an offence under any provision of these Regulations **(as they have effect in the United Kingdom),**
    - (ii) for an offence under ~~CEMA~~ **the Customs and Excise Management Act 1979 (of Parliament)**<sup>89</sup> in connection with a prohibition mentioned in regulation 21(1) (export of military goods) **(as that regulation has effect in the United Kingdom),** or
    - (iii) in relation to a monetary penalty under section 146 of the Policing and Crime Act 2017 (breach of financial sanctions legislation);
  - (e) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in any of the Channel Islands, ~~the Isle of Man~~ or any British overseas territory for an offence—
    - (i) under a provision in any such jurisdiction that is similar to a provision of these Regulations, or
    - (ii) in connection with a prohibition in any such jurisdiction that is similar to a prohibition referred to in sub-paragraph (d)(ii);
  - (f) compliance with an international obligation;

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<sup>89</sup> 1979 Chapter 2.

- (g) facilitating the exercise by an authority outside the United Kingdom **Isle of Man** or by an international organisation of functions which correspond to functions under these Regulations.
- ~~(3) Information referred to in paragraph (1) may be disclosed to the following persons —~~
- ~~(a) a police officer;~~
  - ~~(b) any person holding or acting in any office under or in the service of —~~
    - ~~(i) the Crown in right of the Government of the United Kingdom;~~
    - ~~(ii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government;~~
    - ~~(iii) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark;~~
    - ~~(iv) the Government of the Isle of Man, or~~
    - ~~(v) the Government of any British overseas territory;~~
  - ~~(c) any law officer of the Crown for Jersey, Guernsey or the Isle of Man;~~
  - ~~(d) the Scottish Legal Aid Board;~~
  - ~~(e) the Financial Conduct Authority, the Prudential Regulation Authority, the Bank of England, the Jersey Financial Services Commission, the Guernsey Financial Services Commission or the Isle of Man Financial Services Authority;~~
  - ~~(f) any other regulatory body (whether or not in the United Kingdom);~~
  - ~~(g) any organ of the United Nations;~~
  - ~~(h) the Council of the European Union, the European Commission or the European External Action Service;~~
  - ~~(i) the Government of any country;~~
  - ~~(j) any other person where the Secretary of State, the Treasury or the Commissioners (as the case may be) considers that it is appropriate to disclose the information.~~

**(3) Information referred to in paragraph (1) may be disclosed to the following persons —**

- (a) a police officer;**
  - (b) any person holding or acting in any office under or in the service of —**
    - (i) the Government of the Isle of Man;**
    - (ii) the Crown in right of the Government of the United Kingdom;**
    - (iii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government;**
    - (iv) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark; or**
    - (v) the Government of any British overseas territory;**
  - (c) any law officer of the Crown in any of the British Islands;**
  - (d) the Legal Aid Agency in England and Wales, the Scottish Legal Aid Board or the Legal Services Agency Northern Ireland;**
  - (e) the Isle of Man Financial Services Authority and any body of any other part of the British Islands exercising an equivalent function;**
  - (f) any other regulatory body (whether or not in the Isle of Man);**
  - (g) any organ of the United Nations;**
  - (h) any person in the service of the United Nations, the Council of the European Union, the European Commission or the European External Action Service;**
  - (i) the Government of any country;**
  - (j) any other person where the Treasury considers that it is appropriate to disclose the information.**
- (4) Information referred to in paragraph (1) may be disclosed to any person with the consent of a person who, in their own right, is entitled to the information.

- (5) In paragraph (4) “in their own right” means not merely in the capacity as a servant or agent of another person.
- (6) In paragraph (1)(b)—
- (a) the reference to information includes information obtained at a time when any provision of these Regulations is not in force, and
  - (b) the reference to a licence under Part 6 includes—
    - (i) a licence or authorisation which is treated as if it were a licence which had been issued under that Part, and
    - (ii) a licence which is deemed to have been issued under that Part.

### **Part 7: supplementary**

48. (1) A disclosure of information under regulation 47 does not breach any restriction on such disclosure imposed by statute or otherwise.

- ~~(2) But nothing in that regulation authorises a disclosure that—~~
- ~~(a) contravenes the data protection legislation, or~~
  - ~~(b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.~~

- (2) But nothing in that regulation authorises a disclosure —**
- (a) that contravenes the data protection legislation;**
  - (b) of intercepted material that is not otherwise permitted under the safeguards arrangements relating to a warrant issued under the Interception of Communications Act 1988 (of Tynwald)<sup>90</sup>.**

(3) Nothing in this Part is to be read as requiring a person who has acted or is acting as ~~counsel or solicitor~~ **an advocate or lawyer** for any person to disclose any privileged information in their possession in that capacity.

(4) Regulation 47 does not limit the circumstances in which information may be disclosed apart from that regulation.

(5) Nothing in this Part limits any conditions which may be contained in a Treasury licence or a trade licence.

- (6) In this regulation—
- ~~“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);~~
  - “the data protection legislation” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018 (of Tynwald)<sup>91</sup>;**
  - ~~“privileged information” means information with respect to which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.~~

## **PART 8 Enforcement**

### **Penalties for offences**

49. ~~(1) A person who commits an offence under any provision of Part 3 (Finance) or regulation 36 (finance: licensing offences), is liable—~~
- ~~(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both);~~
  - ~~(b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);~~
  - ~~(c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);~~
  - ~~(d) on conviction on indictment, to imprisonment for a term not exceeding 7 years or a fine (or both).~~
- ~~(2) A person who commits an offence under any provision of Part 5 (Trade) is liable—~~

<sup>90</sup> AT 18 of 1988.

<sup>91</sup> SD 2018/0145.

- (a) — on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) — on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
  - (c) — on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
  - (d) — on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine (or both).
- (3) — A person who commits an offence under regulation 9(6) (confidentiality), 37, 45(6) or 46(5) (offences in connection with trade licences) is liable —
- (a) — on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) — on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
  - (c) — on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
  - (d) — on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (4) — A person who commits an offence under regulation 39(6) or 43 (information offences in connection with Part 3) is liable —
- (a) — on summary conviction in England and Wales, to imprisonment for a term not exceeding 6 months or a fine (or both);
  - (b) — on summary conviction in Scotland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both);
  - (c) — on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (5) — In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force the reference in each of paragraphs (1)(a), (2)(a) and (3)(a) to 12 months is to be read as a reference to 6 months.

#### **Penalties for offences**

**49 (1) A person guilty of an offence under any provision of Part 3 (finance) or regulation 36 (finance: licensing offences), is liable —**

- (a) **on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;**
  - (b) **on conviction on information, to custody for a term not exceeding 7 years or to a fine, or to both.**
- (2) A person guilty of an offence under any provision of Part 5 (trade) is liable —**
- (a) **on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;**
  - (b) **on conviction on information, to custody for a term not exceeding 10 years or to a fine, or to both.**
- (3) A person guilty of an offence under regulation 9(6) (confidentiality), 37, 45(6) or 46(5) (offences in connection with trade licences) is liable —**
- (a) **on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;**
  - (b) **on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both.**

**(4) A person guilty of an offence under regulation 39(6) or 43 (information offences in connection with Part 3) is liable on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.**

**Liability of officers of bodies corporate etc.**

50. (1) Where an offence under these Regulations, committed by a body corporate—
- (a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or
  - (b) is attributable to any neglect on the part of any such person,

that person as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Paragraph (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—

- (a) in the case of a partnership, to a partner;
- (b) in the case of an unincorporated body other than a partnership—
  - (i) where the body's affairs are managed by its members, to a member of the body;
  - (ii) in any other case, to a member of the governing body.

(4) ~~Section 171(4)~~ **Section 179(3)** of CEMA (which is a provision similar to this regulation) does not apply to any offence under these Regulations to which that provision would, in the absence of this paragraph, apply.

**Jurisdiction to try offences**

51. (1) ~~Where an offence under regulation 9(6) (confidentiality), Part 3 (Finance), regulation 36 (finance: licensing offences) or regulation 39(6) or 43 (information offences in connection with Part 3) is committed in the United Kingdom—~~

- ~~(a) proceedings for the offence may be taken at any place in the United Kingdom, and~~
- ~~(b) the offence may for all incidental purposes be treated as having been committed at any such place.~~

(2) Where an offence under these Regulations is committed outside the United Kingdom **Isle of Man—**

- (a) proceedings for the offence may be taken at any place in the United Kingdom **Isle of Man**, and
- (b) the offence may for all incidental purposes be treated as having been committed at any such place **in the Isle of Man**.

(3) ~~In the application of paragraph (2) to Scotland, any such proceedings against a person may be taken—~~

- ~~(a) in any sheriff court district in which the person is apprehended or is in custody, or~~
- ~~(b) in such sheriff court district as the Lord Advocate may determine.~~

(4) ~~In paragraph (3) "sheriff court district" is to be read in accordance with the Criminal Procedure (Scotland) Act 1995 (see section 307(1) of that Act).~~

**Procedure for offences by unincorporated bodies**

52. (1) Paragraphs (2) and (3) apply if it is alleged that an offence under these Regulations has been committed by an unincorporated body (as opposed to by a member of the body).

(2) Proceedings in England and Wales or Northern Ireland **the Isle of Man** for such an offence must be brought against the body in its own name.

(3) For the purposes of proceedings, for such an offence brought against an unincorporated body—

- (a) rules of court relating to the service of documents have effect as if the body were a body corporate;
- (b) the following provisions apply as they apply in relation to a body corporate—

- ~~(i) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980;~~
- (i) section 32 of the Summary Jurisdiction Act 1989 (of Tynwald)<sup>92</sup>;**
- ~~(ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 and Article 166 of, and Schedule 4 to, the Magistrates' Courts (Northern Ireland) Order 1981.~~

(4) A fine imposed on an unincorporated body on its conviction of an offence under these Regulations is to be paid out of the funds of the body.

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<sup>92</sup> AT 15 of 1989.

### **Time limit for proceedings for summary offences**

53. (1) Proceedings for an offence under these Regulations which is triable only summarily may be brought within the period of 12 months beginning with the date on which evidence sufficient in the opinion of the ~~prosecutor~~ **Attorney General** to justify the proceedings comes to the ~~prosecutor's~~ **Attorney General's** knowledge.
- (2) But such proceedings may not be brought by virtue of paragraph (1) more than 3 years after the commission of the offence.
- (3) A certificate signed by the ~~prosecutor~~ **Attorney General** as to the date on which the evidence in question came to the ~~prosecutor's~~ **Attorney General's** knowledge is conclusive evidence of the date on which it did so; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.
- (4) ~~In relation to proceedings in Scotland—~~
- (a) ~~section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date of commencement of summary proceedings) applies for the purposes of this regulation as it applies for the purposes of that section, and~~
  - (b) ~~references in this regulation to the prosecutor are to be treated as references to the Lord Advocate.~~

**(5) In this regulation, "Attorney General" has the meaning given in the Interpretation Act 2015 (of Tynwald)<sup>93</sup>.**

### **Trade enforcement: application of CEMA**

54. (1) Where the ~~Commissioners investigate or propose~~ **Treasury investigates or proposes** to investigate any matter with a view to determining—
- (a) whether there are grounds for believing that a relevant offence has been committed, or
  - (b) whether a person should be prosecuted for such an offence,
- the matter is to be treated as an assigned matter.
- (2) In paragraph (1) "assigned matter" has the meaning given by ~~section 1(1)~~ **section 184(1)** of CEMA.
- (3) In this regulation a "relevant offence" means an offence under—
- (a) Part 5 (Trade),
  - (b) regulation 37 (trade: licensing offences),
  - (c) regulation 45(6) (general trade licences: records), or
  - (d) regulation 46(5) (general trade licences: inspection of records).
- (4) ~~Section 138~~ **Section 145** of CEMA (arrest of persons) applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, a relevant offence as it applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, an offence for which the person is liable to be arrested under the customs and excise Acts<sup>94</sup>, but as if—
- (a) any reference to an offence under, or for which a person is liable to be arrested under, the customs and excise Acts were to a relevant offence;
  - (b) in subsection (2), the reference to any person so liable were to a person who has committed, or whom there are reasonable grounds to suspect of having committed, a relevant offence.
- (5) The provisions of CEMA mentioned in paragraph (6) apply in relation to proceedings for a relevant offence as they apply in relation to proceedings for an offence under the customs and excise Acts, but as if—
- (a) any reference to the customs and excise Acts were to any of the provisions mentioned in paragraph (3)(a) to (d);
  - (b) in ~~section 145(6)~~ **section 152(5)**, the reference to an offence for which a person is liable to be arrested under the customs and excise Acts were to a relevant offence;

<sup>93</sup> AT 11 of 2015.

<sup>94</sup> "The customs and excise Acts" is defined in section 184 of CEMA.



- (c) in ~~section 151~~ **section 158**, the reference to any penalty imposed under the customs and excise Acts were to any penalty imposed under these Regulations in relation to a relevant offence;
  - (d) in ~~section 154(2)~~ **section 161(2)**—
    - (i) the reference to proceedings relating to customs or excise were to proceedings under any of the provisions mentioned in paragraph (3)(a) to (d), and
    - (ii) the reference to the place from which any goods have been brought included a reference to the place to which goods have been exported, supplied or delivered or the place to or from which technology has been transferred.
- (6) The provisions of CEMA are ~~sections 145, 146, 147, 148(1), 150, 151, 152, 154 and 155~~ **sections 152, 153, 154(5), 157, 158, 159, 161 and 162** (legal proceedings).

**Trade offences in CEMA: modification of penalty**

55. (1) Paragraph (2) applies where a person is guilty of an offence under ~~section 68(2)~~ **section 69(2)** of CEMA in connection with a prohibition mentioned in regulation 21(1).
- (2) Where this paragraph applies, the reference to 7 years in ~~section 68(3)(b)~~ **section 69(3)(b)** of CEMA is to be read as a reference to 10 years.
- (3) Paragraph (4) applies where a person is guilty of an offence under ~~section 170(2)~~ **section 178(2)** of CEMA in connection with a prohibition mentioned in regulation 21(1).
- (4) Where this paragraph applies, the reference to 7 years in ~~section 170(3)(b)~~ **section 178(3)(b)** of CEMA is to be read as a reference to 10 years.

~~**Application of Chapter 1 of Part 2 of Serious Organised Crime and Police Act 2005**~~

~~56. Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005 (investigatory powers) applies to any offence under Part 3 (Finance) or regulation 36 (finance: licensing offences):~~

~~**Monetary penalties**~~

- ~~57. The following provisions are to be regarded as not being financial sanctions legislation for the purposes of Part 8 of the Policing and Crime Act 2017—~~
- ~~(a) regulation 23(1) (making military goods and military technology available);~~
  - ~~(b) regulation 24(1) (transfer of military technology);~~
  - ~~(c) regulation 26(1) and (2) (financial services and funds relating to military goods and military technology);~~
  - ~~(d) regulation 27(1)(f) and (g) (brokering services relating to financial services and funds relating to military goods and military technology);~~
  - ~~(e) regulation 28(1) (enabling or facilitating the conduct of armed hostilities);~~

**PART 9**

**Maritime enforcement**

**Exercise of maritime enforcement powers**

58. (1) A maritime enforcement officer may, for a purpose mentioned in paragraph (2) or (3), exercise any of the maritime enforcement powers in relation to—
- (a) a ~~British ship~~ **Manx ship** in foreign waters or international waters,
  - (b) a ship without nationality in international waters, or
  - (c) a foreign ship in international waters,
- and a ship within sub-paragraph (a), (b) or (c) is referred to in this Part as “a relevant ship”.
- (2) The maritime enforcement powers may be exercised for the purpose of enforcing any of the following—
- (a) the prohibition in regulation 21(1) (exports of military goods)
  - (b) a prohibition in regulation 22(1) (supply and delivery of military goods);
  - (c) a prohibition in regulation 23(1) (making of military goods and military technology available);
  - (d) a prohibition in regulation 24(1) (transfer of military technology);
  - (e) a prohibition imposed by a condition of a trade licence in relation to a prohibition mentioned in any of sub-paragraphs (a) to (d).
- (3) The maritime enforcement powers may also be exercised in relation to a relevant ship for the purpose of—
- (a) investigating the suspected carriage of relevant goods on the ship, or

- (b) preventing the continued carriage on the ship of goods suspected to be relevant goods.

(4) In this Part, “the maritime enforcement powers” are the powers conferred by regulations 60 and 61.

(5) This regulation is subject to regulation 62 (restrictions on exercise of maritime enforcement powers).

#### **Maritime enforcement officers**

59. (1) The following persons are “maritime enforcement officers” for the purposes of this Part—

- (a) a commissioned officer of any of Her Majesty’s ships;
- (b) a member of the Ministry of Defence Police (within the meaning of section 1 of the Ministry of Defence Police Act 1987 **(Act of Parliament)**<sup>95</sup>);
- (c) a constable—
  - (i) who is a member of a police force in England and Wales,
  - (ii) within the meaning of section 99 of the Police and Fire Reform (Scotland) Act 2012 **(an Act of the Scottish Parliament)**<sup>96</sup>,  
or
  - (iii) who is a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;
- (d) a special constable—
  - (i) appointed under section 27 of the Police Act 1996 **(Act of Parliament)**<sup>97</sup>,
  - (ii) appointed under section 9 of the Police and Fire Reform (Scotland) Act 2012 **(an Act of the Scottish Parliament)**<sup>98</sup>,  
or
  - (iii) in Northern Ireland, appointed by virtue of provision incorporating section 79 of the Harbours, Docks, and Piers Clauses Act 1847 **(Act of Parliament)**<sup>99</sup>;
- (e) a constable who is a member of the British Transport Police Force;
- (f) a port constable, within the meaning of section 7 of the Marine Navigation Act 2013 **(Act of Parliament)**<sup>100</sup>, or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964 **(Act of Parliament)**<sup>101</sup>;
- (g) a designated customs official within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009 **(Act of Parliament)**<sup>102</sup> (see section 14(6) of that Act);
- (h) a designated NCA officer who is authorised by the Director General of the National Crime Agency (whether generally or specifically) to exercise the powers of a maritime enforcement officer under this Part.
- (i) an officer within the meaning given under section 184(1) of the Customs and Excise Management Act 1986 (of Tynwald)**<sup>103</sup>;  
**and**
- (j) a constable appointed by the Department of Home Affairs.**

(2) In this regulation, “a designated NCA officer” means a National Crime Agency officer who is either or both of the following—

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<sup>95</sup> 1987 Chapter 4.

<sup>96</sup> 2012 asp 8.

<sup>97</sup> 1996 Chapter 16.

<sup>98</sup> 2012 asp 8.

<sup>99</sup> 1847 Chapter 27.

<sup>100</sup> 2013 Chapter 23.

<sup>101</sup> 1964 Chapter 40.

<sup>102</sup> 2009 Chapter 11.

<sup>103</sup> AT 34 of 1986.

- (a) an officer designated under section 10 of the Crime and Courts Act 2013 (**Act of Parliament**)<sup>104</sup> as having the powers and privileges of a constable;
- (b) an officer designated under that section as having the powers of a general customs official.

**Power to stop, board, search etc.**

60. (1) This regulation applies if a maritime enforcement officer has reasonable grounds to suspect that a relevant ship is carrying prohibited goods or relevant goods.

(2) The officer may—

- (a) stop the ship;
- (b) board the ship;
- (c) for the purpose of exercising a power conferred by paragraph (3) or regulation 61, require the ship to be taken to, and remain in, a port or anchorage in the ~~United Kingdom~~ **Isle of Man** or any other country willing to receive it.

(3) Where the officer boards a ship by virtue of this regulation, the officer may—

- (a) stop any person found on the ship and search that person for—
  - (i) prohibited goods or relevant goods, or
  - (ii) any thing that might be used to cause physical injury or damage to property or to endanger the safety of any ship;
- (b) search the ship, or any thing found on the ship (including cargo) for prohibited goods or relevant goods.

(4) The officer may—

- (a) require a person found on a ship boarded by virtue of this regulation to provide information or produce documents;
- (b) inspect and copy such information or documents.

(5) The officer may exercise a power conferred by paragraph (3)(a)(i) or (b) only to the extent reasonably required for the purpose of discovering prohibited goods or relevant goods.

(6) The officer may exercise the power conferred by paragraph (3)(a)(ii) in relation to a person only where the officer has reasonable grounds to believe that the person might use a thing to cause physical injury or damage to property or to endanger the safety of any ship.

(7) The officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

**Seizure power**

61. (1) This regulation applies if a maritime enforcement officer is lawfully on a relevant ship (whether in exercise of the powers conferred by regulation 60 or otherwise).

(2) The officer may seize any of the following which are found on the ship, in any thing found on the ship, or on any person found on the ship—

- (a) goods which the officer has reasonable grounds to suspect are prohibited goods or relevant goods, or
- (b) things within regulation 60(3)(a)(ii).

(3) The officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

**Restrictions on exercise of maritime enforcement powers**

62. **(A1) A maritime enforcement officer must not by virtue of these Regulations exercise any maritime enforcement powers in relation to a British ship (other than a Manx ship) in foreign waters or international waters.**

(1) The authority of the Secretary of State is required before any maritime enforcement power is exercised in reliance on regulation 58 in relation to—

- (a) a ~~British ship~~ **Manx ship** in foreign waters, or
- (b) a foreign ship in international waters.

(2) In relation to a ~~British ship~~ **Manx ship** in foreign waters other than the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant British possession, the Secretary of State may give authority under paragraph (1) only if the State in whose waters the power would be exercised consents to the exercise of the power.

<sup>104</sup> 2013 Chapter 22.

- (3) In relation to a foreign ship in international waters, the Secretary of State may give authority under paragraph (1) only if—
- (a) the home state has requested the assistance of the ~~United Kingdom~~ **United Kingdom and the Isle of Man** for a purpose mentioned in regulation 58(2) or (3),
  - (b) the home state has authorised the ~~United Kingdom~~ **United Kingdom and the Isle of Man** to act for such a purpose, or
  - (c) the United Nations Convention on the Law of the Sea 1982<sup>105</sup> or a UN Security Council Resolution otherwise permits the exercise of the power in relation to the ship.

#### **Interpretation of Part 9**

63. (1) Subject to paragraph (2), any expression used in this Part and in section 19 or 20 of the Act has the same meaning in this Part as it has in section 19 or (as the case may be) section 20 of the Act.

(2) For the purpose of interpreting any reference to “prohibited goods” or “relevant goods” in this Part, any reference in section 19 or 20 of the Act to a “relevant prohibition or requirement” is to be read as a reference to any prohibition specified in regulation 58(2)(a) to (e).

#### **Interpretation of Part 9**

**63 (1) In this Part —**

**“British ship” has the meaning given in section 19 of the Act;**

**“foreign ship” means a ship which —**

- (a) is registered in a territory other than the Isle of Man, or**
- (b) is not so registered but is entitled to fly the flag of a territory other than the Isle of Man;**

**“foreign waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to any territory other than the Isle of Man;**

**“home state”, in relation to a foreign ship, means —**

- (a) the State in which the ship is registered, or**
- (b) the State whose flag the ship is otherwise entitled to fly;**

**“international waters” means the waters beyond the territorial sea of the Isle of Man or of any other State or territory;**

**“Manx ship” means a ship which —**

- (a) is registered under Part I, II, III or IV of the Merchant Shipping Registration Act 1991 (of Tynwald)<sup>106</sup>, or**
- (b) is not registered under the law of a country outside the Isle of Man but is wholly owned by persons each of whom has an Isle of Man connection;**

**“prohibited goods” means goods which have been, or are being, dealt with in contravention of any prohibition specified in regulation 58(2)(a) to (e);**

**“relevant British possession” means —**

- (a) any of the Channel Islands,**
- (b) the Isle of Man, or**
- (c) any British overseas territory;**

**“relevant goods” means goods in relation to which relevant non-IOM conduct is occurring or has occurred;**

**“relevant non-IOM conduct” means conduct outside the Isle of Man by a person other than an Island person that would constitute a contravention of a prohibition specified in regulation 58(2)(a) to (e) if the conduct had been —**

- (a) in the Isle of Man, or**
- (b) by an Island person;**

<sup>105</sup> Cmnd 8941.

<sup>106</sup> AT 15 of 1991.

**“ship” includes every description of vessel (including a hovercraft) used in navigation, except the naval, military or air-force ships of any country;**

**“ship without nationality” means a ship which —**

- (a) is not registered in, or otherwise entitled to fly the flag of, any State or relevant British possession, or**
- (b) sails under the flags of two or more States or relevant British possessions, or under the flags of a State and a relevant British possession, using them according to convenience.**

**(2) In the definition of “relevant non-IOM conduct” in paragraph (1), the reference to conduct that would constitute a contravention of a prohibition specified in regulation 58(2)(a) to (e) if the conduct had been in the Isle of Man or by an Island person includes a reference to a case where —**

- (a) arrangements relating to goods have been entered into that have not been fully implemented, and**
- (b) if those arrangements were to be fully implemented (and if the conduct had been in the Isle of Man or by an Island person) the goods would be dealt with in contravention of that prohibition.**

**(3) For the purposes of paragraph (b) of the definition of “Manx ship”, a person has an “Isle of Man connection” if the person is —**

- (a) a British citizen, a British overseas territories citizen or a British overseas citizen who is resident in the Isle of Man,**
- (b) an individual who is habitually resident in the Isle of Man, or**
- (c) a body corporate which is established under the law of the Isle of Man and has its principal place of business in the Isle of Man.**

## **PART 10**

### **Supplementary and final provision**

#### **Notices**

64. (1) This regulation applies in relation to a notice required by regulation 35 (licences: general provisions) to be given to a person.

(2) The notice may be given to an individual—

- (a) by delivering it to the individual,
- (b) by sending it to the individual by post addressed to the individual at his or her usual or last-known place of residence or business, or
- (c) by leaving it for the individual at that place.

(3) The notice may be given to a person other than an individual—

- (a) by sending it by post to the proper officer of the body at its principal office, or
- (b) by addressing it to the proper officer of the body and leaving it at that office.

(4) The notice may be given to the person by other means, including by electronic means, with the person’s consent.

(5) In this regulation, the reference in paragraph (3) to a “principal office”—

- (a) in relation to a registered company, is to be read as a reference to the company’s registered office;
- (b) in relation to a body incorporated or constituted under the law of a country other than the ~~United Kingdom~~ **Isle of Man**, includes a reference to the body’s principal office in the ~~United Kingdom~~ **Isle of Man** (if any).

(6) In this regulation—

“proper officer”—

- (a) in relation to a body other than a partnership, means the secretary or other executive officer charged with the conduct of the body’s general affairs, and

- (b) in relation to a partnership, means a partner or a person who has the control or management of the partnership business;  
 “registered company” means a company registered under the enactments relating to companies for the time being in force in the United Kingdom in operation in the Isle of Man.

**Article 20 of the Export Control Order 2008**

65. Article 20 of the Export Control Order 2008 (embargoed destinations) is not to be taken to prohibit anything prohibited by Part 5 (Trade).

**Trade: overlapping offences**

66. A person is not to be taken to commit an offence under the Export Control Order 2008 if the person would, in the absence of this regulation, commit an offence under both—

- (a) article 34, 37 or 38 of that Order, and
- (b) any provision of Part 5 (Trade) or regulation 37 (trade: licensing offences), 45(6) or 46(5) (offences in connection with record-keeping).

**Protection for acts done for purposes of compliance**

**66A (1) A person is not liable to any civil proceedings to which that person would, in the absence of this regulation, have been liable in respect of an act if that act is done in the reasonable belief that the act is in compliance with these Regulations.**

**(2) In this regulation, “act” includes an omission.**

**Revocation of the EU DRC Regulation**

67. Council Regulation (EC) No 1183/2005 of 18 July 2005, imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, is revoked.

**Other revocations and amendments**

68. (1) The Democratic Republic of the Congo (Asset-Freezing) Regulations 2012 are revoked.

(2) Articles 4 to 8 of the Export Control (Democratic Republic of Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015 are omitted.

(3) In the Schedule to the United Nations and European Union Financial Sanctions (Linking) Regulations 2017, omit the following row from the table—

“United Nations Security Council Resolution 1807 (2008)	Council Regulation (EC) 1183/2005 of 18th July 2005, imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo.”
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**Transitional provision: Treasury licences**

69. (1) Paragraphs (2) to (4) apply to a licence which—

- (a) was granted, or deemed to be granted, by the Treasury under regulation 9 of the 2012 Regulations **regulation 11 of the 2018 Regulations,**
- (b) was in effect immediately before the relevant date, and
- (c) authorises conduct which would (on and after the relevant date, and in the absence of paragraphs (2) to (4)) be prohibited under Part 3 (Finance),

and such a licence is referred to in this regulation as “an existing financial sanctions licence”.

(2) An existing financial sanctions licence which authorises an act which would otherwise be prohibited has effect on and after the relevant date as if it had been issued by the Treasury under regulation 33(1) (Treasury licences).

(3) Any reference in an existing financial sanctions licence to the 2012 Regulations **2018 Regulations** is to be treated on and after the relevant date as a reference to these Regulations.

(4) Any reference in an existing financial sanctions licence to a prohibition in—

- (a) ~~the 2012 Regulations~~ **2018 Regulations**, or
- (b) the EU DRC Regulation,

is to be treated on and after the relevant date as a reference to the corresponding prohibition in Part 3.

(5) Paragraph (6) applies where—

- (a) an application for a licence, or for the variation of a licence, under the ~~2012 Regulations~~ **2018 Regulations** was made before the relevant date,
- (b) the application is for the authorisation of conduct which would (on and after the relevant date) be prohibited under Part 3, and
- (c) a decision to grant or refuse the application has not been made before that date.

(6) The application is to be treated on and after the relevant date as an application for a licence, or for the variation of a licence (as the case may be), under regulation 33(1) (Treasury licences).

(7) In paragraphs (3) and (4), a reference to the ~~2012 Regulations~~ **2018 Regulations** is to be treated as including a reference to the ~~Democratic Republic of the Congo (United Nations Measures) Order 2005~~ Democratic Republic of the Congo (United Nations Sanctions) (Isle of Man) Order 2005107.

~~(8) In this regulation—~~

~~“the 2012 Regulations” means the Democratic Republic of the Congo (Asset-Freezing) Regulations 2012;~~

~~“the relevant date” means—~~

- ~~(a) where regulations under section 56 of the Act provide that Part 3 comes into force at a specified time on a day, that time on that day;~~
- ~~(b) otherwise, the date on which Part 3 comes into force.~~

**(8) In this regulation —**

**“the 2018 Regulations” means the Democratic Republic of the Congo (Sanctions) Regulations 2018 (of Tynwald)<sup>108</sup>;**  
**“the relevant date” means IP completion day.**

#### **Transitional provision: trade licences**

70. (1) Paragraph (2) applies to a licence or authorisation granted by the ~~Secretary of State~~ **Treasury** which—

- (a) was in effect immediately before the relevant date, and
- (b) authorises an act—
  - (i) which would otherwise be prohibited by any provision of the Export Control Order 2008 except article 20 of that Order (embargoed destinations), and
  - (ii) which would (on and after the relevant date, and in the absence of paragraph (2)) be prohibited by Part 5 (Trade),

and such a licence or authorisation is referred to in this regulation as an “existing trade licence”.

(2) A licence is deemed to have been issued by the ~~Secretary of State~~ **Treasury** at the beginning of the relevant date under regulation 34 (trade licences)—

- (a) disapplying every provision of Part 5 which would, in the absence of this paragraph, prohibit any act authorised by the existing trade licence, and
- (b) otherwise in the same terms as the existing trade licence.

(3) Paragraphs (4) to (6) apply to a licence or authorisation granted by the ~~Secretary of State~~ **Treasury** which—

- (a) was in effect immediately before the relevant date,
- (aa) is not an existing trade licence, and
- (b) authorises an act—
  - (i) which would otherwise be prohibited by the EU DRC Regulation, and

<sup>107</sup> SI 2005/1469.

<sup>108</sup> SD 2018/0138.

- (ii) which would (on and after the relevant date, and in the absence of paragraphs (4) to (6)) be prohibited by Part 5 (Trade),

and such a licence or authorisation is referred to in this regulation as an "existing trade sanctions licence".

(4) An existing trade sanctions licence has effect on and after the relevant date as if it were a licence which had been issued by the Secretary of State **Treasury** under regulation 34.

(5) Any reference in an existing trade sanctions licence to a provision of the Export Control (Democratic Republic of Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015, **as it has effect in the Isle of Man**<sup>109</sup>, or the Export Control Order 2008 is to be treated on and after the relevant date as a reference to the corresponding provision of these Regulations (if any).

(6) Any reference in an existing trade sanctions licence to a prohibition in the EU DRC Regulation is to be treated on and after the relevant date as a reference to the corresponding prohibition in Part 5 (Trade).

~~(7) In this regulation, "the relevant date" means—~~

- ~~(a) where regulations under section 56 of the Act provide that Part 5 comes into force at a specified time on a day, that time on that day;~~
- ~~(b) otherwise, the date on which Part 5 comes into force.~~

**(7) In this regulation, "the relevant date" means IP completion day.**

**Transitional provision: pending applications for trade licences**

71. (1) Paragraph (2) applies where—

- (a) an application was made before the relevant date for a licence or authorisation under or pursuant to the Export Control Order 2008,
- (b) the application is for authorisation of an act prohibited by Part 5 (Trade), and
- (c) a decision to grant or refuse the application has not been made before the relevant date.

(2) The application is to be treated on and after the relevant date as including an application for a licence under regulation 34 (trade licences).

(3) Paragraph (4) applies where—

- (a) an application was made before the relevant date for a licence or authorisation under the Export Control (Democratic Republic of Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015, **as it has effect in the Isle of Man**<sup>110</sup>, or the EU DRC Regulation,
- (b) the application is for authorisation of an act prohibited by Part 5 (Trade), and
- (c) a decision to grant or refuse the application has not been made before the relevant date.

(4) The application is to be treated on and after the relevant date as an application for a licence under regulation 34.

~~(5) In this regulation, "the relevant date" means—~~

- ~~(a) where regulations under section 56 of the Act provide that Part 5 comes into force at a specified time on a day, that time on that day;~~
- ~~(b) otherwise, the date on which Part 5 comes into force.~~

**(5) In this regulation, "the relevant date" means IP completion day.**

**Transitional provisions: prior obligations**

72. (1) Where—

- (a) a person was named in Annex I or Annex Ia of the EU DRC Regulation immediately before the relevant date, and
- (b) the person is a designated person immediately before the relevant date,

<sup>109</sup> SI 2015/1546, as applied in the Island by SD 2015/0296.

<sup>110</sup> SI 2015/1546, as applied in the Isle of Man by SD 2015/0296.



any reference in a provision mentioned in paragraph (3) to the date on which a person became a designated person is a reference to the date on which the person was named in that Annex **and that Annex had effect in the Isle of Man.**

(2) Where, immediately before the relevant date, a person was named by the Security Council or the Committee for the purposes of paragraph 11 of resolution 1807, any reference in a provision mentioned in paragraph (3) to the date on which a person became a designated person is to be read as a reference to the date on which the person was so named.

(3) The provisions referred to in paragraph (1) are—

- (a) regulation 31(5) (finance: exceptions from prohibitions), and
- (b) paragraphs 6(b)(i) and 9(a) of Schedule 2 (Treasury licences: purposes).

(4) In this regulation—

“designated person” has the same meaning as it has in Part 3 (Finance);

“the relevant date” means—

- (a) ~~where regulations under section 56 of the Act provide that Part 3 comes into force at a specified time on a day, that time on that day;~~
- (b) ~~otherwise, the date on which Part 3 comes into force.~~

**“the relevant date” means IP completion day.**

4<sup>th</sup> March 2019

*Mark Field*  
Minister of State  
Foreign and Commonwealth Office

## **SCHEDULE 1**

Regulation 7(3)

### **Rules for interpretation of regulation 7(2)**

#### **Application of Schedule**

1. (1) The rules set out in the following paragraphs of this Schedule apply for the purpose of interpreting regulation 7(2).
- (2) They also apply for the purpose of interpreting this Schedule.

#### **Joint interests**

2. If two or more persons each hold a share or right jointly, each of them is treated as holding that share or right.

#### **Joint arrangements**

3. (1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated as holding the combined shares or rights of both of them.
- (2) A “joint arrangement” is an arrangement between the holders of shares or rights that they will exercise all or substantially all the rights conferred by their respective shares or rights jointly in a way that is pre-determined by the arrangement.
- (3) “Arrangement” has the meaning given by paragraph 12.

#### **Calculating shareholdings**

4. (1) In relation to a person who has a share capital, a reference to holding “more than 50% of the shares” in that person is to holding shares comprised in the issued share capital of that person of a nominal value exceeding (in aggregate) 50% of that share capital.
- (2) In relation to a person who does not have a share capital—
  - (a) a reference to holding shares in that person is to holding a right or rights to share in the capital or, as the case may be, profits of that person;
  - (b) a reference to holding “more than 50% of the shares” in that person is to holding a right or rights to share in more than 50% of the capital or, as the case may be, profits of that person.

### **Voting rights**

5. (1) A reference to the voting rights in a person is to the rights conferred on shareholders in respect of their shares (or, in the case of a person not having a share capital, on members) to vote at general meetings of the person on all or substantially all matters.

(2) In relation to a person that does not have general meetings at which matters are decided by the exercise of voting rights—

- (a) a reference to holding voting rights in the person is to be read as a reference to holding rights in relation to the person that are equivalent to those of a person entitled to exercise voting rights in a company;
- (b) a reference to holding "more than 50% of the voting rights" in the person is to be read as a reference to holding the right under the constitution of the person to block changes to the overall policy of the person or to the terms of its constitution.

6. In applying regulation 7(2) and this Schedule, the voting rights in a person are to be reduced by any rights held by the person itself.

### **Rights to appoint or remove members of the board**

7. A reference to the right to appoint or remove a majority of the board of directors of a person is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.

8. A reference to a board of directors, in the case of a person who does not have such a board, is to be read as a reference to the equivalent management body of that person.

### **Shares or rights held "indirectly"**

9. (1) A person holds a share "indirectly" if the person has a majority stake in another person and that other person—

- (a) holds the share in question, or
- (b) is part of a chain of persons—
  - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
  - (ii) the last of whom holds the share.

(2) A person holds a right "indirectly" if the person has a majority stake in another person and that other person—

- (a) holds that right, or
- (b) is part of a chain of persons—
  - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
  - (ii) the last of whom holds that right.

(3) For these purposes, a person ("A") has a "majority stake" in another person ("B") if—

- (a) A holds a majority of the voting rights in B,
- (b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B,
- (c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B, or
- (d) A has the right to exercise, or actually exercises, dominant influence or control over B.

(4) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a person ("A") is to be treated as having the right to appoint a director if—

- (a) any person's appointment as director follows necessarily from that person's appointment as director of A, or
- (b) the directorship is held by A itself.

### **Shares held by nominees**

10. A share held by a person as nominee for another is to be treated as held by the other (and not by the nominee).

### **Rights treated as held by person who controls their exercise**

11. (1) Where a person controls a right, the right is to be treated as held by that person (and not by the person who in fact holds the right, unless that person also controls it).

(2) A person "controls" a right if, by virtue of any arrangement between that person and others, the right is exercisable only—

- (a) by that person,
  - (b) in accordance with that person's directions or instructions, or
  - (c) with that person's consent or concurrence.
12. "Arrangement" includes—
- (a) any scheme, agreement or understanding, whether or not it is legally enforceable, and
  - (b) any convention, custom or practice of any kind.
- Rights exercisable only in certain circumstances etc**
13. (1) Rights that are exercisable only in certain circumstances are to be taken into account only—
- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
  - (b) when the circumstances are within the control of the person having the rights.
- (2) ~~But rights that are exercisable by an administrator or by creditors while a person is subject to relevant insolvency proceedings are not to be taken into account while the person is subject to those proceedings.~~
- (3) ~~"Relevant insolvency proceedings" means—~~
- ~~(a) administration within the meaning of the Insolvency Act 1986~~
  - ~~(b) administration within the meaning of the Insolvency (Northern Ireland) Order 1989, or~~
  - ~~(c) proceedings under the insolvency law of another country during which a person's assets and affairs are subject to the control or supervision of a third party or creditor.~~
- (4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

**Rights attached to shares held by way of security**

14. Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person—
- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person's instructions, and
  - (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person's interests.

**SCHEDULE 2**

Regulation 33(2)

**Treasury licences: purposes**

**PART 1**

**Interpretation**

1. In this Schedule—
- "consular post" has the same meaning as in the Vienna Convention on Consular Relations done at Vienna on 24 April 1963<sup>111</sup>, and any reference to the functions of a consular post is to be read in accordance with that Convention;
  - "designated person" has the same meaning as it has in Part 3 (Finance);
  - "diplomatic mission" is to be read in accordance with the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961<sup>112</sup>, and any reference to the functions of a diplomatic mission is to be read in accordance with that Convention;
  - "frozen funds or economic resources" means funds or economic resources frozen by virtue of regulation 12, and any reference to a person's frozen funds or economic resources is to funds or economic resources frozen as a consequence of the designation of that person for the purpose of that regulation.

<sup>111</sup> United Nations Treaty Series, vol. 596, p.261.

<sup>112</sup> United Nations Treaty Series, vol. 500, p.95.

## **PART 2**

### **Purposes**

#### **Basic needs**

2. (1) To enable the basic needs of a designated person, or (in the case of an individual) any dependent family member of such a person, to be met.
- (2) In the case of an individual in sub-paragraph (1), "basic needs" includes—
  - (a) medical needs;
  - (b) needs for—
    - (i) food;
    - (ii) payment of insurance premiums;
    - (iii) payment of tax;
    - (iv) rent or mortgage payments;
    - (v) utility payments.
- (3) In the case of a person other than an individual in sub-paragraph (1), "basic needs" includes needs for—
  - (a) payment of insurance premiums;
  - (b) payment of reasonable fees for the provision of property management services;
  - (c) payment of remuneration, allowances or pensions of employees;
  - (d) payment of tax;
  - (e) rent or mortgage payments;
  - (f) utility payments.
- (4) In sub-paragraph (1)—

"dependent" means financially dependent;

"family member" includes—

  - (a) the wife or husband of the designated person;
  - (b) the civil partner of the designated person;
  - (c) any parent or other ascendant of the designated person;
  - (d) any child or other descendant of the designated person;
  - (e) any person who is a brother or sister of the designated person, or a child or other descendant of such a person.

#### **Legal services**

3. To enable the payment of—
  - (a) reasonable professional fees for the provision of legal services, or
  - (b) reasonable expenses associated with the provision of legal services.

#### **Maintenance of frozen funds and economic resources**

4. To enable the payment of—
  - (a) reasonable fees, or
  - (b) reasonable service charges,arising from the routine holding or maintenance of frozen funds or economic resources.

#### **Extraordinary expenses**

5. To enable an extraordinary expense of a designated person to be met.

#### **Pre-existing judicial decisions etc**

6. To enable, by the use of a designated person's frozen funds or economic resources, the implementation or satisfaction (in whole or in part) of a judicial, administrative or arbitral decision or lien, provided that—
  - (a) the funds or economic resources so used are the subject of the decision or lien,
  - (b) the decision or lien—
    - (i) was made or established before the date on which the person became a designated person, and
    - (ii) is enforceable in the ~~United Kingdom~~ **Isle of Man**, and
  - (c) the use of the frozen funds or economic resources does not directly or indirectly benefit any other designated person.

#### **Diplomatic missions**

7. ~~To enable anything to be done in order that the functions of a diplomatic mission or consular post in the Democratic Republic of the Congo or of an international organisation enjoying immunities in accordance with international law may be carried out.~~

### **PART 3**

#### **Purposes relating only to non-UN designated persons**

##### **Humanitarian assistance activities etc**

8. (1) To enable anything to be done in connection with the performance of any humanitarian assistance activity.

(2) In sub-paragraph (1) "humanitarian assistance activity" includes the work of international and non-governmental organisations carrying out relief activities in the Democratic Republic of the Congo for the benefit of the civilian population there.

##### **Prior obligations**

9. To enable, by the use of a designated person's frozen funds or economic resources, the satisfaction of an obligation of that person (whether arising under a contract, other agreement or otherwise), provided that—

- (a) the obligation arose before the date on which the person became a designated person, and
- (b) no payments are made to another designated person, whether directly or indirectly.

##### **Extraordinary situation**

10. To enable anything to be done to deal with an extraordinary situation.

##### **Diplomatic missions**

11. To enable anything to be done in order that the functions of a diplomatic mission or consular post in the Democratic Republic of the Congo or of an international organisation enjoying immunities in accordance with international law may be carried out.

#### **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 establish a sanctions regime in relation to the Democratic Republic of the Congo for the purpose of promoting resolution of the conflict, respect for human rights, compliance with international humanitarian law, and respect for democracy, the rule of law and good governance. Following the UK's withdrawal from the European Union, these Regulations also implement the UN sanctions regime in respect of the Democratic Republic of the Congo and replaces the EU sanctions regime which imposed certain restrictive measures directly against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, implemented via an EU Council Decision and Regulation.

The Regulations confer a power on the Secretary of State to designate persons who are, or have been, involved in the commission of serious human rights violations or abuses, violations of international humanitarian law and persons who have obstructed or undermined respect for democracy, the rule of law and good governance in the Democratic Republic of the Congo.

Designated persons may be excluded from the United Kingdom and may be made subject to financial sanctions, including having their funds and/or economic resources frozen. These Regulations also impose trade restrictions on military goods and technology for non-governmental entities and individuals operating in the Democratic Republic of the Congo.

The Regulations provide for certain exceptions to this sanctions regime, in particular in relation to financial sanctions (for example to allow for frozen accounts to be credited with interest or other earnings) and also acts done for the purpose of national security or the prevention of serious crime. The Regulations also confer powers on the Secretary of State and the Treasury to issue licences in respect of activities that would otherwise be prohibited under the financial and trade sanctions imposed. Schedule 2 to these Regulations sets out the purposes pursuant to which the Treasury may issue such licences.

The Regulations make it a criminal offence to contravene, or circumvent, any of the prohibitions in these Regulations and prescribe the mode of trial and penalties that apply to such offences.

The Regulations also confer powers on specified maritime enforcement officers to stop and search ships in international and foreign waters for the purpose of enforcing specified trade sanctions and to seize goods found on board ships which are being, or have been, dealt with in contravention, or deemed contravention, of those prohibitions. The Regulations prescribe powers for the provision and sharing of information to enable the effective implementation and enforcement of the sanctions regime.

Council Regulation (EC) No. 1183/2005 (O.J. L 193 23.7.2005 p.1) imposing certain specific measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo is revoked by these Regulations. The Democratic Republic of the Congo (Asset-Freezing) Regulations 2012 (S.I. 2012/1511) and certain provisions of the Export Control (Democratic Republic of Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015 (S.I. 2015/1546) are also revoked by these Regulations.

An Impact Assessment has not been produced for these Regulations, as they are intended to ensure existing sanctions remain in place following the United Kingdom's withdrawal from the European Union. These Regulations are intended to deliver substantially the same policy effects as the existing European Union sanctions. An Impact Assessment was, however, produced for the Sanctions and Anti-Money Laundering Act 2018 and can be found at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/653271/Sanctions\\_and\\_Anti-Money\\_Laundering\\_Bill\\_Impact\\_Assessment\\_18102017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/653271/Sanctions_and_Anti-Money_Laundering_Bill_Impact_Assessment_18102017.pdf).

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.