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STATUTORY INSTRUMENTS

2022 No. 241

SANCTIONS

The Russia (Sanctions) (EU Exit) (Amendment) (No. 6) Regulations 2022

Approved by both Houses of Parliament

Made - - - -	*at 10.20 a.m. on 8th March 2022*
Laid before Parliament	*at 4.00 p.m. on 8th March 2022*
Coming into force - -	*at 5.00 p.m. on 8th March 2022*

The Secretary of State(**a**), considering that the requirements of section 45(2) of the Sanctions and Money-Laundering Act 2018(**b**) are met, makes the following Regulations in exercise of the powers conferred by sections 1, 5, 6(1) to (6), 7(1) to (4) and (8), 10(2) to (4), 11, 15(2), (3) and (6), 16, 17, 19, 20, 21(1), 45, 54(1) and (2), and 62(6) of, and paragraphs 2(b), 4(b) and (c), 5(a)(ii) and (b), 6(a)(ii) and (b), 11(a)(ii), 13(b), (h), (k) to (n) and (w), 14(a), (f), (h) and (k), 17, 19 to 24 and 27 of Schedule 1 to, that Act:

Citation and commencement

1.—(1) These Regulations may be cited as the Russia (Sanctions) (EU Exit) (Amendment) (No. 6) Regulations 2022.

(2) These Regulations come into force at 5.00 p.m. on 8th March 2022.

PART 1

General

Amendment of the Russia (Sanctions) (EU Exit) Regulations 2019

2. The Russia (Sanctions) (EU Exit) Regulations 2019(**c**) are amended as set out in regulations 3 to 15.

(**a**) The power to make regulations under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 (c. 13) is conferred on an appropriate Minister. Section 1(9)(a) of the Act defines an "appropriate Minister" as including the Secretary of State.

(**b**) 2018 c. 13. Section 17(5)(b)(i) (enforcement) is amended by the Sentencing Act 2020 (c. 17), Schedule 24, paragraph 443(1).

(**c**) S.I. 2019/855, as amended by S.I. 2020/590; S.I. 2020/951; S.I. 2022/123; S.I. 2022/194; S.I. 2022/195; S.I. 2022/203; S.I. 2022/205; and by the Sentencing Act 2020 (c. 17).

Application of prohibitions and requirements outside the United Kingdom

3. In regulation 3 (application of prohibitions and requirements outside the United Kingdom)—

(a) in paragraph (3)—

(i) in sub-paragraph (d), for "under Part 6 (Ships), or" substitute "under Part 6 (Ships),"; and

(ii) after sub-paragraph (d), insert—

"(da) by regulation 57L(6) (disclosure of confidential information), or".

(b) in paragraph (5), after "relevant requirement" insert "or a requirement imposed by a direction under regulation 57J(3) (direction by air traffic control to operator or pilot of Russian aircraft),".

PART 2

Designation of persons

Power to designate persons

4. In regulation 5(1) (power to designate persons)—

(a) in sub-paragraph (ba), for "(ships: prohibition on port entry etc.)." substitute "(ships: prohibition on port entry etc.);";

(b) after sub-paragraph (ba), insert—

"(bb) regulations 57J and 57M (aircraft).".

PART 3

Trade sanctions

Trade

5. In regulation 21 (interpretation of Part 5)—

(a) before the definition of brokering service, insert—

""aviation and space goods" means—

(a) any thing specified in Schedule 2C, other than any thing which is aviation and space technology, and

(b) any tangible storage medium on which aviation and space technology is recorded or from which it can be derived;

"aviation and space technology" means any thing described in Schedule 2C as software or technology;";

(b) in the definition of "restricted goods", after paragraph (c) insert—

"(d) aviation and space goods;";

(c) in the definition of "restricted technology", after paragraph (c) insert—

"(d) aviation and space technology;".

6. After regulation 29 (brokering services: non-UK activity relating to restricted goods and restricted technology), insert—

"**Insurance and reinsurance services relating to aviation and space goods and aviation and space technology**

29A.—(1) A person must not directly or indirectly provide insurance or reinsurance services relating to aviation and space goods or aviation and space technology—

(a) to a person connected with Russia, or

(b) for use in Russia.

(2) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

(a) it is a defence for a person charged with an offence of contravening paragraph (1)(a) ("P") to show that P did not know and had no reasonable cause to suspect that the person was connected with Russia;

(b) it is a defence for a person charged with an offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for use in Russia.".

PART 4

Ships

Detention of ships

7. In regulation 57D (detention of ships)—

(a) in paragraph (3), after sub-paragraph (b) insert—

"(ba) a ship registered in Russia,"; and

(b) in paragraph (6), for "Paragraph (5)" substitute "Paragraph (7)".

Interpretation of Part 6

8. In regulation 57I (interpretation of Part 6), after paragraph (2) insert—

"(2A) For the purposes of regulations 57A to 57H, a ship is not "operated" by its master or crew unless that master or crew are designated persons under the relevant regulations of this Part.".

PART 5

Aircraft sanctions

Aircraft

9. After Part 6 (Ships) insert—

"PART 6A

Aircraft

Movement of aircraft

57J.—(1) A Russian aircraft must not—

(a) overfly the United Kingdom, or

(b) land in the United Kingdom.

(2) Paragraph (1) is subject to regulation 61B (aircraft: exceptions from prohibitions).

(3) Air traffic control may direct the operator or pilot in command of a Russian aircraft—

(a) not to enter the airspace over the United Kingdom, or

(b) to leave the airspace over the United Kingdom by a specific route.

(4) The Secretary of State may direct air traffic control to give a direction under paragraph (3).

(5) An airport operator may direct the operator or pilot in command of a Russian aircraft—

(a) not to take off, or not to permit the aircraft to take off, from an airport the operator manages,

(b) to take off, or to require the aircraft to take off, from an airport the operator manages, or

(c) not to land, or not to permit the aircraft to land, at an airport the operator manages.

(6) The Secretary of State may direct an airport operator to—

(a) give a direction under paragraph (5),

(b) secure the detention of a Russian aircraft at an airport, or

(c) secure the movement of a Russian aircraft to an airport specified in the direction.

(7) An airport operator giving a direction under paragraph (5)(a) must take such steps as are reasonably practicable to detain the aircraft.

(8) The Secretary of State may issue directions providing for exceptions to paragraph (1), (3) or (5).

(9) The Secretary of State may direct the CAA to—

(a) refuse permission under article 250 of the ANO in respect of a Russian aircraft,

(b) refuse permission under article 252 of the ANO in respect of a Russian aircraft,

(c) suspend or revoke any permission granted under article 250 of the ANO in respect of a Russian aircraft, or

(d) suspend or revoke any permission granted under article 252 of the ANO in respect of a Russian aircraft.

(10) In this regulation "Russian aircraft" means an aircraft—

(a) owned, chartered or operated by—

(i) a designated person, or

(ii) a person connected with Russia, or

(b) registered in Russia.

(11) In paragraph (10), a "designated person" means a person who is designated under regulation 5 (power to designate persons) for the purposes of either this regulation or regulation 57M (registration of an aircraft in the United Kingdom).

Directions under regulation 57J

57K.—(1) Paragraphs (2) to (4) apply in relation to a direction given under regulation 57J (movement of aircraft).

(2) A person to whom a direction is given has a duty to comply with it.

(3) A direction may be of indefinite duration or a defined duration.

(4) A person who gives a direction may vary, revoke or suspend it at any time.

(5) A direction under regulation 57J(6) may be given to any airport operator or to airport operators generally.

(6) Any directions made by the Secretary of State under regulation 57J may make different provision for different purposes.

(7) Any directions in regulation 57J(3) to (9) are subject to the exceptions in regulation 61B (aircraft: exceptions from prohibitions).

Directions under regulation 57J: supplementary

57L.—(1) Where a direction is given under regulation 57J(9)(c) or (d) (movement of aircraft: direction to CAA)—

(a) to the extent that the direction conflicts with the requirements of article 255 of the ANO (revocation etc. of permissions), those requirements are to be disregarded, and

(b) article 255(4) of the ANO does not apply in relation to the revocation which is the subject of the direction.

(2) Where a direction is given under regulation 57J which conflicts with a permission under article 250 or 252 of the ANO, the permission is to be disregarded.

(3) In so far as a direction under regulation 57J conflicts with the requirements of section 93 of the Transport Act 2000(**a**) or an order under section 94 of that Act, the direction is to be disregarded.

(4) In so far as a direction under regulation 57J conflicts with the requirements of an enactment other than section 93 of the Transport Act 2000 or an order under section 94 of that Act, those requirements are to be disregarded.

(5) The Secretary of State may notify a person that the existence of, or any part of the content of, a direction under regulation 57J, or anything done under the direction, is to be treated as confidential.

(6) A person must not disclose any information if the Secretary of State notifies that person under paragraph (5) that the information is to be treated as confidential.

Registration of an aircraft in the United Kingdom

57M.—(1) The CAA must refuse to register an aircraft if, on the basis of the information given to the CAA by the applicant, the Secretary of State or a third person, the aircraft appears to be a relevant aircraft.

(2) The Secretary of State may direct the CAA to terminate the registration of a relevant aircraft.

(3) In so far as a direction under paragraph (2) conflicts with the provisions of Part 3 (Registration and marking) of the ANO, those provisions are to be disregarded.

(4) For the purposes of this regulation "relevant aircraft" means—

(a) an aircraft owned or operated by a designated person, or

(b) an aircraft chartered by demise by a designated person.

(5) Any reference in this regulation to registering an aircraft is a reference to registering an aircraft in the register kept by the CAA.

(6) In paragraph (4), a "designated person" means a person who is designated under regulation 5 (power to designate persons) for the purposes of either this regulation or regulation 57J (movement of aircraft).

(**a**) 2000 c. 38. Section 93 was amended by the Constitutional Reform Act 2005 (c. 4), Schedule 4, paragraph 295, and the Space Industry Act 2018 (c. 5), Schedule 12, paragraph 20.

Offences

57N.—(1) If a prohibition in regulation 57J(1) (movement of aircraft) is contravened by the flight or landing of a Russian aircraft, the operator and pilot in command of the aircraft commit an offence.

(2) It is an offence for an airport operator to fail, without reasonable excuse, to comply with a direction given by the Secretary of State under regulation 57J(6).

(3) It is an offence for a person to whom a direction is given under regulation 57J(3) (direction by air traffic control to operator or pilot of Russian aircraft) to fail to comply with the direction.

(4) It is an offence for a person to whom a direction is given under regulation 57J(5) (direction by airport operator to operator or pilot of Russian aircraft) to fail to comply with the direction.

(5) A person who contravenes the prohibition in regulation 57L(6) (disclosure of direction) commits an offence.

Interpretation of Part 6A

57O.—(1) In this Part—

"air traffic control" means a person who holds a licence under section 5 of the Transport Act 2000(**a**);

"the ANO" means the Air Navigation Order 2016(**b**);

"beneficial interest" means any beneficial interest, however arising (whether held by trustee or nominee or arising under a contract or otherwise), other than an interest held by any person as mortgagee;

"Russian aircraft" means an aircraft—

(a) owned, chartered or operated by—

(i) a designated person, or

(ii) a person connected with Russia, or

(b) registered in Russia;

(2) For the purposes of this Part an aircraft is "owned" by a person if—

(a) the legal title to the aircraft, or to any share in the aircraft, is vested in the person, or

(b) the person has a beneficial interest in the aircraft or in any share in the aircraft,

and the reference to a legal title or other interest includes one held jointly with any other person or persons.

(3) For the purposes of this Part a person is to be regarded as "connected with" Russia if the person is—

(a) an individual who is, or an association or combination of individuals who are, ordinarily resident in Russia,

(b) an individual who is, or an association or combination of individuals who are, located in Russia,

(c) a person, other than an individual, which is incorporated or constituted under the law of Russia, or

(d) a person, other than an individual, which is domiciled in Russia.

(**a**) Section 5 was amended by S.I. 2009/1941 and S.I. 2011/205.

(**b**) S.I. 2016/765, as amended by S.I. 2017/1112; S.I. 2018/1392; and S.I. 2019/645. There are other amendments but none are relevant to this instrument.

(4) Any expression used in this Part and in section 6 of the Act (aircraft sanctions) has the same meaning in this Part as it has in that section.".

PART 6

Exceptions

Exceptions from trade prohibitions

10. In regulation 60C (trade: exceptions in relation to aircraft and vessels)—

(a) in paragraph (1), after "critical-industry goods" insert "or aviation and space goods";

(b) in paragraph (2)—

(i) in sub-paragraph (a), after "critical-industry goods" insert "or aviation and space goods";

(ii) in sub-paragraph (b), for "critical-industry goods or critical industry technology" substitute "critical-industry goods, aviation and space goods, critical-industry technology or aviation and space technology";

(iii) in sub-paragraph (c), after "critical-industry technology" insert "or aviation and space technology";

(c) after paragraph (2), insert—

"(2A) The prohibitions in regulation 29A (insurance and reinsurance services relating to aviation and space goods and aviation and space technology) are not contravened by the provision of insurance or reinsurance services, to the extent that such services are provided in connection with a qualifying removal.";

(d) in paragraph (3), before the definition of "critical-industry goods" insert—

""aviation and space goods" has the meaning given in regulation 21 (interpretation of Part 5);

"aviation and space technology" has the meaning given in regulation 21 (interpretation of Part 5);".

11. In regulation 61 (trade: exception for emergencies in certain cases)—

(a) in paragraph (1A)(b), for "critical-industry goods or critical-industry technology." substitute "critical-industry goods, aviation and space goods, critical-industry technology or aviation and space technology;";

(b) after paragraph (1A)(b), insert—

"(c) in regulation 29A (insurance and reinsurance services relating to aviation and space goods and aviation and space technology).";

(c) in paragraph (2), after the definition of "an act dealing with an emergency", insert—

""aviation and space goods" has the meaning given in regulation 21 (interpretation of Part 5);

"aviation and space technology" has the meaning given in regulation 21 (interpretation of Part 5);".

Exceptions from aircraft prohibitions

12. After regulation 61A (ships: exceptions from prohibition on port entry), insert—

"**Aircraft: exceptions from prohibitions**

61B.—(1) The prohibition in regulation 57J(1)(b) (movement of aircraft) is not contravened by the landing of a Russian aircraft in the United Kingdom if failing to land would endanger the lives of persons on board or the safety of the aircraft.

(2) The prohibition in regulation 57J(1)(a) is not contravened by the flight of a Russian aircraft in the airspace over the United Kingdom preparatory to a landing as mentioned in paragraph (1).

(3) The directions in regulation 57J(3) to (9) are not contravened by conduct necessary to—

(a) avoid endangering the lives of persons on board or the safety of the aircraft,

(b) protect the safety of another aircraft, or

(c) protect the safety of persons on the ground.

(4) The prohibition in regulation 57J(1) is not contravened where the Secretary of State has issued a direction under regulation 57J(7) permitting the Russian aircraft to overfly or land in the United Kingdom.

(5) In this regulation, "Russian aircraft" has the same meaning as in regulation 57J.".

PART 7

Enforcement

Penalties for offences

13. In regulation 80 (penalties for offences)—

(a) in paragraph (1), for "or Part 6 (Ships)" substitute ", Part 6 (Ships) or Part 6A (Aircraft)";

(b) in paragraph (4), before "70(6)" insert "57B(6) (directions prohibiting port entry: confidentiality), 57C(5) (movement of ships: confidentiality), 57N(5) (aircraft: confidentiality), ".

PART 8

Amendments to schedules

Critical-industry goods and critical-industry technology

14. In Schedule 2A (Critical-industry goods and critical-industry technology), in Part 8 (Aerospace and Propulsion)—

(a) in the entry "**9A991 "Aircraft" and gas turbine engines and components**"—

(i) for "b. "Aircraft"" substitute "b. Not used";

(ii) for "d. Components specially designed for "aircraft"" substitute "d. Not used";

(b) omit the entry "**9A992 Parachutes, harnesses, platforms and electronic release mechanisms, specially designed for air cargo delivery systems**".

Aviation and space goods and technology

15. After Schedule 2B (Consumer communication devices), insert Schedule 2C, which is set out in the Schedule to these Regulations.

PART 9

Other amendments

Amendment of the Merchant Shipping (Registration of Ships) Regulations 1993

16.—(1) Regulation 1 (citation, commencement and interpretation) of the Merchant Shipping (Registration of Ships) Regulations 1993(**a**) is amended as follows.

(2) In paragraph (2), in the definition of "relevant provisions of the sanctions regulations" for "regulation 57E(2)" substitute "regulation 57E(1)".

Ahmad
Minister of State
Foreign, Commonwealth and Development Office

At 10.20 a.m. on 8th March 2022

SCHEDULE

Regulation 15

"SCHEDULE 2C

Regulation 21

Aviation and space goods and technology

PART 1

General

Interpretation

1. For the purposes of this Schedule, whether a thing "falls within chapter 88 of the Goods Classification Table" is to be interpreted in accordance with paragraph 1 of Schedule 3.

2. Terms printed in quotation marks and not defined in this Schedule have the meaning given to them in—

(a) Schedules 2 and 3 of the Export Control Order 2008(**b**), or

(b) Annex I of the Dual-Use Regulation,

as applicable.

PART 2

Aviation and space goods

3. Any thing falling within chapter 88 of the Goods Classification Table.

(**a**) S.I. 1993/3138, as amended by S.I. 2022/203. There are other amendments but none are relevant to this instrument.

(**b**) S.I. 2008/3231. Schedule 2 was substituted by S.I. 2017/85 and Schedule 3 was substituted by S.I. 2010/2007. Subsequent amendments to those Schedules were made by S.I. 2012/1910; S.I. 2014/1069; S.I. 2015/940; S.I. 2017/85; S.I. 2017/697; S.I. 2018/165; S.I. 2018/939; S.I. 2019/137; S.I. 2019/989; S.I. 2019/1159; and S.I. 2021/586. There are other instruments which amend other parts of the Order.

PART 3

Aviation and space technology

4. "Technology" for the "development", "production" or "use" of things falling within chapter 88 of the Goods Classification Table.

5. "Software" for the "development", "production" or "use" of things falling within chapter 88 of the Goods Classification Table."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Sanctions and Anti-Money Laundering Act 2018 (c.13) to amend the Russia (Sanctions) (EU Exit) (Amendment) Regulations 2019 (S.I. 2019/855) ("the 2019 Regulations"). These Regulations provide for new aviation and trade sanctions measures in relation to Russia.

The Regulations prohibit Russian aircraft from overflying or landing in the United Kingdom. The Regulations also confer powers on the Secretary of State, air traffic control and airport operators to issue directions for the purpose of preventing Russian aircraft from entering the airspace over the United Kingdom or from landing in the United Kingdom, or requiring aircraft to leave the airspace over the United Kingdom. The Regulations also confer powers on the CAA to refuse, suspend or revoke permissions in respect of Russian aircraft. The registration of aircraft on the register kept by the CAA is prohibited where they are owned, operated or chartered by demise by a designated person.

An exception from the prohibitions on landing and overflight is provided for where failing to land would endanger the lives of persons on board or the safety of the aircraft. The Regulations make it a criminal offence to contravene any of the prohibitions or fail to comply with a direction in these Regulations.

The Regulations also amend the trade measures in the 2019 Regulations to add new categories of aviation and space goods and technology, based on items falling within chapter 88 of the Tariff of the United Kingdom. The existing prohibitions applying to restricted goods and restricted technology are extended to these goods and technology, as well as a new prohibition on insurance and reinsurance services. Existing exceptions in relation to aircraft and vessels, for emergencies in certain cases, for authorised conduct and for purposes of national security or prevention of serious crime are applied to the new prohibition.

Parts 4, 7 and 9 also amend the 2019 Regulations and the Merchant Shipping (Registration of Ships) Regulations 1993 (S.I. 1993/3138) to correct certain omissions and errors in the Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2022 (S.I. 2022/203).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. Instead a de minimis assessment has been prepared as this instrument is likely to entail some costs for businesses, but the net impact is estimated to be below £5 million per year. An impact assessment was, however, produced for the primary legislation and can be found at https://www.gov.uk/government/publications/sanctions-and-anti-money-laundering-bill-impact-assessment.

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