

Regulations made by the Secretary of State, laid before Parliament under section 55(3) of the Sanctions and Anti-Money Laundering Act 2018, for approval by resolution of each House of Parliament within twenty-eight days beginning with the day on which the instrument is made, subject to extension for periods of dissolution or prorogation or during which both Houses are adjourned for more than four days.

STATUTORY INSTRUMENTS

2022 No. 203

SANCTIONS

The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2022

<i>Made</i>	- - - -	<i>at 9.30 a.m. on 1st March 2022</i>
<i>Laid before Parliament</i>		<i>at 2.00 p.m. on 1st March 2022</i>
<i>Coming into force</i>	- -	<i>at 3.00 p.m. on 1st March 2022</i>

The Secretary of State⁽¹⁾, considering that the requirements of section 45(2) of the Sanctions and Anti-Money Laundering Act 2018⁽²⁾ are met, makes the following Regulations in exercise of the powers conferred by sections 1, 7(1) to (5) and (8), 10(2) to (4), 11, 14, 15(2) and (3), 16, 17(2) to (5), 21(1), 26, 45, 54(1) and (2), and 62(6) of that Act:

Citation and commencement

1.—(1) These Regulations may be cited as the Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2022.

(2) These Regulations come into force at 3.00 p.m. on 1st March 2022.

(1) 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.

(2) 2018 c. 13. Section 17(5)(b)(i) (enforcement) is amended by the Sentencing Act 2020 (c. 17), Schedule 24, paragraph 443(1).

PART 1

General

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

2. The Russia (Sanctions) (EU Exit) Regulations 2019(3) are amended as set out in regulations 3 to 7.

Application of prohibitions and requirements outside the United Kingdom

3. In regulation 3(6) (application of prohibitions and requirements outside the United Kingdom)

- (a) in paragraph (a), for “that Part, or”, substitute “that Part,”
- (b) in paragraph (b), for “trade licence.”, substitute, “trade licence, or”
- (c) after paragraph (b), insert—
 - “(c) by a direction under regulation 57C (movement of ships).”

PART 2

Designation of persons

Power to designate persons

4. In regulation 5(1) (power to designate persons)—
- (a) in paragraph (1)(b) for “(immigration).”, substitute “(immigration);”
 - (b) after paragraph (1)(b), insert—
 - “(ba) regulations 57A and 57C to 57E (ships: prohibition on port entry etc.)”

PART 3

Shipping sanctions

Ships

5. In the heading of regulation 57, for “movement of ships”, substitute “Crimean ports direction”.
6. After regulation 57 (Crimean ports direction), insert—

“Prohibition on port entry

57A.—(1) A person must not provide a ship to which this paragraph applies with access to a port in the United Kingdom, if the person knows, or has reasonable cause to suspect, that the ship is a ship to which this paragraph applies.

(3) 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; and by the Sentencing Act 2020 (c. 17).

(2) The master or pilot of a ship to which this paragraph applies must not cause or permit the ship to enter a port in the United Kingdom if the master or pilot knows, or has reasonable cause to suspect, that the ship is a ship to which this paragraph applies.

(3) Paragraphs (1) and (2) are subject to Part 7 (Exceptions) (see, in particular, regulation 61A (ships: exceptions from prohibitions on port entry)).

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

(5) Paragraphs (1) and (2) apply to—

- (a) a ship owned, controlled, chartered or operated by a designated person,
- (b) a ship owned, controlled, chartered or operated by persons connected with Russia,
- (c) a ship flying the flag of Russia,
- (d) a ship registered in Russia, or
- (e) a specified ship.

(6) In paragraph (5), a “designated person” means a person who is designated under regulation 5 for the purposes of the relevant regulations under this Part.

Directions prohibiting port entry

57B.—(1) A port barring direction may be given to the master or pilot of a specified ship.

(2) A port barring direction may be given by—

- (a) the Secretary of State, or
- (b) a harbour authority.

(3) The Secretary of State may direct a harbour authority to take such steps as are reasonably practicable to secure that a ship mentioned in a port barring direction does not enter a port or ports specified in the direction, or any port in the United Kingdom.

(4) It is an offence for a person to whom a direction is given under this regulation to fail to comply with the direction.

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

(6) It is an offence for a person to disclose information if the Secretary of State has notified that person under paragraph (5) that the information is to be treated as confidential.

(7) In this regulation, a “port barring direction” means a direction prohibiting a ship from entering a port or ports specified in the direction, or any port in the United Kingdom.

Movement of ships

57C.—(1) A port entry direction or a movement direction may be given by the Secretary of State to the master or pilot of—

- (a) a ship owned, controlled, chartered or operated by a designated person,
- (b) a ship owned, controlled, chartered or operated by persons connected with Russia,
- (c) a ship registered in Russia,
- (d) a ship flying the flag of Russia, or
- (e) a specified ship.

(2) The Secretary of State may direct a harbour authority to take such steps as are reasonably practicable to secure that a ship mentioned in paragraph (1)—

- (a) proceeds to or enters a port specified in the direction,
- (b) leaves a port specified in the direction,
- (c) proceeds to a place specified in the direction, or
- (d) remains where it is.

(3) It is an offence for a person to whom a direction is given under this regulation to fail to comply with the direction.

(4) The Secretary of State may notify a person that the existence of a port entry direction or a movement direction, any part of the content of the direction, or anything done under the direction, is to be treated as confidential.

(5) It is an offence for a person to disclose information if the Secretary of State has notified that person under paragraph (4) that the information is to be treated as confidential.

(6) In this regulation—

a “designated person” means a person who is designated under regulation 5 for the purposes of the relevant regulations under this Part;

a “movement direction” means a direction requiring a ship—

- (a) to leave a port specified in the direction,
- (b) to proceed to a place specified in the direction, or
- (c) to remain where it is;

a “port entry direction” means a direction requiring a ship to proceed to or enter a port specified in the direction.

Detention of ships

57D.—(1) A detention direction may be given to the master of a ship referred to in paragraph (3) by—

- (a) the Secretary of State, or
- (b) a harbour authority.

(2) A detention direction under paragraph (1)(b) may only be given by a harbour authority to the master of a specified ship if it has received a direction from the Secretary of State in accordance with paragraph (3)(d).

(3) The Secretary of State may direct a harbour authority to give a detention direction to the master of—

- (a) a ship owned, controlled, chartered or operated by a designated person,
- (b) a ship owned, controlled, chartered or operated by persons connected with Russia,
- (c) a ship flying the flag of Russia, or
- (d) a specified ship.

(4) A “detention direction” means a direction requiring the detention of a ship at a port or anchorage in the United Kingdom.

(5) A detention direction given in relation to a ship—

- (a) must be in writing,
- (b) must be delivered to the master of the ship by the person who detains the ship,
- (c) must state the grounds on which the ship is detained, and
- (d) must state that—

- (i) it is given under this regulation, and

- (ii) any requirements imposed by the direction must be complied with.
- (6) Paragraph (5) applies if—
 - (a) the ship is not a British ship, and
 - (b) there is in the United Kingdom a consular officer for the country to which the ship belongs.
- (7) A copy of the detention direction must be sent as soon as practicable to the nearest consular officer for the country to which the ship belongs.
- (8) Section 284(1), (2), (2A), (2B), (3) and (8) of the Merchant Shipping Act 1995⁽⁴⁾ (enforcement of detention of ships) applies in the case of detention under a detention direction as it applies in the case of detention authorised or ordered by that Act, but as if—
 - (a) any reference in that section to a notice of detention were to the detention direction, and
 - (b) the reference in subsection (2A) of that section to a direction given under subsection (1A)(a)⁽⁵⁾ of that section were to any requirement imposed by the detention direction.
- (9) In this regulation, “consular officer”, in relation to a foreign country, means the officer recognised by Her Majesty as a consular officer of that foreign country.
- (10) In this regulation, “designated persons” means a person who is designated under regulation 5 for the purposes of the relevant regulations under this Part.

Registration of ships in the United Kingdom

- 57E.**—(1) The Registrar must refuse to register a ship if, on the basis of the information given to the Registrar by the Secretary of State or accompanying the application for registration, the ship appears to the Registrar to be owned, controlled, chartered or operated by—
- (a) designated persons; or
 - (b) persons connected with Russia.
- (2) The Secretary of State may direct the Registrar to terminate the registration of—
- (a) a ship that is owned, controlled, chartered or operated by;
 - (i) designated persons;
 - (ii) persons connected with Russia; or
 - (b) a specified ship.
- (3) For the purposes of this regulation—
- (a) any reference to registering a ship is to registering the ship in the register of British ships maintained by the Registrar,
 - (b) “designated persons” means a person who is designated under regulation 5 for the purposes of the relevant regulations under this Part, and
 - (c) a ship is “chartered” by a person if it is chartered on bareboat charter terms within the meaning given by section 17(11) of the Merchant Shipping Act 1995.

⁽⁴⁾ 1995 c. 21. Section 284(1), (2), (2A), (2B), (3) was inserted and amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), Schedule 1, paragraph 5 and S.I. 2015/664.

⁽⁵⁾ Subsection (1A) was inserted by paragraph 5(3) of Schedule 1 to the Merchant Shipping and Maritime Security Act 1997.

Specification of ships

57F.—(1) The Secretary of State may specify ships within the meaning of section 7 of the Act for the purposes of—

- (a) regulation 57A (prohibition on port entry),
- (b) regulation 57B (directions prohibiting port entry),
- (c) regulation 57C (movement of ships),
- (d) regulation 57D (detention of ships), and
- (e) regulation 57E (registration of ships in the United Kingdom).

(2) The Secretary of State must specify a ship by its International Maritime Organization number or, where it is not reasonably practicable to identify it by that number, by any other means that the Secretary of State considers appropriate.

(3) The Secretary of State may not specify a ship unless the Secretary of State—

- (a) has reasonable grounds to suspect that the ship is, has been, or is likely to be, involved in a relevant activity, and
- (b) considers that it is appropriate for that ship to be specified, having regard to the purposes stated in regulation 4.

(4) For the purposes of this regulation a ship is “involved in a relevant activity” if the ship is used for any activity whose object or effect is to contravene or circumvent, or to enable or facilitate the contravention or circumvention of, any provision of these Regulations.

Notification and publicity where specification power used

57G.—(1) Paragraph (2) applies where the Secretary of State—

- (a) has specified a ship under regulation 57F(1) or (2) (specification of ships), or
- (b) has by virtue of section 26 of the Act revoked a specification made under that regulation.

(2) The Secretary of State—

- (a) must without delay take such steps as are reasonably practicable to inform such persons as the Secretary of State considers appropriate of the specification or revocation, and
- (b) except where one or more of the restricted publicity conditions is met, must take steps to publicise the specification or revocation generally.

(3) The “restricted publicity conditions” are that the Secretary of State considers that disclosure of the specification or revocation should be restricted—

- (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.

(4) Paragraph (5) applies if—

- (a) when a specification is made one or more of the restricted publicity conditions is met, but
- (b) at any time when the specification has effect, it becomes the case that none of the restricted publicity conditions is met.

(5) The Secretary of State must take steps to publicise the specification generally.

Directions under this Part: general

57H.—(1) Paragraphs (2) to (4) apply in relation to a direction given by the Secretary of State under this Part.

(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 57C(2) (movement of ships) may be given to any harbour authority or to harbour authorities generally.

Interpretation of Part 6

57I.—(1) For the purposes of regulations 57A to 57H, a ship is—

(a) “owned” by a person if—

(i) the legal title to the ship, or to any share in the ship, is vested in the person, or

(ii) the person has a beneficial interest in the ship or in any share in the ship; and

(b) “controlled” by a person who is able to take decisions about its operation, including (but not limited to) decisions about the route the ship may take and the appointment of master or crew.

(2) For the purposes of paragraph (1)(b), a ship is not “controlled” by its master or crew, unless that master or crew are designated persons under the relevant regulations of this Part.

(3) Any reference in this Part to a legal title or other interest includes one held jointly with any other person or persons.

(4) For the purposes of this Part—

“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;

“specified ship” means a ship specified by the Secretary of State under regulation 57F (specification of ships);

“the relevant regulations of this Part” means regulations 57A, 57C, 57D and 57E.

(5) 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.

(6) Any expression used in this Part and in section 7 of the Act (shipping sanctions) has the same meaning in this Part as it has in that section.”

PART 4

Exceptions

Exceptions from shipping prohibitions

7. After regulation 61 (exceptions for emergencies in certain cases), insert—

“Ships: exceptions from prohibition on port entry

61A.—(1) The prohibition in regulation 57A(1) (prohibition on port entry) is not contravened by providing a ship with access to a port if—

- (a) a port entry direction has been given in relation to the ship under regulation 57C (movement of ships), or
- (b) the access is needed by the ship in a case of emergency.

(2) The prohibition in regulation 57A(2) is not contravened by the entry into port of a ship if—

- (a) a port entry direction has been given in relation to the ship under regulation 57C, or
- (b) the entry is needed by the ship in a case of emergency.”

PART 6

Consequential amendment

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

8.—(1) Regulation 1 (citation, commencement and interpretation) of the Merchant Shipping (Registration of Ships) Regulations 1993⁽⁶⁾ is amended as follows.

(2) In paragraph (2), for the definition of “relevant provisions of the sanctions regulations”, substitute—

““relevant provisions of the sanctions regulations” means—

- (a) regulation 77(1) and (2) of the Democratic People’s Republic of Korea (Sanctions) (EU Exit) Regulations 2019⁽⁷⁾; or
- (b) regulation 57E(2) (registration of ships in the United Kingdom) of the Russia (Sanctions) (EU Exit) Regulations 2019;”

(3) In paragraph (2), for the definition of “termination directions” substitute—

““termination direction” means a direction to terminate the registration of a ship given to the Registrar under—

- (a) regulation 77(3) of the Democratic People’s Republic of Korea (Sanctions) (EU Exit) Regulations 2019; or
- (b) regulation 57E(2) (registration of ships in the United Kingdom) of the Russia (Sanctions) (EU Exit) Regulations 2019.”

⁽⁶⁾ S.I. 1993/3138, to which there are amendments not relevant to these Regulations.

⁽⁷⁾ S.I. 2019/411, to which there are amendments not relevant to these Regulations.

At 9.30 a.m. on 1st March 2022

James Cleverly
Minister of State
Foreign, Commonwealth and Development
Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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) Regulations 2019 (S.I. 2019/855) (“the 2019 Regulations”). These Regulations provide for new shipping sanctions measures in relation to Russia.

The Regulations prohibit Russian ships, and other ships specified by the Secretary of State, from entering ports in the United Kingdom. There is a notification and publicity requirement where the specification power is used. The Regulations provide the Secretary of State with a power to control the movement of Russian ships or specified ships by requiring them to leave or enter specified ports, proceed to a specified place or remain where they are. The Regulations also confer powers on the Secretary of State and harbour authorities to detain Russian ships or specified ships at ports or anchorages. The registration of ships on the UK Ship Register is prohibited where they are owned, controlled, chartered or operated by a designated person or persons connected with Russia, or where they are a specified ship.

An exception from the prohibition on port entry is provided for where access or entry is needed by the ship in case of emergency. The Regulations make it a criminal offence to contravene any of the prohibitions in these Regulations.

A consequential amendment is also made to the Merchant Shipping (Registration of Ships) Regulations 1993 (S.I. 1993/3138) so that the Registrar General of Shipping and Seamen can refuse to register sanctioned ships and can terminate the registration of sanctioned ships on receipt of a termination direction from the Secretary of State.

No impact assessment has been prepared for these Regulations. 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>.