

This Statutory Instrument corrects an error made by S.I. 2022/850 and is being issued free of charge to all known recipients of that Statutory Instrument.

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

2023 No. 713

SANCTIONS

**The Russia (Sanctions) (EU Exit) (Amendment) (No. 3)
Regulations 2023**

<i>Made</i>	- - - -	<i>27th June 2023</i>
<i>Laid before Parliament</i>		<i>29th June 2023</i>
<i>Coming into force-</i>		<i>30th June 2023</i>

The Secretary of State(a), considering that the condition in section 45(2) of the Sanctions and Anti-Money Laundering Act 2018(b) is met, makes the following Regulations in exercise of the powers conferred by sections 1, 5, 15(2), (3) and (6), 17, 21(1), 45 and 54(2) of, and paragraphs 11(a), 13, 14(a), (e), (f), (g) and (k) and 20 of Schedule 1 to, that Act.

Citation and commencement

1.—(1) These Regulations may be cited as the Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2023.

(2) These Regulations come into force on 30th June 2023.

Amendments to 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 10.

Amendments to Chapter 6B of Part 5 (trade: professional and business services)

3.—(1) In regulation 54B(a), after paragraph (g), insert—

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- (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). Sections 1 and 45 are amended by the Economic Crime (Transparency and Enforcement) Act 2022 (c. 10), sections 57 and 62.
- (c) S.I. 2019/855 as amended by S.I. 2020/590, 951; S.I. 2022/123; 194; 195; 203; 205; 241; 395; 452; 477; 500, 792; 801; 814; 850; 1110; 1122 and 1331, and S.I. 2023/149, 440 and 665.

“(ga) “legal advisory services” has the meaning given in paragraph 8A of Schedule 3J;”.

(2) After regulation 54C, insert—

“Legal advisory services

54D.—(1) A person must not directly or indirectly provide legal advisory services to any person who is not a United Kingdom person in relation to, or in connection with, any activity (“the relevant activity”) which satisfies the condition in paragraph (2), whether or not those services are provided to a person in the United Kingdom.

(2) The condition is that the relevant activity would—

(a) be prohibited under any of regulations 11 to 18C of Part 3 (Finance)(b), Chapters 2 to 6 or Chapter 6B of Part 5 (Trade)(c) if—

- (i) the relevant activity was done by a United Kingdom person, or
- (ii) the relevant activity was taking place in the United Kingdom, or

(b) contravene regulation 19 or 55 if—

- (i) the relevant activity was done by a United Kingdom person, or
- (ii) the relevant activity was taking place in the United Kingdom.

(3) Paragraph (1) is subject to Part 7 (exceptions and licences).

(4) A person who contravenes any of the prohibitions in paragraph (1) (“P”) commits an offence, but it is a defence for P to show that P did not know and had no reasonable cause to suspect that the relevant activity satisfied the condition in paragraph (2).”.

Amendments to regulation 60DA (trade: exceptions relating to professional and business services)

4. In regulation 60DA(d)—

- (a) in paragraph (5)(a), for “subsidiary undertaking”, substitute “UK subsidiary undertaking”;
- (b) after paragraph (5), insert—

“(5A) The prohibitions in regulation 54C, in so far as they relate to auditing services, are not contravened by any act done by a person (“P”)—

- (a) in satisfaction of an obligation arising from the appointment of P as the auditor of a UK undertaking (“U”) in respect of the provision of those services to U in relation to the discharge of or compliance with UK statutory or regulatory obligations, and
- (b) which results in the provision of those services directly or indirectly to a person connected with Russia in that person’s capacity as a member of U.”;

(c) after paragraph (7), insert—

“(7A) The prohibitions in regulation 54C are not contravened by any act done by a person as part of the provision of expert evidence provided in, or in anticipation of—

- (a) any proceedings before administrative agencies, courts or other duly constituted official tribunals, or
- (b) in any arbitral or mediation proceedings.”;

(d) in paragraph (9), after the definition of “subsidiary undertaking”, insert—

““UK subsidiary undertaking” means a subsidiary undertaking that is incorporated or formed under the law of the United Kingdom;

(a) Regulations 54B and 54C were inserted by S.I. 2022/850 and amended by S.I. 2022/1331.
(b) Regulation 18C was inserted by S.I. 2022/1331.
(c) Chapter 6B was inserted by S.I. 2022/850.
(d) Regulation 60DA was inserted by S.I. 2022/1331.

“UK undertaking” means an undertaking within the meaning given in section 1161 of the Companies Act 2006^(a) that is incorporated or formed under the law of the United Kingdom.”

Insertion of regulation 60DB

5. After regulation 60DA (trade: exceptions relating to professional and business services) insert—

“Trade: exception relating to legal advisory services

60DB.—(1) The prohibitions in regulation 54D (legal advisory services) are not contravened by any act done by a person that is necessary for the official purposes of a diplomatic mission or consular post in Russia, or of an international organisation enjoying immunities in accordance with international law.

(2) The prohibitions in regulation 54D are not contravened by any act done by a person in satisfaction of an obligation in respect of the provision of legal advisory services to any person where the services are provided in relation to the discharge of or compliance with UK statutory or regulatory obligations.

(3) The prohibitions in regulation 54D are not contravened by any act done by a person for the purpose of providing legal advice to any person as to whether an act or a proposed act complies with these Regulations.

(4) The prohibitions in regulation 54D are not contravened by any act done by a person (“P”) in satisfaction of an obligation arising under a contract concluded before 30th June 2023, or an ancillary contract necessary for the satisfaction of such a contract, provided that—

- (a) the act is carried out before the end of 29th September 2023, and
- (b) P notifies the Secretary of State of the provision of the services, before or after the act is carried out, by the end of 29th September 2023.

(5) In this regulation—

“consular post” has the same meaning as in the Vienna Convention on Consular Relations done at Vienna on 24th April 1963^(b);

“diplomatic mission” is to be read in accordance with the Vienna Convention on Diplomatic Relations done at Vienna on 18th April 1961^(c);

“legal advisory services” has the meaning given in regulation 54B.”.

Amendments to regulation 61 (trade: exception for emergencies in certain cases)

6. In regulation 61(1A)^(d)—

- (a) at the beginning of sub-paragraph (e), insert “in”;
- (b) after sub-paragraph (e), insert—
 - “(f) in regulation 54D (legal advisory services).”.

Amendment to regulation 82 (jurisdiction to try offences)

7. In regulation 82(1), after “and oil products),”, insert “regulation 54D (legal advisory services),”.

(a) 2006 c. 46.

(b) United Nations Treaty Series, vol. 596, p. 261.

(c) United Nations Treaty Series, vol. 500, p. 95.

(d) Paragraph (1A) was inserted by S.I. 2022/195.

Amendment to regulation 85 (trade enforcement: application of CEMA)

8. In regulation 85—

(a) in paragraph (3)(a), at the end, insert “except regulation 54D (legal advisory services), but only insofar as the offence under that regulation relates to legal advisory services concerning relevant activity which would be prohibited under any of regulations 11 to 19”;

(b) after paragraph (3), insert—

“(3A) The Commissioners may not investigate the suspected commission of a relevant offence listed in paragraph (3B), unless the suspected offence has been the subject of—

(a) a referral to the Commissioners by—

(i) the Secretary of State,

(ii) the Treasury, or

(iii) OFCOM, where such referral relates to a suspected offence under regulation 54A(4)(a);

(b) a decision by the Commissioners to treat the suspected offence as if it had been referred to them under sub-paragraph (a).

(3B) Paragraph (3A) applies to the suspected commission of a relevant offence under any of the following provisions—

(a) regulation 29(3);

(b) regulation 30C(3)(b);

(c) regulation 41(3);

(d) regulation 45(3);

(e) regulation 46B(4)(c) insofar as it relates to the prohibition at regulation 46B(2)(a);

(f) regulation 46F(3);

(g) regulation 46G(3)(d) insofar as it relates to the prohibition at regulation 46G(1)(c);

(h) regulation 46H(3) insofar as it relates to the prohibition at regulation 46H(1)(c);

(i) regulation 46K(3);

(j) regulation 46N(4) insofar as it relates to the prohibition at regulation 46N(2)(a);

(k) regulation 46Y(4)(e) insofar as it relates to the prohibition at regulation 46Y(2)(a);

(l) regulation 46Z2(3) insofar as it relates to the prohibitions at regulation 46Z2(1)(e), (f) and (g);

(m) regulation 46Z9B(8)(f);

(n) regulation 46Z9B(9);

(o) regulation 46Z9C(4);

(p) regulation 46Z9C(5);

(q) regulation 46Z9D(4);

(r) regulation 46Z9D(5);

(s) regulation 46Z30(4)(g) insofar as it relates to the prohibition at regulation 46Z30(2)(a);

(a) Regulation 54A was inserted by S.I. 2022/477.

(b) Regulation 30C was inserted by S.I. 2022/792.

(c) Regulations 46B and 46F were inserted by S.I. 2022/452.

(d) Regulations 46G, 46H, 46K and 46N were inserted by S.I. 2022/792.

(e) Regulations 46Y were inserted by S.I. 2022/850 and amended by S.I. 2022/1110.

(f) Regulations 46Z9B, 46Z9C and 46Z9D were inserted by S.I. 2022/1122.

(g) Regulations 46Z30 and 46Z33 were inserted by S.I. 2022/1110.

- (t) regulation 46Z33(3) insofar as it relates to the prohibitions at regulation 46Z33(1)(e), (f) and (g);
- (u) regulation 49(3);
- (v) regulation 53(3);
- (w) regulation 54(3);
- (x) regulation 54A(4);
- (y) regulation 54C(3);
- (z) regulation 54D(4);
- (z1) regulation 67(1);
- (z2) regulation 67(2).

(3C) Regulations 85(3A) also applies to the suspected commission of a relevant offence under any of regulations 68(1), 76(6) and 77(5) insofar as—

- (a) the suspected offence relates to a licence issued under regulation 65, and
- (b) the prohibited activity authorised by that licence would, if no licence had been issued, amount to an offence specified in paragraph (3B)(a) to (z).”.

Amendment to regulation 87 (application of Chapter 1 of Part 2 of Serious Organised Crime and Police Act 2005)

9. In regulation 87, after “and oil products)”, insert “, regulation 54D (legal advisory services)”.

Amendments to Schedule 3J (professional and business services)

10. In Schedule 3J(a), after paragraph 8, insert—

“Meaning of legal advisory services

8A.—(1) “Legal advisory services”—

- (a) means the provision of legal advice to a client in non-contentious matters, involving any of the following—
 - (i) the application or interpretation of law;
 - (ii) acting on behalf of a client, or providing advice on or in connection with, a commercial transaction, negotiation or any other dealing with a third party;
 - (iii) the preparation, execution or verification of a legal document;
- (b) do not include any representation, advice, preparation of documents or verification of documents undertaken as part of legal representation services provided in, or in anticipation of—
 - (i) any proceedings before administrative agencies, courts or other duly constituted official tribunals, or
 - (ii) arbitral or mediation proceedings.

(2) In sub-paragraph (1)—

(a) Schedule 3J was inserted by S.I. 2022/1331.

- (a) “legal document” includes any document which is governed in whole or in part by law, or which satisfies a legal requirement;
- (b) “legal representation services” include advice given in relation to a dispute or potential dispute, and on the settlement of a dispute, whether or not proceedings referred to in sub-paragraph (1)(b) are commenced in relation to the dispute.”.

27th June 2023

David Rutley
Parliamentary Under Secretary of State
Foreign, Commonwealth and Development Office

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”).

Regulation 3 amends Chapter 6B (professional and business services) of Part 5 of the 2019 Regulations to introduce a new prohibition on the provision of legal advisory services where the legal advisory services are provided in relation to activity which would contravene certain prohibitions in the 2019 Regulations if that activity were carried out by a UK person, or in the United Kingdom.

Regulation 4 introduces new exceptions to the prohibition on the provision of professional and business services to a person connected with Russia for the provision of auditing services, and in relation to the provision of expert evidence in connection with legal proceedings.

Regulation 5 introduces an exception from the new prohibition, inserting a new regulation 60DB in the 2019 Regulations, and regulation 6 amends regulation 61 to ensure that the new prohibition is not contravened by an act done to deal with an emergency.

Regulations 7 and 9 make consequential amendments to regulations 82 and 87 on the enforcement of the 2019 Regulations.

Regulation 8 amends regulation 85 so that the offences specified in regulation 85(3B) and (3C) may only be investigated by HM Revenue and Customs following a referral by either a Secretary of State, the Treasury or the Office of Communications, or a decision by the Commissioners for His Majesty’s Revenue and Customs to treat a suspected offence as if it had been so referred to them.

Regulation 10 inserts a definition of “legal advisory services” into Schedule 3J.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public service is foreseen.

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