

2023 No. 1320

SANCTIONS

The Haiti (Sanctions) (Amendment) Regulations 2023

Made - - - - 5th December 2023

Laid before Parliament 7th December 2023

Coming into force - - 28th December 2023

The Secretary of State^(a), in exercise of the powers conferred by sections 1(1)(a) and (3)(a), 5, 15, 16, 17, 54(1) and (2) and 62(4) of, and paragraphs 2(a)(ii), 4(a)(ii), 6(a)(ii) and 21 of Schedule 1 to, the Sanctions and Anti-Money Laundering Act 2018^(b), makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Haiti (Sanctions) (Amendment) Regulations 2023.

(2) These Regulations come into force on 28th December 2023.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Amendment of the Haiti (Sanctions) (Regulations) 2022

2. The Haiti (Sanctions) Regulations 2022^(c) are amended as follows.

3. In regulation 2 (interpretation), after the definition of “resolution 2653” insert—

““resolution 2699” means resolution 2699 (2023) adopted by the Security Council on 2nd October 2023;

“resolution 2700” means resolution 2700 (2023) adopted by the Security Council on 19th October 2023;

“trade licence” means a licence under regulation 29A;”.

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

(a) in paragraph (3), in sub-paragraph (c), after “Treasury licence” insert “or a trade licence”;

(b) in paragraph (6), in sub-paragraph (b), after “Treasury licence” insert “or a trade licence”.

5. In regulation 4 (purposes), after paragraph (2) insert—

“(3) A reference to the obligations that the United Kingdom has by virtue of paragraph 11 of resolution 2653 is to that provision as read with—

(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 that Act defines an “appropriate Minister” as including the Secretary of State.

(b) 2018 c. 13, as amended by the Sentencing Act 2020 (c. 17), the Economic Crime (Transparency and Enforcement) Act 2022 (c. 10) and the Economic Crime and Corporate Transparency Act 2023 (c. 56).

(c) S.I. 2022/1281, as amended by S.I. 2023/121.

- (a) paragraph 14 of resolution 2699, and
 - (b) paragraph 6 of resolution 2700.”.
- 6.** In regulation 14 (interpretation of expressions used in this Part), for paragraph (3) substitute—
“(3) In this Part “small arms, light weapons and ammunition” has the meaning given to it in Schedule 1A.”.
- 7.** In regulation 15 (export of military goods)—
- (a) in the heading, for “military goods” substitute “small arms, light weapons and ammunition”.
 - (b) in paragraph (1), for “or for the benefit of, a designated person” substitute “or for use in, Haiti”.
- 8.** In regulation 16 (supply and delivery of military goods)—
- (a) in the heading, for “military goods” substitute “small arms, light weapons and ammunition”.
 - (b) in paragraph (1), for “to, or for the benefit of, a designated person”, substitute “to a place in Haiti”.
 - (c) in paragraph (3), for “the person to whom, or for whose benefit, the goods were supplied or delivered was a designated person” substitute “the goods were destined (or ultimately destined) for Haiti”.
- 9.** In regulation 17 (making military goods and military technology available)—
- (a) in the heading, for “military goods and military technology” substitute “small arms, light weapons and ammunition”.
 - (b) in paragraph (1), for “or for the benefit of, a designated person”, substitute “or for use in, Haiti”.
 - (c) in paragraph (3), for “the person to whom, or for whose benefit, the goods or technology were made available was a designated person” substitute “the goods were for use in Haiti”.
- 10.** Omit regulations 18 to 22.
- 11.** After regulation 29 (Treasury licences), insert—

“Trade licences

29A.—(1) The prohibitions in Part 4 (Trade) do not apply to anything done under the authority of a licence issued by the Secretary of State under this regulation.

(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.”.

12. After regulation 30 (finance: licensing offences), insert—

“Trade: licensing offences

30A.—(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.”.

13. After regulation 36 (trade: application of information powers in CEMA), insert—

“General trade licences: records

36A.—(1) This regulation applies in relation to a person (“P”) who does any act authorised by a general licence issued under regulation 29A (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 in writing of P’s name and 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.

General trade licences: inspection of records

36B.—(1) A person authorised by the Secretary of State or the Commissioners (an “official”) may at any reasonable hour enter premises notified under regulation 36A(4) for

the purposes of monitoring compliance with, or detecting evasion of, regulation 36A(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 36A, 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.”.

14. In regulation 37(2)(d)(ii) (disclosure of information), for “military goods”, substitute “small arms, light weapons and ammunition”.

15. In regulation 39(5) (Part 6: supplementary), after “Treasury licence” insert “or a trade licence”.

16. In regulation 40 (penalties for offences)—

(a) in paragraph (1)(a), for “12 months” substitute “the general limit in a magistrates’ court”;

(b) in paragraph (2)(a), for “12 months” substitute “the general limit in a magistrates’ court”;

(c) after paragraph (2), insert—

“(2A) A person who commits an offence under regulation 30A, 36A(6) or 36B(5) (offences in connection with trade licences) is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court 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).”.

17. In regulation 45(3) (trade enforcement: application of CEMA), for “under Part 4 (Trade)” substitute—

“under—

(a) Part 4 (Trade),

(b) regulation 30A (trade: licensing offences),

(c) regulation 36A(6) (general trade licences: records), or,

(d) regulation 36B(5) (general trade licences: inspection of records).”.

18. In regulation 48 (monetary penalties)—

(a) in sub-paragraph (a), for “military goods and military technology” substitute “small arms, light weapons and ammunition available”.

(b) omit sub-paragraphs (b) to (e).

19. In regulation 49(2) (exercise of maritime enforcement powers)—

(a) in sub-paragraph (a), for “military goods” substitute “small arms, light weapons and ammunition”.

- (b) in sub-paragraph (b), for “military goods” substitute “small arms, light weapons and ammunition”.
- (c) in sub-paragraph (c), for “military goods and military technology” substitute “small arms, light weapons and ammunition”.
- (d) omit sub-paragraph (d).

20. In regulation 54(2) (interpretation of Part 8), for “(a) to (d)”, substitute “(a) to (c)”.

21. In regulation 55(1) (notices), after “regulation 29 (Treasury licences)” insert “or regulation 29A (trade licences)”.

22. After Schedule 1 (Rules for interpretation of regulation 7(2)), insert Schedule 1A (Definition of small arms, light weapons and ammunition) which is set out in the Schedule to these Regulations.

5th December 2023

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

SCHEDULE

Regulation 22

Insertion of Schedule 1A to the Haiti (Sanctions) Regulations 2022

“SCHEDULE 1A

Regulation 14(3)

Definition of small arms, light weapons and ammunition

Definitions

1.—(1) For the purposes of these Regulations, “small arms, light weapons and ammunition” means any good for the time being specified in paragraphs 2-6 of this Schedule.

(2) In paragraphs 2-6 of this Schedule, “the 2008 Order” means the Export Control Order 2008(a).

Small arms and light weapons within ML1 and ML2

2. Goods specified in entry ML1.a, ML1.b, ML1.c or ML2.a in Schedule 2 to the 2008 Order that are designed to be carried, operated and fired by an individual or by three or fewer individuals acting together, other than mortars with a calibre of 100mm or more.

Accessories and ammunition for small arms and light weapons within ML1 and ML2

3. The following goods—

(a) S.I. 2008/3231, as amended by S.I. 2010/2007, S.I. 2013/428, S.I. 2014/1069, S.I. 2015/351, 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. 2021/586, S.I. 2022/1042 and S.I. 2023/302.

- (a) accessories specified in entry ML1.d or ML2.c in Schedule 2 to the 2008 Order that are capable of being used in connection with the weapons falling within paragraph 2 of this Schedule;
- (b) weapon sights specified in entry ML5.a in Schedule 2 to the 2008 Order that are designed for use with weapons falling within paragraph 2 of this Schedule; and
- (c) ammunition that is capable of being fired or launched by weapons falling within paragraph 2 of this Schedule.

Non-military firearms

4. Firearms, their parts and essential components and ammunition specified in entry PL9010 or PL9011 in Schedule 3 to the 2008 Order.

Light weapons within ML4

- 5.** Equipment specified in entry ML4.b in Schedule 2 to the 2008 Order that is—
- (a) specially designed for firing or launching rockets, grenades, missiles or other explosive devices; and
 - (b) designed to be carried, operated and fired by an individual or by three or fewer individuals acting together.

Ammunition for light weapons within ML4

- 6.** Rockets, grenades, missiles and other explosive devices that are—
- (a) specified in entry ML4.b in Schedule 2 to the 2008 Order; and
 - (b) capable of being fired or launched from equipment falling within paragraph 5 of this Schedule.”

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) for the purposes of implementing obligations that the United Kingdom has by virtue of the arms embargo contained in UN Security Council Resolution 2653 (2022) adopted by the UN Security Council on 21st October 2022, as amended by UN Security Council resolution 2699 (2023) adopted by the Security Council on 2nd October 2023, and resolution 2700 (2023) adopted by UN Security Council on 19th October 2023. These Regulations amend the purposes of the Haiti (Sanctions) Regulations 2022 (“the 2022 Regulations”) to refer to these resolutions.

Resolutions 2699 (2023) and 2700 (2023) introduce an arms embargo on the export of “small arms and light weapons and ammunition” to Haiti. This replaces the targeted arms embargo imposed in Resolution 2653 (2022) in respect of persons designated under that Resolution. The term “small arms, light weapons and ammunition” is defined in the Schedule to these Regulations, which introduces a Schedule 1A into 2022 Regulations, by reference to certain parts of Schedules 2 and 3 to the Export Control Order 2008.

A licensing power is inserted by regulation 11, which will enable the export, supply or delivery or making available of goods on a case-by-case basis where that would be consistent with resolutions 2699 (2023) and 2700 (2023). Regulations 12 and 13 create a series of obligations in connection with trade licences and establish criminal offences for breach of them. Specifically, they introduce regulations 30A, 36A and 36B into the 2022 Regulations.

Given that resolutions 2699 (2023) and 2700 (2023) do not include restrictions on the export of military technology and prohibitions on the enabling of armed hostilities, regulation 10 of these Regulations omits regulations 18-22 of the 2022 Regulations.

A full impact assessment has not been produced for these Regulations as no, or no significant, impact is foreseen on the private, voluntary or public sectors in the United Kingdom. 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. A full 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.

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