
STATUTORY INSTRUMENTS

2022 No. 477

SANCTIONS

**The Russia (Sanctions) (EU Exit)
(Amendment) (No. 9) Regulations 2022**

Approved by both Houses of Parliament

<i>Made</i>	- - - -	<i>at 8.20 a.m. on 27th April 2022</i>
<i>Laid before Parliament</i>		<i>at 5.00 p.m. on 27th April 2022</i>
<i>Coming into force</i>	- -	<i>29th April 2022</i>

The Secretary of State⁽¹⁾, considering that the condition in section 45(2) of the Sanctions and Anti-Money Laundering Act 2018⁽²⁾ is met, makes the following Regulations in exercise of the powers conferred by sections 1, 5, 9(2), 10(2), 16, 17, 45, 54(1) and (2) of, and paragraphs 11(a)(i) 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. 9) Regulations 2022.

(2) These Regulations come into force on 29th April 2022.

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 11.

(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). Sections 1 and 45 are amended by the Economic Crime (Transparency and Enforcement) Act 2022 (c. 10), sections 57 and 62.

(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, S.I. 2022/203, S.I. 2022/205, S.I. 2022/241, S.I. 2022/395, S.I. 2022/452 and by the Sentencing Act 2020.

Interpretation

3. In regulation 2 (interpretation), after the definition of “non-government controlled Ukrainian territory” insert—

““OFCOM” means the Office of Communications;”(4).

PART 2

Trade sanctions

Designation of persons

4. In Part 2 (Designation of persons)—

(a) in regulation 5(1), after sub-paragraph (bza) insert—

“(bzb) regulation 54A (internet services);”;

(b) in regulation 5(1A), after sub-paragraph (d) insert—

“(da) regulation 54A (internet services);”.

Trade: internet services

5. In Part 5 (Trade), after Chapter 6 (other services relating to non-government controlled Ukrainian territory) insert—

“CHAPTER 6A

Internet services

Preventing provision of internet services to or for the benefit of designated persons

54A.—(1) A person who provides a social media service must take reasonable steps to prevent content that is generated directly on the service, or uploaded to or shared on the service, by a designated person being encountered by a user of the service in the United Kingdom.

(2) A person who provides an internet access service must take reasonable steps to prevent a user of the service in the United Kingdom from accessing, by means of that service, an internet service provided by a designated person.

(3) A person who provides an application store through which an application for an internet service may be downloaded or otherwise accessed must take reasonable steps to prevent a user of the application store in the United Kingdom from downloading or otherwise accessing, by means of that application store, an internet service provided by a designated person.

(4) A person who fails to comply with the requirement in paragraph (1), paragraph (2) or paragraph (3) commits an offence.

(5) In this regulation—

“content” means anything communicated by means of an internet service, whether publicly or privately, including written material or messages, oral communications, photographs, videos, visual images, music and data of any description;

(4) OFCOM is established under section 1(1) of the Office of Communications Act 2002 (c. 11).

“designated person” means a person who is designated under regulation 5 (power to designate persons) for the purposes of this regulation;

“encounter”, in relation to content, means read, view, hear or otherwise experience content;

“internet access service” means a service that provides access to virtually all (or just some) of the end points of the internet;

“internet service” means a service that is made available by means of the internet;

“social media service” has the meaning given by section 43(3) of the Finance Act 2020⁽⁵⁾.”.

PART 3

Information and records

6. In Part 8 (Information and records), in regulation 75 (trade: application of information powers in CEMA⁽⁶⁾), in paragraph (2), in sub-paragraph (a), for “6” substitute “6A”.

7. After regulation 77 (general trade licences: inspection of records) insert—

“Internet services: power to request information and produce documents

77A.—(1) OFCOM may request a person to provide information within paragraph (2) if OFCOM believe that the person may be able to provide the information.

(2) Information within this paragraph is such information as OFCOM may reasonably require for the purpose of monitoring compliance with or detecting evasion of regulation 54A (preventing provision of certain internet services to or for the benefit of designated persons).

(3) OFCOM may specify the way in which, and the period within which, information is to be provided.

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

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

(6) A request may include a request to produce specified documents or documents of a specified description.

(7) Where OFCOM request that documents be produced, OFCOM 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 past or present officer or employee of the body concerned,

to give such an explanation.

⁽⁵⁾ 2020 c. 14.

⁽⁶⁾ The Customs and Excise Management Act 1979 (c. 2).

Internet services: information offences

77B.—(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 77A;
- (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 77A, destroys, mutilates, defaces, conceals or removes any document;
- (d) otherwise intentionally obstructs OFCOM in the exercise of their powers under regulation 77A.

(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.”.

8. In regulation 78 (disclosure of information)—

- (a) in paragraph (1), after “the Treasury” insert “, OFCOM”;
- (b) in paragraph (2)—
 - (i) omit “or” at the end of sub-paragraph (d)(ii);
 - (ii) insert “or” at the end of sub-paragraph (d)(iii);
 - (iii) after sub-paragraph (d)(iii) insert—
 - “(iv) in relation to a monetary penalty under regulation 88A (OFCEM: power to impose monetary penalties).”.

PART 4

Enforcement

Penalties for offences

9. In Part 9 (Enforcement), in regulation 80 (penalties for offences), in paragraph (4), after “74 (information offences in connection with Part 3)” insert “, or 77B (internet services: information offences)”.

Jurisdiction to try offences

10. In regulation 82 (jurisdiction to try offences), in paragraph (1)—

- (a) for “or”, occurring immediately before “regulation 70(6), substitute “,”;
- (b) after “74 (information offences in connection with Part 3)” insert “, or 77B (internet services: information offences)”.

OFCEM: enforcement

11. After regulation 88 (monetary penalties) insert—

“OFCOM: power to impose monetary penalties

88A.—(1) OFCOM may impose a monetary penalty on a person if they are satisfied, on the balance of probabilities, that—

- (a) the person has failed to comply with a requirement that is imposed under regulation 54A (internet services), or
- (b) the person has failed to comply with an obligation that is imposed by or under regulation 77A (internet services: power to request information and produce documents).

(2) The amount of the penalty is to be such amount as OFCOM may determine, not exceeding £1,000,000.

(3) Any monetary penalty payable under this regulation is recoverable by OFCOM as a civil debt.

(4) Any monetary penalty received by OFCOM by virtue of this regulation must be paid into the Consolidated Fund.

OFCOM: monetary penalties: procedural rights

88B.—(1) Before imposing a monetary penalty on a person under regulation 88A, OFCOM must inform the person of their intention to do so.

(2) OFCOM must also—

- (a) explain the grounds for imposing the penalty,
- (b) specify the amount of the penalty,
- (c) explain that the person is entitled to make representations, and
- (d) specify the period within which any such representations must be made.

(3) If (having considered any representations), OFCOM decides to impose the penalty, OFCOM must inform the person of their decision.

(4) A person to which the decision relates may appeal to the Upper Tribunal against the decision.

(5) On an appeal under paragraph (4), the Upper Tribunal may—

- (a) dismiss the appeal,
- (b) quash OFCOM’s decision to impose the penalty, or
- (b) uphold that decision but substitute a different amount for the amount determined by OFCOM.”.

Elizabeth Truss
Secretary of State for Foreign, Commonwealth
and Development Affairs
Foreign, Commonwealth and Development
Office

At 8.20 a.m. on 27th April 2022

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”). The Regulations add new trade sanctions to Part 5 (Trade) of the 2019 Regulations.

New regulation 54A of the 2019 Regulations (inserted by regulation 5 of these Regulations) requires providers of social media services, internet access services (i.e. internet service providers) and application stores to take reasonable steps to prevent their users in the United Kingdom from encountering or accessing online content generated by designated persons. Regulation 5 of the 2019 Regulations (amended by regulation 4 of these Regulation) confers on the Secretary of State the power to designate a person for the purposes of new regulation 54A. Failure to comply with a requirement imposed under new regulation 54A is a criminal offence.

New regulation 77A of the 2019 regulations (inserted by regulation 7 of these Regulations) confers on OFCOM the power to request a person to provide information for the purpose of monitoring compliance with or detecting evasion of new regulation 54A.

New regulation 88A of the 2019 regulations (inserted by regulation 11 of these Regulations) confers on OFCOM the power to impose civil monetary penalties, of up to £1,000,000, in relation to a failure to comply with a requirement imposed under new regulation 54A or a failure to comply with any request for information or documents. New regulation 88B sets out the procedure for imposing such a penalty.

A full impact assessment has not been produced for this instrument as no, or no significant impact on the private or voluntary sector is foreseen. Instead a de minimis assessment has been prepared as this instrument is likely to entail some costs for business, but the costs will be relatively insignificant and the 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-impactassessment>.