



# AFGHANISTAN SANCTIONS (APPLICATION) REGULATIONS 2020

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Statutory Document No. 2020/0493



*European Union and Trade Act 2019*

## **AFGHANISTAN SANCTIONS (APPLICATION) REGULATIONS 2020<sup>1</sup>**

*Approved by Tynwald: 15 December 2020*  
*Coming into Operation: IP completion day*

The Council of Ministers makes the following Regulations under section 19 of, and Schedule 4 to, the European Union and Trade Act 2019.

### **1 Title**

These Regulations are the Afghanistan Sanctions (Application) Regulations 2020.

### **2 Commencement**

If approved by Tynwald, these Regulations come into operation on IP completion day.

### **3 Interpretation**

In these Regulations, “**IP completion day**” has the same meaning as in the European Union and Trade Act 2019.

### **4 Application of Afghanistan (Sanctions) (EU Exit) Regulations 2020**

- (1) The Afghanistan (Sanctions) (EU Exit) Regulations 2020<sup>1</sup> (“the applied legislation”) apply to the Island, as part of the law of the Island, subject to the exceptions, modifications and adaptations specified in the Schedule.
- (2) The text of the applied legislation is annexed to these Regulations.

### **5 Application of the Sanctions and Anti-Money Laundering Act 2018**

Subject to the modifications set out in sub-paragraphs (a) and (b), the following provisions of the Sanctions and Anti-Money Laundering Act 2018 apply to the Island, as part of the law of the Island, for the purposes of the Afghanistan (Sanctions) (EU Exit) Regulations 2020, as they have effect in the Island by these Regulations —

<sup>1</sup> SI 2020/948.

- (a) section 43 (guidance about regulations under section 1), except that —
  - (i) the reference to subsection (1) of that section to regulations under section 1 is to be read as a reference to the Afghanistan (Sanctions) (EU Exit) Regulations 2020, as they have effect in the Island by these Regulations; and
  - (ii) the reference in subsection (1) of that section to the appropriate Minister who made the regulations is to be read as a reference to the Treasury; and
- (b) section 53 (saving for prerogative powers), except that the reference in that section to the United Kingdom is to be read as a reference to the Isle of Man.

## 6 Revocations

The following instruments are revoked —

- (a) the Export Control (Al-Qaida and Taliban Sanctions) Regulations 2011 (Application) Order 2011<sup>2</sup>;
- (b) the European Union (Afghanistan Sanctions) Order 2012<sup>3</sup>; and
- (c) the Afghanistan Sanctions Regulations 2012<sup>4</sup>.

**MADE 12 NOVEMBER 2020**

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<sup>2</sup> SD 1027/11.

<sup>3</sup> SD 0472/12.

<sup>4</sup> SD 0473/12.

## SCHEDULE

[Regulation 4]

## EXCEPTIONS, MODIFICATIONS AND ADAPTATIONS OF THE APPLIED LEGISLATION

**1 General**

In this Schedule, a reference to a numbered regulation or Schedule (without more) is a reference to that regulation or Schedule so numbered of the applied legislation.

**2 Specific modifications to the Afghanistan (Sanctions) (EU Exit) Regulations 2020**

- (1) The applied legislation is modified as follows.
- (2) In regulation 1 (citation and commencement) —
  - (a) in the heading, omit “and commencement”; and
  - (b) omit paragraph (2).
- (3) After regulation 1 (citation and commencement), insert —
 

**1A. Crown application**

For the avoidance of doubt, nothing in these Regulations affects Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947<sup>5</sup> (of Parliament))<sup>6</sup>.
- (4) In regulation 2 (interpretation) —
  - (a) in the definition of “the Act”, at the end insert <sup>6</sup>(of Parliament)<sup>6</sup>;
  - (b) after the definition of “arrangement”, insert —
 

<sup>6</sup>“*British Islands*” has the meaning given in the Interpretation Act 2015 (of Tynwald)<sup>7</sup>;
  - (c) in the definition of “CEMA”, for “1979”, substitute <sup>6</sup>1986 (of Tynwald)<sup>8</sup>;
  - (d) omit the definition of “the Commissioners”;
  - (e) after the definition of “conduct”, insert —
 

<sup>6</sup>“*country*” includes any territory, region or other place;

<sup>5</sup> 1947 Chapter 44.

<sup>6</sup> 2018 Chapter 13.

<sup>7</sup> AT 11 of 2015.

<sup>8</sup> AT 34 of 1986.

- “*Department of Home Affairs*” means the Department of Home Affairs of the Isle of Man established under section 1 of the Government Departments Act 1987 (of Tynwald)<sup>9</sup>; ~~22~~;
- (f) after the definition of “document”, insert —
- ~~23~~ “*economic resources*” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;
- “*Export Control Order 2008*” means the Export Control Order 2008 (of Parliament), as that order has effect in the Isle of Man<sup>10</sup> from time to time;
- “*financial products*” means —
- (a) money market instruments (including cheques, bills and certificates of deposit);
  - (b) foreign exchange;
  - (c) derivative products (including futures and options);
  - (d) exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
  - (e) transferable securities;
  - (f) other negotiable instruments and financial assets (including bullion);
- “*financial services*” means any service of a financial nature, including (but not limited to) —
- (a) insurance-related services consisting of —
    - (i) direct life assurance;
    - (ii) direct insurance other than life assurance;
    - (iii) reinsurance and retrocession;
    - (iv) insurance intermediation, such as brokerage and agency;
    - (v) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;
  - (b) banking and other financial services consisting of —
    - (i) accepting deposits and other repayable funds;
    - (ii) lending (including consumer credit, mortgage credit, factoring and financing of commercial transactions);
    - (iii) financial leasing;

<sup>9</sup> AT 13 of 1987.

<sup>10</sup> SI 2008/3231, as applied in the Isle of Man by SD 104/09 (as amended).

- (iv) payment and money transmission services (including credit, charge and debit cards, travellers' cheques and bankers' drafts);
- (v) providing guarantees or commitments;
- (vi) financial trading;
- (vii) participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues;
- (viii) money brokering;
- (ix) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- (x) settlement and clearing services for financial assets (including securities, derivative products and other negotiable instruments);
- (xi) providing or transferring financial information, and financial data processing or related software (but only by suppliers of other financial services);
- (xii) providing advisory and other auxiliary financial services in respect of any activity listed in sub-paragraphs (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy).

*“financial trading”* means trading for own account or for account of customers, whether on an investment exchange, in an over-the-counter market or otherwise, in financial products;

*“funds”* means financial assets and benefits of every kind, including (but not limited to) –

- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits, balances on accounts, debts and debt obligations;
- (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative products;

- (d) interest, dividends and other income on or value accruing from or generated by assets;
- (e) credit, rights of set-off, guarantees, performance bonds and other financial commitments;
- (f) letters of credit, bills of lading and bills of sale;
- (g) documents providing evidence of an interest in funds or financial resources;
- (h) any other instrument of export finance;

“*international obligation*” means an obligation of the United Kingdom and the Isle of Man created or arising by or under any international agreement;

“*IP completion day*” has the meaning given in the Interpretation Act 2015 (of Tynwald)<sup>11</sup>;

“*Island person*” means —

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British overseas citizen who is resident in the Isle of Man;
- (b) a person who under the British Nationality Act 1981 (of Parliament)<sup>12</sup> is a British subject who is resident in the Isle of Man;
- (c) a British protected person within the meaning of that Act who is resident in the Isle of Man; or
- (d) a body incorporated under the law of the Isle of Man;

“*person*” includes (in addition to an individual and a body of persons corporate or unincorporate) any organisation and any association or combination of persons;

“*Public Services Commission*” means the Public Services Commission established by the Public Services Commission Act 2015 (of Tynwald)<sup>13</sup>; ~~22~~;

(g) after the definition of “resolution 2255”, insert —

~~24~~ “*standard scale*” means the standard scale contained in section 55 of the Interpretation Act 2015 (of Tynwald)<sup>14</sup>;

“*territorial sea*” (without more) means the territorial sea adjacent to the Isle of Man;

“*Treasury*” has the meaning given in the Interpretation Act 2015 (of Tynwald)<sup>15</sup>; ~~25~~;

<sup>11</sup> AT 11 of 2015.

<sup>12</sup> 1981 Chapter 61.

<sup>13</sup> AT 1 of 2015.

<sup>14</sup> AT 11 of 2015.

<sup>15</sup> AT 11 of 2015.



- (h) after the definition of “Treasury licence”, insert —
- “UN obligation”** means an obligation that the United Kingdom has in relation to the Isle of Man by virtue of a UN Security Council Resolution;  
**“UN Security Council Resolution”** means a resolution adopted by the Security Council of the United Nations.
- (i) omit the definition of “United Kingdom person”;
- (j) number the existing text as paragraph (1); and
- (k) after paragraph (1), insert —
- (2)** In these Regulations, all references to Manx legislation (within the meaning of section 9 of the Interpretation Act 2015 (of Tynwald)<sup>16</sup>) shall be construed as references to that legislation as amended from time to time.
- (5) In regulation 3 (application of prohibitions and requirements outside the United Kingdom) —
- (a) in the heading, for “United Kingdom”, substitute **Isle of Man**;
- (b) in paragraphs (1) and (4), for “A United Kingdom person”, substitute **An Island person**;
- (c) in paragraphs (1), (4) and (7), for “the United Kingdom”, wherever occurring, substitute **the Isle of Man**;
- (d) in paragraphs (2) and (5), for “the territorial sea”, wherever occurring, substitute **the Isle of Man or in the territorial sea**; and
- (e) in paragraph (7), for “Nothing”, substitute **For the avoidance of doubt, nothing**.
- (6) In regulation 4 (purposes) —
- (a) in paragraph (1), for “the regulations contained in this instrument that are made under section 1 of the Act”, substitute **these Regulations**; and
- (b) in paragraph (2), for “United Kingdom has”, substitute **United Kingdom and the Isle of Man have**.
- (7) In regulation 5 (designation of persons named under UN Security Council Resolutions), omit the footnote at the end.
- (8) In regulation 14 (interpretation of expressions used in this Part) —
- (a) for paragraph (1), substitute —
- (1)** In this Part —  
 (a) “*export*” means export from the Isle of Man;

<sup>16</sup> AT 11 of 2015.

- (b) goods removed to the United Kingdom from the Isle of Man are not to be regarded as exported; and
- (c) goods transported out of the Isle of Man by aircraft or ship as stores within the meaning of CEMA (see section 184(1) and (4) of that Act) are to be regarded as exported. **22**;
- (b) in paragraph (2), for “United Kingdom”, substitute **23** “Isle of Man **22**”; and
- (c) in paragraph (3) —
- (i) before the definition of “brokering service”, insert —
- 23** “*aircraft*” includes unmanned aircraft and aircraft capable of spaceflight activities; **22**;
- (ii) in the definition of “military goods”, omit the footnote after “the Export Control Order 2008”;
- (iii) after the definition of “military technology”, insert —
- 23** “*place*” includes —
- (a) any vehicle, ship or aircraft;
- (b) any installation (including a floating installation or one resting on the seabed or its subsoil or on other land covered with water or its subsoil); or
- (c) any tent or movable structure;
- “*ship*” includes every description of vessel (including a hovercraft) used in navigation; **22**; and
- (iv) for the definition of “transfer”, substitute —
- 23** “*transfer*”, in relation to any technology, means a transfer by any means (or combination of means), including oral communication and the transfer of goods on which technology is recorded or from which it can be derived, other than the export of such goods. **22**.
- (9) In regulation 21 (brokering services: non-UK activity relating to military goods and military technology) —
- (a) in the heading and in paragraph (1), for “non-UK”, wherever occurring, substitute **23** “non-IOM **22**”; and
- (b) in paragraph (4) —
- (i) omit the definition of “non-UK country”; and
- (ii) after the omitted definition of “non-UK country”, insert —
- 23** “*non-IOM country*” means —
- (a) for the purposes of paragraph (1)(a) and (b), a country that is not the United Kingdom or the Isle of Man;

- (b) for the purposes of any other provision of paragraph (1), a country that is not the Isle of Man. **22**.
- (10) In regulation 22 (enabling or facilitating the conduct of armed hostilities) —
- (a) in paragraph (1)(c), for “non-UK”, substitute **23** non-IOM **22**; and
- (b) in paragraph (4) —
- (i) omit the definition of “non-UK country”; and
- (ii) before the definition of “technical assistance”, insert —
- 23** “*non-IOM country*” means a country that is not the Isle of Man; **22**.
- (11) In regulation 25 (finance: exceptions from prohibitions) —
- (a) omit paragraph (6);
- (b) in paragraph (7), for the definition of “relevant institution”, substitute —
- 24** “*relevant institution*” means —
- (a) a person who is licensed under the Financial Services Act 2008 (of Tynwald)<sup>17</sup> to carry on a regulated activity within the meaning of section 3 of that Act;
- (b) a person who is authorised or registered under the Insurance Act 2008 (of Tynwald)<sup>18</sup> or holds a permit under that Act;
- (c) a person who is registered under the Moneylenders Act 1991 (of Tynwald)<sup>19</sup> to carry on the business of lending money;
- (d) a person who is acting as a trustee or an administrator of a retirement benefits scheme within the meaning of the Retirement Benefits Schemes Act 2008 (of Tynwald)<sup>20</sup>. **22**; and
- (c) omit paragraph (8).
- (12) For regulation 26 (exception for authorised conduct in a relevant country), substitute —
- 25** **26. Exception for authorised conduct outside the Isle of Man**
- (1) Where a person’s conduct outside the Isle of Man would, in the absence of this paragraph, contravene a prohibition in any of regulations 8 to 12 (asset-freeze etc.) (“the relevant

<sup>17</sup> AT 8 of 2008.

<sup>18</sup> AT 16 of 2008.

<sup>19</sup> AT 6 of 1991.

<sup>20</sup> AT 14 of 2008.

- prohibition”), the relevant prohibition is not contravened if the conduct is authorised by a licence issued under regulation 28 (Treasury licences), as it has effect in the United Kingdom.
- (2) Where a person’s conduct in a relevant country would, in the absence of this paragraph, contravene the relevant prohibition, the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued —
- (a) under the law of the relevant country; and
  - (b) for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.
- (3) In this regulation, “relevant country” means —
- (a) any of the Channel Islands;
  - (b) any British overseas territory.
- (4) Nothing in this regulation affects the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply. **22**.
- (13) For regulation 27 (exception for acts done for purposes of national security or prevention of serious crime), substitute —
- 27. Exception for acts done for purposes of national security or prevention of serious crime**
- (1) Where an act would, in the absence of this paragraph, be prohibited any prohibition in Part 3 (Finance) or Part 4 (Trade), that prohibition does not apply to the act if the act is one which —
    - (a) a UK responsible officer has determined would be in the interests of national security or the prevention or detection of serious crime in the United Kingdom or elsewhere; or
    - (b) an Island responsible officer has determined would be in the interests of the prevention or detection of serious crime in the Isle of Man or elsewhere.
  - (2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 6 (Information and records) or Part 8 (Maritime enforcement), that requirement does not apply if —
    - (a) a UK responsible officer has determined that not doing the thing in question would be in the interests of national security or the prevention or detection of

- serious crime in the United Kingdom or elsewhere;  
or
- (b) an Island responsible officer has determined that not doing the thing in question would be in the interests of the prevention or detection of serious crime in the Isle of Man or elsewhere.
- (3) In this regulation —
- “*Island responsible officer*” means a person —
- (a) in the service of the Crown or holding office under the Crown in the Isle of Man;
- (b) appointed by the Public Services Commission; or
- (c) appointed as a constable by the Department of Home Affairs,  
acting in the course of that person’s duty;
- “*UK responsible officer*” means a person in the service of the Crown or holding office under the Crown in the United Kingdom, acting in the course of that person’s duty.
- (4) Nothing in this regulation affects the application of a prohibition of requirement in a case where it would be incompatible with a UN obligation for the prohibition or requirement not to apply. **22**.
- (14) In regulation 28 (Treasury licences) —
- (a) in paragraph (2), for “the Treasury consider”, substitute **23** the Treasury considers **22**; and
- (b) for paragraphs (4) to (6), substitute —
- 23** (4) The Treasury may vary, revoke or suspend a licence at any time.
- (5) If the Treasury issues, varies, revokes or suspends a licence which authorises acts by a particular person, the Treasury must give written notice to that person of the issue, variation, revocation or suspension of the licence.
- (6) If the Treasury issues, varies, revokes or suspends a general licence or a licence which authorises acts by persons of a particular description, the Treasury must take such steps as it considers appropriate to publicise the issue, variation, revocation or suspension of the licence. **22**.
- (15) In regulation 30 (finance: reporting obligations) —

- (a) in paragraph (5), omit sub-paragraph (b) and the preceding “, or” in sub-paragraph (a);
- (b) in paragraph (7), for the definition of “relevant firm”, substitute —
- ❏ “relevant firm” means —
- (a) a business in the regulated sector within the meaning of Schedule 4 to the Proceeds of Crime Act 2008 (of Tynwald)<sup>21</sup> (see in particular paragraph 2 of that Schedule);
- (b) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging articles made from gold, silver, platinum, palladium, precious stones or pearls;<sup>22</sup> and
- (c) after paragraph (7), insert —
- ❏ (8) For the purposes of paragraph (a) of the definition of “relevant firm” in paragraph (7), the definition of “estate agent” in Schedule 4 to the Proceeds of Crime Act 2008 (of Tynwald) is to be read as if references to the sale or proposed sale of land in section 15 of the Estate Agents Act 1975 (of Tynwald)<sup>22</sup> included references to the sale or proposed sale of land outside the Isle of Man.<sup>22</sup>
- (16) Omit regulation 31 (“relevant firm”).
- (17) In regulation 32 (finance: powers to request information), in paragraphs (4) and (6), for “the Treasury believe”, in both places, substitute ❏ the Treasury believes<sup>22</sup>.
- (18) In regulation 33 (finance: production of documents), in paragraphs (2) and (3), for “the Treasury request”, in both places, substitute ❏ the Treasury requests<sup>22</sup>.
- (19) In regulation 34 (finance: information offences), in paragraph (1)(d), for “their”, substitute ❏ its<sup>22</sup>.
- (20) In regulation 35 (trade: application of information powers in CEMA), in paragraph (1) —
- (a) for “Section 77A of CEMA”, substitute ❏ Section 78A of CEMA (information powers)<sup>22</sup>; and
- (b) in sub-paragraph (a), for “Customs Controls on Importation of Goods Regulations 1991”, substitute ❏ Customs Controls on Importation of Goods Regulations 1994 (of Tynwald)<sup>23</sup><sup>22</sup>; and
- (21) In regulation 36 (disclosure of information) —

<sup>21</sup> AT 13 of 2008.

<sup>22</sup> AT 6 of 1975.

<sup>23</sup> SD 211/94.

- (a) in paragraph (1), for “The Secretary of State, the Treasury or the Commissioners”, substitute **“The Treasury”**;
- (b) in paragraph (2) —
- (i) after sub-paragraph (c), insert —
    - “(ca) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the Isle of Man for an offence under any provisions of these Regulations;”**;
  - (ii) in sub-paragraph (d)(i), after “Regulations”, insert **“(as they have effect in the United Kingdom)”**;
  - (iii) in sub-paragraph (d)(ii) —
    - (A) for “CEMA”, substitute **“the Customs and Excise Management Act 1979 (of Parliament)<sup>24</sup>”**; and
    - (B) after “regulation 15(1) (export of military goods)”, insert **“(as that regulation has effect in the United Kingdom)”**;
  - (iv) in sub-paragraph (e), omit “, the Isle of Man”;
  - (v) omit the footnote at the end of sub-paragraph (f); and
  - (vi) in sub-paragraph (g), for “United Kingdom”, substitute **“Isle of Man”**; and
- (c) for paragraph (3), substitute —
- “(3) Information referred to in paragraph (1) may be disclosed to the following persons —**
    - (a) a police officer;
    - (b) any person holding or acting in any office under or in the service of —
      - (i) the Government of the Isle of Man;
      - (ii) the Crown in right of the Government of the United Kingdom;
      - (iii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government;
      - (iv) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark; or
      - (v) the Government of any British overseas territory;
    - (c) any law officer of the Crown in any of the British Islands;

<sup>24</sup> 1979 Chapter 2.

- (d) the Legal Aid Agency in England and Wales, the Scottish Legal Aid Board or the Legal Services Agency Northern Ireland;
- (e) the Isle of Man Financial Services Authority and any body of any other part of the British Islands exercising an equivalent function;
- (f) any other regulatory body (whether or not in the Isle of Man);
- (g) any organ of the United Nations;
- (h) any person in the service of the United Nations, the Council of the European Union, the European Commission or the European External Action Service;
- (i) the Government of any country;
- (j) any other person where the Treasury considers that it is appropriate to disclose the information. <sup>25</sup>

(22) In regulation 37 (Part 6: supplementary) —

(a) for paragraph (2), substitute —

<sup>25</sup>(2) But nothing in that regulation authorises a disclosure —

- (a) that contravenes the data protection legislation;
- (b) of intercepted material that is not otherwise permitted under the safeguards arrangements relating to a warrant issued under the Interception of Communications Act 1988 (of Tynwald)<sup>25</sup>. <sup>26</sup>

(b) in paragraph (3), for “counsel or solicitor”, substitute <sup>26</sup>an advocate or lawyer <sup>26</sup>; and

(c) in paragraph (6) —

(i) for the definition of “the data protection legislation”, substitute —

<sup>26</sup>“the data protection legislation” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018 (of Tynwald)<sup>26</sup> <sup>26</sup>; and

(ii) in the definition of “privileged information” omit “(in Scotland, to confidentiality of communications)”.

(23) For regulation 38 (penalties for offences), substitute —

<sup>26</sup>38. Penalties for offences

<sup>25</sup> AT 18 of 1988.

<sup>26</sup> SD 2018/0145.



- (1) A person guilty of an offence under any provision of Part 3 (finance) or regulation 29 (finance: licensing offences), is liable —
- (a) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on information, to custody for a term not exceeding 7 years or to a fine, or to both.
- (2) A person guilty of an offence under any provision of Part 4 (trade) is liable —
- (a) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on information, to custody for a term not exceeding 10 years or to a fine, or to both.
- (3) A person guilty of an offence under regulation 30(6) or 34 (information offences in connection with Part 3) is liable on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both. **22**.
- (24) In regulation 39(4) (liability of officers of bodies corporate etc.), for “Section 171(4)”, substitute **63** Section 179(3) **22**.
- (25) In regulation 40 (jurisdiction to try offences) —
- (a) omit paragraph (1);
- (b) in paragraph (2) —
- (i) for “United Kingdom”, in both places, substitute **63** Isle of Man **22**;
- (ii) in sub-paragraph (a), omit “at any place”; and
- (iii) in sub-paragraph (b), for “at any such place”, substitute **63** in the Isle of Man **22**; and
- (c) omit paragraphs (3) and (4).
- (26) In regulation 41 (procedure for offences by unincorporated bodies) —
- (a) in paragraph (2), for “England and Wales or Northern Ireland”, substitute **63** the Isle of Man **22**;
- (b) for paragraph (3)(b)(i), substitute —
- 63**(i) section 32 of the Summary Jurisdiction Act 1989 (of Tynwald)<sup>27</sup>; **22**; and
- (c) omit paragraph (3)(b)(ii).

<sup>27</sup> AT 15 of 1989.

- (27) In regulation 42 (time limit for proceedings for summary offences) —
- (a) in paragraph (1) —
    - (i) for “prosecutor”, substitute **63** Attorney General **62**; and
    - (ii) for “prosecutor’s”, substitute **63** Attorney General’s **62**;
  - (b) in paragraph (3) —
    - (i) for “prosecutor”, substitute **63** Attorney General **62**; and
    - (ii) for “prosecutor’s”, substitute **63** Attorney General’s **62**;
  - (c) omit paragraph (4); and
  - (d) at the end, insert —
    - 63**(5) In this regulation, “Attorney General” has the meaning given in the Interpretation Act 2015 (of Tynwald)<sup>28</sup>. **62**.
- (28) In regulation 43 (trade enforcement: application of CEMA) —
- (a) in paragraph (1), for “Commissioners investigate or propose”, substitute **63** Treasury investigates or proposes **62**;
  - (b) in paragraph (2), for “section 1(1)”, substitute **63** section 184(1) **62**;
  - (c) in paragraph (4), for “Section 138”, substitute **63** Section 145 **62**;
  - (d) in paragraph (5) —
    - (i) in sub-paragraph (b), for “section 145(6)”, substitute **63** section 152(5) **62**;
    - (ii) in sub-paragraph (c), for “section 151”, substitute **63** section 158 **62**; and
    - (iii) in sub-paragraph (d), for “section 154(2)”, substitute **63** section 161(2) **62**; and
  - (e) in paragraph (6), for “sections 145, 146, 147, 148(1), 150, 151, 152, 154 and 155”, substitute **63** sections 152, 153, 154(5), 157, 158, 159, 161 and 162 **62**.
- (29) In regulation 44 (trade offences in CEMA: modification of penalty) —
- (a) in paragraph (1), for “section 68(2)”, substitute **63** section 69(2) **62**;
  - (b) in paragraph (2), for “section 68(3)(b)”, substitute **63** section 69(3)(b) **62**;
  - (c) in paragraph (3), for “section 170(2)”, substitute **63** section 178(2) **62**; and
  - (d) in paragraph (4), for “section 170(3)(b)”, substitute **63** section 178(3)(b) **62**.
- (30) Omit regulation 45 (application of Chapter 1 of Part 2 of Serious Organised Crime and Police Act 2005).
- (31) Omit regulation 46 (monetary penalties).

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<sup>28</sup> AT 11 of 2015.

- (32) In regulation 47 (exercise of maritime enforcement powers), in paragraph (1)(a), for “British ship”, substitute **“Manx ship”**.
- (33) In regulation 48 (maritime enforcement officers) —
- (a) in paragraph (1)(b), after “section 1 of the Ministry of Defence Police Act 1987”, insert **“(Act of Parliament)<sup>29</sup>”**;
  - (b) in paragraph (1)(c)(ii), after “section 99 of the Police and Fire Reform (Scotland) Act 2012”, insert **“(an Act of the Scottish Parliament)<sup>30</sup>”**;
  - (c) in paragraph (1)(d)(i), after “section 27 of the Police Act 1996”, insert **“(Act of Parliament)<sup>31</sup>”**;
  - (d) in paragraph (1)(d)(ii), after “section 9 of the Police and Fire Reform (Scotland) Act 2012”, insert **“(an Act of the Scottish Parliament)<sup>32</sup>”**;
  - (e) in paragraph (1)(d)(iii), after “section 79 of the Harbours, Docks, and Piers Clauses Act 1847”, insert **“(Act of Parliament)<sup>33</sup>”**;
  - (f) in paragraph (1)(f) —
    - (i) after “section 7 of the Marine Navigation Act 2013”, insert **“(Act of Parliament)<sup>34</sup>”**; and
    - (ii) after “section 16 of the Harbours Act 1964”, insert **“(Act of Parliament)<sup>35</sup>”**;
  - (g) in paragraph (1)(g), after “Part 1 of the Borders, Citizenship and Immigration Act 2009”, insert **“(Act of Parliament)<sup>36</sup>”**;
  - (h) after paragraph (1)(h), insert —
 

<ol style="list-style-type: none"> <li>(i) an officer within the meaning given under section 184(1) of the Customs and Excise Management Act 1986 (of Tynwald)<sup>37</sup>; and</li> <li>(j) a constable appointed by the Department of Home Affairs.<sup>38</sup>; and</li> </ol>
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  - (i) in paragraph (2)(a), after “section 10 of the Crime and Courts Act 2013”, insert **“(Act of Parliament)<sup>38</sup>”**.
- (34) In regulation 49 (power to stop, board, search etc.), in paragraph (2)(c), for “United Kingdom”, substitute **“Isle of Man”**.

<sup>29</sup> 1987 Chapter 4.

<sup>30</sup> 2012 asp 8.

<sup>31</sup> 1996 Chapter 16.

<sup>32</sup> 2012 asp 8.

<sup>33</sup> 1847 Chapter 27.

<sup>34</sup> 2013 Chapter 23.

<sup>35</sup> 1964 Chapter 40.

<sup>36</sup> 2009 Chapter 11.

<sup>37</sup> AT 34 of 1986

<sup>38</sup> 2013 Chapter 22.

- (35) In regulation 51 (restrictions on exercise of maritime enforcement powers) —
- (a) before paragraph (1), insert —
- (A1) A maritime enforcement officer must not by virtue of these Regulations exercise any maritime enforcement powers in relation to a British ship (other than a Manx ship) in foreign waters or international waters. ~~22~~;
- (b) in paragraphs (1)(a) and (2), for “British ship”, wherever occurring, substitute ~~22~~ Manx ship ~~22~~; and
- (c) in paragraph (3), for “United Kingdom”, in both places where the words occur, substitute ~~22~~ United Kingdom and the Isle of Man ~~22~~.
- (36) For regulation 52 (interpretation of Part 8), substitute —
- 52. Interpretation of Part 8**
- (1) In this Part —
- “*British ship*” has the meaning given in section 19 of the Act;
- “*foreign ship*” means a ship which —
- (a) is registered in a territory other than the Isle of Man, or
- (b) is not so registered but is entitled to fly the flag of a territory other than the Isle of Man;
- “*foreign waters*” means the sea and other waters within the seaward limits of the territorial sea adjacent to any territory other than the Isle of Man;
- “*home state*”, in relation to a foreign ship, means —
- (a) the State in which the ship is registered, or
- (b) the State whose flag the ship is otherwise entitled to fly;
- “*international waters*” means the waters beyond the territorial sea of the Isle of Man or of any other State or territory;
- “*Manx ship*” means a ship which —
- (a) is registered under Part I, II, III or IV of the Merchant Shipping Registration Act 1991 (of Tynwald)<sup>39</sup>, or
- (b) is not registered under the law of a country outside the Isle of Man but is wholly owned by persons each of whom has an Isle of Man connection;

<sup>39</sup> AT 15 of 1991.

“*prohibited goods*” means goods which have been, or are being, dealt with in contravention of any prohibition specified in regulation 47(2)(a) to (d);

“*relevant British possession*” means —

- (a) any of the Channel Islands,
- (b) the Isle of Man, or
- (c) any British overseas territory;

“*relevant goods*” means goods in relation to which relevant non-IOM conduct is occurring or has occurred;

“*relevant non-IOM conduct*” means conduct outside the Isle of Man by a person other than an Island person that would constitute a contravention of a prohibition specified in regulation 47(2)(a) to (d) if the conduct had been —

- (a) in the Isle of Man, or
- (b) by an Island person;

“*ship*” includes every description of vessel (including a hovercraft) used in navigation, except the naval, military or air-force ships of any country;

“*ship without nationality*” means a ship which —

- (a) is not registered in, or otherwise entitled to fly the flag of, any State or relevant British possession, or
- (b) sails under the flags of two or more States or relevant British possessions, or under the flags of a State and relevant British possession, using them according to convenience.

(2) In the definition of “*relevant non-IOM conduct*” in paragraph (1), the reference to conduct that would constitute a contravention of a prohibition specified in regulation 47(2)(a) to (d) if the conduct had been in the Isle of Man or by an Island person includes a reference to a case where —

- (a) arrangements relating to goods have been entered into that have not been fully implemented, and
- (b) if those arrangements were to be fully implemented (and if the conduct had been in the Isle of Man or by an Island person) the goods would be dealt with in contravention of that prohibition.

(3) For the purposes of paragraph (b) of the definition of “*Manx ship*”, a person has an “*Isle of Man connection*” if the person is —

- (a) a British citizen, a British overseas territories citizen or a British overseas citizen who is resident in the Isle of Man,
- (b) an individual who is habitually resident in the Isle of Man, or
- (c) a body corporate which is established under the law of the Isle of Man and has its principal place of business in the Isle of Man. **22**.
- (37) In regulation 53 (notices) —
- (a) in paragraph (5)(b), for “United Kingdom”, in both places, substitute **23** Isle of Man **22**; and
- (b) in paragraph (6), in the definition of “registered company”, for “in force in the United Kingdom”, substitute **23** in operation in the Isle of Man **22**.
- (38) After regulation 54 (trade: overlapping offences), insert —
- 23 54A Protection for acts done for purposes of compliance**
- (1) A person is not liable to any civil proceedings to which that person would, in the absence of this regulation, have been liable in respect of an act if that act is done in the reasonable belief that the act is in compliance with these Regulations.
- (2) In this regulation, “act” includes an omission. **22**.
- (39) Omit regulation 55 (revocations).
- (40) Omit regulation 56 (amendments of the United Nations and European Union Financial Sanctions (Linking) Regulations 2017).
- (41) In regulation 57 (transitional provision: Treasury licences) —
- (a) in paragraph (1)(a), for “regulation 9 (licences) of the 2011 Regulations”, substitute **23** regulation 5 of the 2012 Regulations **22**;
- (b) in paragraphs (3), (4) and (5), for “2011 Regulations”, substitute **23** 2012 Regulations **22**; and
- (c) for paragraph (7), substitute —
- 23** (7) In this regulation —
- “the 2012 Regulations” means the Afghanistan Sanctions (Application) Regulations 2020 (of Tynwald)<sup>40</sup>;
- “the EU Afghanistan Regulation” means Council Regulation (EU) No 753/2011 of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan, as it has effect

<sup>40</sup> SD 0473/12..

in the Isle of Man immediately before IP completion day<sup>41</sup>;

“*the relevant date*” means IP completion day. **22**.

- (42) In regulation 58(3) (transitional provisions: prior obligations), for the definition of “the relevant date”, substitute —
- 23** “*the relevant date*” means IP completion day. **22**.
- (43) In Schedule 1 (rules for interpretation of regulation 7(2)), in paragraph 13 (rights exercisable only in certain circumstances etc), omit sub-paragraphs (2) and (3).

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<sup>41</sup> Council Regulation (EU) No 753/2011 applies to the Isle of Man by virtue of SD 0472/12.





Annex

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**STATUTORY INSTRUMENTS**

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**2020 No. 948**

**The Afghanistan (Sanctions) (EU Exit) Regulations 2020**

*Made* 3rd September 2020

*Laid before Parliament* 8th September 2020

*Coming into force in accordance with regulation 1(2)*

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**PART 1**  
**General**

**Citation and commencement**

1. (1) These Regulations may be cited as the Afghanistan (Sanctions) (EU Exit) Regulations 2020.

(2) ~~These Regulations come into force in accordance with regulations made by the Secretary of State under section 56 of the Act.~~

**Crown application**

**1A. For the avoidance of doubt, nothing in these Regulations affects Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947<sup>42</sup> (of Parliament)).**

**Interpretation**

2. (1) In these Regulations—

“the Act” means the Sanctions and Anti-Money Laundering Act 2018 **(of Parliament)**<sup>43</sup>;

“arrangement” includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable (but see paragraph 12 of Schedule 1 for the meaning of that term in that Schedule);

“**British Islands**” has the meaning given in the Interpretation Act 2015 **(of Tynwald)**<sup>44</sup>;

“CEMA” means the Customs and Excise Management Act 1979 **1986 (of Tynwald)**<sup>45</sup>;

~~“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;~~

“conduct” includes acts and omissions;

“**country**” includes any territory, region or other place;

“**Department of Home Affairs**” means the Department of Home Affairs of the Isle of Man established under section 1 of the Government Departments Act 1987 **(of Tynwald)**<sup>46</sup>;

“document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include producing a copy of the information in legible form;

“**economic resources**” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

“**Export Control Order 2008**” means the Export Control Order 2008 **(of Parliament)**, as that order has effect in the Isle of Man<sup>47</sup> from time to time;

“**financial products**” means —

(a) **money market instruments (including cheques, bills and certificates of deposit;**

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<sup>42</sup> 1947 Chapter 44.

<sup>43</sup> 2018 Chapter 13.

<sup>44</sup> AT 11 of 2015.

<sup>45</sup> AT 34 of 1986.

<sup>46</sup> AT 13 of 1987.

<sup>47</sup> SI 2008/3231, as applied in the Isle of Man by SD 104/09 (as amended).

- (b) foreign exchange;**
- (c) derivative products (including futures and options);**
- (d) exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);**
- (e) transferable securities;**
- (f) other negotiable instruments and financial assets (including bullion);**

**“financial services” means any service of a financial nature, including (but not limited to) —**

- (a) insurance-related services consisting of —**
  - (i) direct life assurance;**
  - (ii) direct insurance other than life assurance;**
  - (iii) reinsurance and retrocession;**
  - (iv) insurance intermediation, such as brokerage and agency;**
  - (v) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;**
- (b) banking and other financial services consisting of —**
  - (i) accepting deposits and other repayable funds;**
  - (ii) lending (including consumer credit, mortgage credit, factoring and financing of commercial transactions);**
  - (iii) financial leasing;**
  - (iv) payment and money transmission services (including credit, charge and debit cards, travellers’ cheques and bankers’ drafts);**
  - (v) providing guarantees or commitments;**
  - (vi) financial trading;**
  - (vii) participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues;**
  - (viii) money brokering;**
  - (ix) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;**
  - (x) settlement and clearing services for financial assets (including securities, derivative products and other negotiable instruments);**
  - (xi) providing or transferring financial information, and financial data processing or related software (but only by suppliers of other financial services);**
  - (xii) providing advisory and other auxiliary financial services in respect of any activity listed in sub-**

paragraphs (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy);

**“financial trading”** means trading for own account or for account of customers, whether on an investment exchange, in an over-the-counter market or otherwise, in financial products;

**“funds”** means financial assets and benefits of every kind, including (but not limited to) —

- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits, balances on accounts, debts and debt obligations;
- (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative products;
- (d) interest, dividends and other income on or value accruing from or generated by assets;
- (e) credit, rights of set-off, guarantees, performance bonds and other financial commitments;
- (f) letters of credit, bills of lading and bills of sale;
- (g) documents providing evidence of an interest in funds or financial resources;
- (h) any other instrument of export finance;

**“international obligation”** means an obligation of the United Kingdom and the Isle of Man created or arising by or under any international agreement;

**“IP completion day”** has the meaning given in the Interpretation Act 2015 (of Tynwald)<sup>48</sup>;

**“Island person”** means —

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British overseas citizen who is resident in the Isle of Man;
- (b) a person who under the British Nationality Act 1981 (of Parliament)<sup>49</sup> is a British subject who is resident in the Isle of Man;
- (c) a British protected person within the meaning of that Act who is resident in the Isle of Man; or
- (d) a body incorporated under the law of the Isle of Man;

**“person”** includes (in addition to an individual and a body of persons corporate or unincorporate) any organisation and any association or combination of persons;

**“Public Services Commission”** means the Public Services Commission established by the Public Services Commission Act 2015 (of

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<sup>48</sup> AT 11 of 2015.

<sup>49</sup> 1981 Chapter 61.

**Tynwald)**<sup>50</sup>;

“the Committee” means the Committee of the Security Council established in accordance with paragraph 30 of resolution 1988;

“the 1988 Sanctions List” means the list created pursuant to resolution 1988, and maintained by the Committee;

“resolution 1988” means resolution 1988 (2011) adopted by the Security Council on 17 June 2011;

“resolution 2255” means resolution 2255 (2015) adopted by the Security Council on 21 December 2015;

**“standard scale” means the standard scale contained in section 55 of the Interpretation Act 2015 (of Tynwald)**<sup>51</sup>;

**“territorial sea” (without more) means the territorial sea adjacent to the Isle of Man;**

**“Treasury” has the meaning given in the Interpretation Act 2015 (of Tynwald);**

“Treasury licence” means a licence under regulation 28;

**“UN Security Council Resolution” means a resolution adopted by the Security Council of the United Nations.**

~~“United Kingdom person” has the same meaning as in section 21 of the Act.~~

**(2) In these Regulations, all references to Manx legislation (within the meaning of section 9 of the Interpretation Act 2015 (of Tynwald)<sup>52</sup>) shall be construed as references to that legislation as amended from time to time.**

### **Application of prohibitions and requirements outside the United Kingdom Isle of Man**

**3.** (1) ~~A United Kingdom person~~ **An Island person** may contravene a relevant prohibition by conduct wholly or partly outside ~~the United Kingdom~~ **the Isle of Man**.

(2) Any person may contravene a relevant prohibition by conduct in ~~the territorial sea~~ **the Isle of Man or in the territorial sea**.

(3) In this Regulation, a “relevant prohibition” means any prohibition imposed by—

- (a) Part 3 (Finance),
- (b) Part 4 (Trade), or
- (c) a condition of a Treasury licence.

(4) ~~A United Kingdom person~~ **An Island person** may comply, or fail to comply, with a relevant requirement by conduct wholly or partly outside ~~the United Kingdom~~ **the Isle of Man**.

(5) Any person may comply, or fail to comply, with a relevant requirement by conduct in ~~the territorial sea~~ **the Isle of Man or in the territorial sea**.

(6) In this regulation a “relevant requirement” means any requirement imposed—

- (a) by or under Part 6 (Information and records), or by reason of a request made under a power conferred by that Part, or
- (b) by a condition of a Treasury licence.

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<sup>50</sup> AT 1 of 2015.

<sup>51</sup> AT 11 of 2015.

<sup>52</sup> AT 11 of 2015.

(7) ~~Nothing~~ **For the avoidance of doubt, nothing** in this regulation is to be taken to prevent a relevant prohibition or a relevant requirement from applying to conduct (by any person) in ~~the United Kingdom~~ **the Isle of Man**.

### **Purposes**

**4.** (1) ~~The purpose of the regulations contained in this instrument that are made under section 1 of the Act~~ **these Regulations** is compliance with the relevant UN obligations.

(2) In this regulation, "the relevant UN obligations" means the obligations that the ~~United Kingdom~~ **United Kingdom and the Isle of Man** have by virtue of—

- (a) paragraph 1(a) of resolution 2255 (asset-freeze etc.); and
- (b) paragraph 1(c) of resolution 2255 (arms embargo etc.).

to take the measures required by those provisions in respect of persons for the time being named on the 1988 Sanctions List.

## **PART 2**

### **Designations**

#### **Designation of persons named under UN Security Council Resolutions**

**5.** Each person for the time being named on the 1988 Sanctions List is a designated person for the purposes of regulations 8 to 12 (asset-freeze etc.) and 15 to 22 (trade etc.) (whose purpose is compliance with the UN obligations mentioned in regulation 4 (purposes)).

## **Part 3**

### **Finance**

#### **Meaning of "designated person" in Part 3**

**6.** In this Part a "designated person" means a person who is designated for the purposes of regulations 8 to 12 (asset-freeze etc.) by reason of regulation 5 (designation of persons named under UN Security Council Resolutions).

#### **Meaning of "owned or controlled directly or indirectly" in Part 3**

**7.** (1) In this Part, a person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).

(2) The first condition is that P—

- (a) holds directly or indirectly more than 50% of the shares in C,
- (b) holds directly or indirectly more than 50% of the voting rights in C, or
- (c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.

(3) Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).

(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.

#### **Asset-freeze in relation to designated persons**

**8.** (1) A person ("P") must not deal with funds or economic resources owned, held or controlled by a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.
- (4) For the purposes of paragraph (1), a person “deals with” funds if the person—
- (a) uses, alters, moves, transfers or allows access to the funds,
  - (b) deals with the funds in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or
  - (c) makes any other change, including portfolio management, that would enable use of the funds.
- (5) For the purposes of paragraph (1), a person “deals with” economic resources if the person—
- (a) exchanges the economic resources for funds, goods or services, or
  - (b) uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise).
- (6) The reference in paragraph (1) to funds or economic resources that are “owned, held or controlled” by a person includes, in particular, a reference to—
- (a) funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources;
  - (b) any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in the possession of the person.
- (7) For the purposes of paragraph (1), funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.
- (8) For the avoidance of doubt, the reference in paragraph (1) to a designated person includes P if P is a designated person.

#### **Making funds available to designated persons**

**9.** (1) A person (“P”) must not make funds available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) The reference in paragraph (1) to making funds available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

#### **Making funds available for benefit of designated persons**

**10.** (1) A person (“P”) must not make funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) For the purposes of this regulation—



- (a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and
- (b) "financial benefit" includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

#### **Making economic resources available to designated persons**

**11.** (1) A person ("P") must not make economic resources available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect—

- (a) that P is making the economic resources so available, and
- (b) that the designated person would be likely to exchange the economic resources for, or use them in exchange for, funds, goods or services.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) The reference in paragraph (1) to making economic resources available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

#### **Making economic resources available for benefit of designated persons**

**12.** (1) A person ("P") must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) For the purposes of paragraph (1)—

- (a) economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and
- (b) "financial benefit" includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

#### **Circumventing etc. prohibitions**

**13.** (1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

- (a) to circumvent any of the prohibitions in regulations 8 to 12 (asset-freeze etc.), or
- (b) to enable or facilitate the contravention of any such prohibition.

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

### **PART 4**

#### **Trade**

#### **Interpretation of expressions used in this Part**

**14.** (1) — Paragraphs 32 and 36 of Schedule 1 to the Act (trade sanctions) apply for the purpose of interpreting expressions in this Part.

**(1) In this Part —**

- (a) **“export” means export from the Isle of Man;**
- (b) **goods removed to the United Kingdom from the Isle of Man are not to be regarded as exported; and**
- (c) **goods transported out of the Isle of Man by aircraft or ship as stores within the meaning of CEMA (see section 184(1) and (4) of that Act) are to be regarded as exported.**

(2) In this Part, any reference to the ~~United Kingdom~~ **Isle of Man** includes a reference to the territorial sea.

(3) In this Part—

**“aircraft” includes unmanned aircraft and aircraft capable of spaceflight activities;**

“brokering service” means any service to secure, or otherwise in relation to, an arrangement, including (but not limited to)—

- (a) the selection or introduction of persons as parties or potential parties to the arrangement,
- (b) the negotiation of the arrangement,
- (c) the facilitation of anything that enables the arrangement to be entered into, and
- (d) the provision of any assistance that in any way promotes or facilitates the arrangement;

“designated person” means a person who is a designated person by reason of regulation 5 (designations of persons named under UN Security Council Resolutions);

“military goods” means—

- (a) any thing for the time being specified in Schedule 2 to the Export Control Order 2008, other than any thing which is military technology, and
- (b) any tangible storage medium on which military technology is recorded or from which it can be derived;

“military technology” means any thing for the time being specified in Schedule 2 to the Export Control Order 2008 which is described as software or technology;

**“place” includes —**

- (a) **any vehicle, ship or aircraft;**
- (b) **any installation (including a floating installation or one resting on the seabed or its subsoil or on other land covered with water or its subsoil); or**
- (c) **any tent or movable structure;**

**“ship” includes every description of vessel (including a hovercraft) used in navigation;**

except in regulation 22, “technical assistance”, in relation to goods or technology, means—

- (a) technical support relating to the repair, development, production, assembly, testing, use or maintenance of the goods or technology, or
- (b) any other technical service relating to the goods

or technology;

~~“transfer” has the meaning given by paragraph 37 of Schedule 1 to the Act.~~

**“transfer”, in relation to any technology, means a transfer by any means (or combination of means), including oral communication and the transfer of goods on which technology is recorded or from which it can be derived, other than the export of such goods.**

#### **Export of military goods**

**14.** (1) The export of military goods to, or for the benefit of, a designated person is prohibited.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

#### **Supply and delivery of military goods**

**15.** (1) A person must not directly or indirectly supply or deliver military goods from a third country to, or for the benefit of, a designated person.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the goods were supplied or delivered was a designated person.

(4) In this regulation, “third country” means a country that is not the United Kingdom or the Isle of Man.

#### **Making military goods and military technology available**

**16.** (1) A person must not directly or indirectly make military goods or military technology available to, or for the benefit of, a designated person.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the goods or technology were made available was a designated person.

#### **Transfer of military technology**

**17.** (1) A person must not transfer military technology to, or for the benefit of, a designated person.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the technology was transferred was a designated person.

#### **Technical assistance relating to military goods and military technology**

**18.** (1) A person must not directly or indirectly provide technical assistance relating to military goods or military technology to, or for the benefit of, a designated person.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the technical assistance was provided was a designated person.

#### **Financial services and funds relating to military goods and military technology**

**19.** (1) A person must not directly or indirectly provide financial services to, or for the benefit of, a designated person in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export of military goods,
- (b) the direct or indirect supply or delivery of military goods,
- (c) directly or indirectly making military goods or military technology available to a person,
- (d) the transfer of military technology, or
- (e) the direct or indirect provision of technical assistance relating to military goods or military technology.

(2) A person must not directly or indirectly make funds available to, or for the benefit of, a designated person in pursuance of or in connection with an arrangement mentioned in paragraph (1).

(3) A person must not directly or indirectly provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export of military goods to, or for the benefit of a designated person,
- (b) the direct or indirect supply or delivery of military goods to, or for the benefit of, a designated person,
- (c) directly or indirectly making military goods or military technology available to, or for the benefit of, a designated person,
- (d) the transfer of military technology to, or for the benefit of, a designated person,
- (e) the direct or indirect provision of technical assistance relating to military goods or military technology to, or for the benefit of, a designated person.

(4) Paragraphs (1) to (3) are subject to Part 5 (Exceptions and licences).

(5) A person who contravenes a prohibition in any of paragraphs (1) to (3) commits an offence, but—

- (a) it is a defence for a person charged with the offence of contravening paragraph (1) ("P") to show that P did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the financial services were provided was a designated person;
- (b) it is a defence for a person charged with the offence of contravening paragraph (2) ("P") to show that P did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the funds were made available was a designated person;
- (c) it is a defence for a person charged with the offence of contravening paragraph (3) to show that the person did not know and had no reasonable cause to suspect that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in that paragraph.

**Brokering services: ~~non-UK~~ non-IOM activity relating to military goods and military technology**

**21.** (1) A person must not directly or indirectly provide brokering services in relation to an arrangement ("arrangement A") whose object or effect is—

- (a) the direct or indirect supply or delivery of military goods from a ~~non-~~

- (b) ~~UK~~ **non-IOM** country to, or for the benefit of, a designated person, directly or indirectly making military goods available in a ~~non-UK~~ **non-IOM** country for direct or indirect supply or delivery to, or for the benefit of, a designated person,
  - (c) directly or indirectly making military technology available in a ~~non-UK~~ **non-IOM** country for transfer to, or for the benefit of, a designated person,
  - (d) the transfer of military technology from a place in a ~~non-UK~~ **non-IOM** country to, or for the benefit of, a designated person,
  - (e) the direct or indirect provision in a ~~non-UK~~ **non-IOM** country of technical assistance relating to military goods or military technology to, or for the benefit of, a designated person,
  - (f) the direct or indirect provision in a ~~non-UK~~ **non-IOM** country of financial services—
    - (i) to, or for the benefit of, a designated person where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 20(1) (financial services and funds relating to military goods and military technology), or
    - (ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 20(3),
  - (g) directly or indirectly making funds available in a ~~non-UK~~ **non-IOM** country to, or for the benefit of, a designated person where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 20(1), or
  - (h) the direct or indirect provision of funds from a ~~non-UK~~ **non-IOM** country, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 20(3).
- (2) Paragraph (1) is subject to Part 5 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the brokering services were provided in relation to an arrangement mentioned in that paragraph.

(4) In this regulation—

~~“non-UK country” means—~~

- ~~(a) for the purposes of paragraph (1)(a) and (b), a country that is not the United Kingdom or the Isle of Man;~~
- ~~(b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom.~~

**“non-IOM country” means —**

- (a) for the purposes of paragraph (1)(a) and (b), a country that is not the United Kingdom or the Isle of Man;**
- (b) for the purposes of any other provision of paragraph (1), a country that is not the Isle of Man.**

**Enabling or facilitating the conduct of armed hostilities**

**22.** (1) A person must not directly or indirectly provide to, or for the benefit of, a designated person—

- (a) technical assistance,
- (b) financial services or funds, or
- (c) brokering services in relation to an arrangement whose object or effect is to provide, in a ~~non-UK~~ **non-IOM** country, anything mentioned in sub-paragraphs (a) to (c),

where such provision enables or facilitates the conduct of armed hostilities.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence ("P") to show that—

- (a) P did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the technical assistance, financial services or funds or brokering services were provided was a designated person;
- (b) P did not know and had no reasonable cause to suspect that the provision as mentioned in paragraph (1) would enable or facilitate the conduct of armed hostilities.

(4) In this regulation—

~~"non-UK country" means a country that is not the United Kingdom;~~

**"non-IOM country" means a country that is not the Isle of Man;**

"technical assistance" means the provision of technical support or any other technical service.

(5) Nothing in this regulation is to be taken to limit the meaning of any of the prohibitions contained in regulations 15 to 22 (trade etc.).

### **Circumventing etc. prohibitions**

**23.** (1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

- (a) to circumvent any of the prohibitions in this Part, or
- (b) to enable or facilitate the contravention of any such prohibition.

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

### **Defences**

**24.** (1) Paragraph (2) applies where a person relies on a defence under this Part.

(2) If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

## **PART 5**

### **Exceptions and licences**

#### **Finance: exceptions from prohibitions**

**25.** (1) The prohibition in regulation 8 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—

- (a) is held by P, and
  - (b) is not held jointly with the designated person.
- (2) In paragraph (1) “independent person” means a person who—
- (a) is not the designated person, and
  - (b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.
- (3) The prohibitions in regulations 8 to 10 (asset-freeze in relation to, and making funds available to, or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account with interest or other earnings due on the account.
- (4) The prohibitions in regulations 9 and 10 (making funds available to, or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account where it receives funds transferred to that institution for crediting to that account.
- (5) The prohibitions in regulations 9 and 10 are not contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.
- ~~(6) The prohibitions in regulations 8 to 10 are not contravened in relation to a designated person (“P”) by a transfer of funds from account A to account B, where—~~
- ~~(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000(a);~~
  - ~~(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000(b); and~~
  - ~~(c) accounts A and B are held or controlled (directly or indirectly) by P.~~
- (7) In this regulation—
- “designated person” has the same meaning as it has in Part 3 (Finance);
- “frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person;
- ~~“relevant institution” means a person that has permission under Part 4A of the Financial Services and Markets Act 2000(c) (Permission to carry on regulated activities);~~
- “relevant institution” means —**
- (a) a person who is licensed under the Financial Services Act 2008 (of Tynwald)<sup>53</sup> to carry on a regulated activity within the meaning of section 3 of that Act;**
  - (b) a person who is authorised or registered under the Insurance Act 2008 (of Tynwald)<sup>54</sup> or holds a permit under that Act;**
  - (c) a person who is registered under the Moneylenders Act 1991 (of Tynwald)<sup>55</sup> to carry on the business of lending money;**
  - (d) a person who is acting as a trustee or an administrator of a**

<sup>53</sup> AT 8 of 2008.

<sup>54</sup> AT 16 of 2008.

<sup>55</sup> AT 6 of 1991.

**retirement benefits scheme within the meaning of the Retirement Benefits Schemes Act 2008 (of Tynwald)<sup>56</sup>.**

~~(8) — The definition of “relevant institution” in paragraph (7) is to be read with section 22 of the Financial Services and Markets Act 2000(d), any relevant order under that section(e) and Schedule 2 to that Act(f).~~

**~~Exception for authorised conduct in a relevant country~~**

~~**26.** (1) — Where a person’s conduct in a relevant country would, in the absence of this regulation, contravene a prohibition in any of regulations 8 to 12 (asset-freeze etc.) (“the relevant prohibition”), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued —~~

~~(2) — In this regulation, “relevant country” means —~~

- ~~(a) — any of the Channel Islands;~~
- ~~(b) — the Isle of Man;~~
- ~~(c) — any British overseas territory.~~

~~(3) — Nothing in this regulation affects the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.~~

**Exception for authorised conduct outside the Isle of Man**

**26. (1) Where a person’s conduct outside the Isle of Man would, in the absence of this paragraph, contravene a prohibition in any of regulations 8 to 12 (asset-freeze etc.) (“the relevant prohibition”), the relevant prohibition is not contravened if the conduct is authorised by a licence issued under regulation 28 (Treasury licences), as it has effect in the United Kingdom.**

**(2) Where a person’s conduct in a relevant country would, in the absence of this paragraph, contravene the relevant prohibition, the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued —**

- (a) under the law of the relevant country; and**
- (b) for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.**

**(3) In this regulation, “relevant country” means —**

- (a) any of the Channel Islands;**
- (b) any British overseas territory.**

**(4) Nothing in this regulation affects the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.**

**~~Exception for acts done for purposes of national security or prevention of serious crime~~**

~~**27.** (1) — Where an act would, in the absence of this paragraph, be prohibited by any prohibition in Part 3 (Finance) or Part 4 (Trade), that prohibition does not apply to the act if the act is one which a responsible officer has determined would be in the interests of —~~

- ~~(a) — national security, or~~
- ~~(b) — the prevention or detection of serious crime in the United Kingdom or elsewhere.~~

~~(2) — Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 6 (Information and records) or Part 8 (Maritime~~

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<sup>56</sup> AT 14 of 2008.



enforcement), that requirement does not apply if a responsible officer has determined that not doing the thing in question would be in the interests of—

- (a) national security; or
- (b) the prevention or detection of serious crime in the United Kingdom or elsewhere.

(3) In this regulation “responsible officer” means a person in the service of the Crown or holding office under the Crown, acting in the course of that person’s duty.

(4) Nothing in this regulation affects the application of a prohibition or requirement in a case where it would be incompatible with a UN obligation for the prohibition or requirement not to apply.

### **Exception for acts done for purposes of national security or prevention of serious crime**

**27. (1) Where an act would, in the absence of this paragraph, be prohibited any prohibition in Part 3 (Finance) or Part 4 (Trade), that prohibition does not apply to the act if the act is one which —**

- (a) a UK responsible officer has determined would be in the interests of national security or the prevention or detection of serious crime in the United Kingdom or elsewhere; or
- (b) an Island responsible officer has determined would be in the interests of the prevention or detection of serious crime in the Isle of Man or elsewhere.

**(2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 6 (Information and records) or Part 8 (Maritime enforcement), that requirement does not apply if —**

- (a) a UK responsible officer has determined that not doing the thing in question would be in the interests of national security or the prevention or detection of serious crime in the United Kingdom or elsewhere; or
- (b) an Island responsible officer has determined that not doing the thing in question would be in the interests of the prevention or detection of serious crime in the Isle of Man or elsewhere.

**(3) In this regulation —**

“Island responsible officer” means a person —

- (a) in the service of the Crown or holding office under the Crown in the Isle of Man;
- (b) appointed by the Public Services Commission; or
- (c) appointed as a constable by the Department of Home Affairs, acting in the course of that person’s duty;

“UK responsible officer” means a person in the service of the Crown or holding office under the Crown in the United Kingdom, acting in the course of that person’s duty.

**(4) Nothing in this regulation affects the application of a prohibition of requirement in a case where it would be incompatible with a UN obligation for the prohibition or requirement not to apply.**

### **Treasury licences**

**28. (1) The prohibitions in regulations 8 to 12 (asset-freeze etc.) do not apply to**

anything done under the authority of a licence issued by the Treasury under this paragraph.

(2) The Treasury may issue a licence which authorises acts in relation to a designated person only where ~~the Treasury consider~~ **the Treasury considers** that it is appropriate to issue the licence for a purpose set out in Schedule 2.

(3) A licence under paragraph (1)—

- (a) must specify the acts authorised by it;
- (b) may be general or may authorise acts by a particular person or persons of a particular description;
- (c) may—
  - (i) contain conditions;
  - (ii) be of indefinite duration or a defined duration.

~~(4) Where the Treasury issue a licence under paragraph (1), the Treasury may vary, revoke or suspend it at any time.~~

~~(5) Where the Treasury issue, vary, revoke or suspend a licence under paragraph (1) which authorises acts by a particular person, the Treasury must give written notice to that person of the issue, variation, revocation or suspension of the licence.~~

~~(6) Where the Treasury issue, vary, revoke or suspend a general licence or a licence which authorises acts by persons of a particular description under paragraph (1), the Treasury must take such steps as the Treasury consider appropriate to publicise the issue, variation, revocation or suspension of the licence.~~

**(4) The Treasury may vary, revoke or suspend a licence at any time.**

**(5) If the Treasury issues, varies, revokes or suspends a licence which authorises acts by a particular person, the Treasury must give written notice to that person of the issue, variation, revocation or suspension of the licence.**

**(6) If the Treasury issues, varies, revokes or suspends a general licence or a licence which authorises acts by persons of a particular description, the Treasury must take such steps as it considers appropriate to publicise the issue, variation, revocation or suspension of the licence.**

#### **Finance: licensing offences**

**29.** (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 Treasury licence (whether for P or anyone else).

(2) A person who purports to act under the authority of a Treasury licence but who fails to comply with any condition of the licence commits an offence.

### **PART 6**

#### **Information and records**

#### **Finance: reporting obligations**

**30.** (1) A relevant firm must inform the Treasury as soon as practicable if—

- (a) it knows, or has reasonable cause to suspect, that a person—
  - (i) is a designated person, or
  - (ii) has committed an offence under any provision of Part 3

- (Finance) or regulation 29 (finance: licensing offences), and
- (b) the information or other matter on which the knowledge or cause for suspicion is based came to it in the course of carrying on its business.
- (2) Where a relevant firm informs the Treasury under paragraph (1), it must state—
- (a) the information or other matter on which the knowledge or suspicion is based, and
- (b) any information it holds about the person by which the person can be identified.
- (3) Paragraph (4) applies if—
- (a) a relevant firm informs the Treasury under paragraph (1) that it knows, or has reasonable cause to suspect, that a person is a designated person, and
- (b) that person is a customer of the relevant firm.
- (4) The relevant firm must also state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion.
- (5) A relevant institution must inform the Treasury without delay if that institution—
- (a) credits a frozen account in accordance with regulation 25(4) (finance: exceptions from prohibitions), ~~or~~
- ~~(b) transfers funds from a frozen account in accordance with regulation 25(6).~~
- (6) A person who fails to comply with a requirement in paragraph (1), (2) or (4) commits an offence.
- (7) In this regulation—
- “designated person” has the same meaning as it has in Part 3 (Finance);
- “frozen account” has the same meaning as it has in regulation 25;
- ~~“relevant firm” is to be read in accordance with regulation 31 (“relevant firm”);~~
- “relevant firm” means —**
- (a) **a business in the regulated sector within the meaning of Schedule 4 to the Proceeds of Crime Act 2008 (of Tynwald) (see in particular paragraph 2 of that Schedule);**
- (b) **a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging articles made from gold, silver, platinum, palladium, precious stones or pearls;**
- “relevant institution” has the same meaning as it has in regulation 25.

**(8) For the purposes of paragraph (a) of the definition of “relevant firm” in paragraph (7), the definition of “estate agent” in Schedule 4 to the Proceeds of Crime Act 2008 (of Tynwald) is to be read as if references to the sale or proposed sale of land in section 15 of the Estate Agents Act 1975 (of Tynwald)<sup>57</sup> included references to the sale or proposed sale of land outside the Isle of Man.**

~~**“Relevant firm”**~~

~~**31.** (1) The following are relevant firms for the purposes of regulation 30 (finance:~~

<sup>57</sup> AT 6 of 1975.

reporting obligations) —

- (a) — a person that has permission under Part 4A of the Financial Services and Markets Act 2000 (Permission to carry on regulated activities);
- (b) — an undertaking that by way of business —
  - (i) — operates a currency exchange office;
  - (ii) — transmits money (or any representation of monetary value) by any means, or
  - (iii) — cashes cheques that are made payable to customers;
- (c) — a firm or sole practitioner that is —
  - (i) — a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (Statutory auditors)(a), or
  - (ii) — a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014 (general requirements for audit)(b);
- (d) — a firm or sole practitioner that provides to other persons, by way of business —
  - (i) — accountancy services;
  - (ii) — legal or notarial services;
  - (iii) — advice about tax affairs, or
  - (iv) — trust or company services within the meaning of paragraph (2);
- (e) — a firm or sole practitioner that carries out, or whose employees carry out, estate agency work;
- (f) — the holder of a casino operating licence within the meaning given by section 65(2)(a) of the Gambling Act 2005 (nature of licence)(c);
- (g) — a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging —
  - (i) — articles made from gold, silver, platinum or palladium, or
  - (ii) — precious stones or pearls.

(2) — In paragraph (1) “trust or company services” means any of the following services —

- (a) — forming companies or other legal persons;
- (b) — acting, or arranging for another person to act —
  - (i) — as a director or secretary of a company;
  - (ii) — as a partner of a partnership, or
  - (iii) — in a similar capacity in relation to other legal persons;
- (c) — providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
- (d) — acting, or arranging for another person to act, as —
  - (i) — a trustee of an express trust or similar legal arrangement, or
  - (ii) — a nominee shareholder for a person.

(3) — In paragraph (1) —

“estate agency work” is to be read in accordance with section 1 of the Estate

~~Agents Act 1979(d), but as if references in that section to disposing of or acquiring an interest in land included (despite anything in section 2 of that Act) references to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest;~~

~~"firm" means any entity that, whether or not a legal person, is not an individual, and includes a body corporate and a partnership or other unincorporated body.~~

~~(4) — Sub-paragraphs (a) and (b) of paragraph (1) are to be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.~~

~~(5) — For the purposes of regulation 30(1), information or another matter comes to a relevant firm "in the course of carrying on its business" if the information or other matter comes to the firm—~~

~~(a) — in the case of a relevant firm within paragraph (1)(a), in the course of carrying on an activity in respect of which the permission mentioned in that provision is required;~~

~~(b) — in the case of a relevant firm within paragraph (1)(c)(i), in the course of carrying out statutory audit work within the meaning of section 1210 of the Companies Act 2006 (meaning of "statutory auditor" etc.)(a);~~

~~(c) — in the case of a relevant firm within paragraph (1)(c)(ii), in the course of carrying out an audit required by the Local Audit and Accountability Act 2014;~~

~~(d) — in the case of a relevant firm within paragraph (1)(f), in the course of carrying on an activity in respect of which the licence mentioned in that provision is required;~~

~~(e) in the case of a relevant firm within any other provision of paragraph (1), in the course of carrying on an activity mentioned in that provision.~~

### **Finance: powers to request information**

**32.** (1) The Treasury may request a designated person to provide information about—

(a) funds or economic resources owned, held or controlled by or on behalf of the designated person, or

(b) any disposal of such funds or economic resources.

(2) The Treasury may request a designated person to provide such information as the Treasury may reasonably require about expenditure—

(a) by the designated person, or

(b) for the benefit of the designated person.

(3) For the purposes of paragraph (2), expenditure for the benefit of a designated person includes expenditure on the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

(4) The power in paragraph (1) or (2) is exercisable only where ~~the Treasury believe~~ **the Treasury believes** that it is necessary for the purpose of monitoring compliance with or detecting evasion of any provision of Part 3 (Finance).

(5) The Treasury may request a person acting under a Treasury licence to provide information about—

(a) funds or economic resources dealt with under the licence, or

(b) funds or economic resources made available under the licence.

(6) The Treasury may request a person to provide information within paragraph (7) if ~~the Treasury believe~~ **the Treasury believes** that the person may be able to provide the information.

(7) Information within this paragraph is such information as the Treasury may reasonably require for the purpose of—

- (a) establishing for the purposes of any provision of Part 3 (Finance)—
  - (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated person,
  - (ii) the nature and amount or quantity of any funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person, or
  - (iii) the nature of any financial transactions entered into by a designated person;
- (b) monitoring compliance with or detecting evasion of—
  - (i) any provision of Part 3,
  - (ii) regulation 30 (finance: reporting obligations), or
  - (iii) any condition of a Treasury licence;
- (c) detecting or obtaining evidence of the commission of an offence under Part 3 or regulation 29 (finance: licensing offences) or 30.

(8) The Treasury may specify the way in which, and the period within which, information is to be provided.

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

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

(11) Information requested under this regulation may relate to any period of time during which a person is, or was, a designated person.

(12) Information requested by virtue of paragraph (1)(b), (2) or (7)(a)(iii) may relate to any period before a person became a designated person (as well as, or instead of, any subsequent period).

(13) Expressions used in this regulation have the same meaning as they have in Part 3.

### **Finance: production of documents**

**33.** (1) A request under regulation 32 (finance: powers to request information) may include a request to produce specified documents or documents of a specified description.

(2) Where ~~the Treasury request~~ **the Treasury requests** that documents be produced, the Treasury 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 present or past officer or employee of the body concerned,

to give such an explanation.

(3) Where ~~the Treasury request~~ **the Treasury requests** a designated person or a person acting under a Treasury licence to produce documents, that person must—

- (a) take reasonable steps to obtain the documents (if they are not already in the person's possession or control), and
- (b) keep the documents under the person's possession or control (except for the purpose of providing them to the Treasury or as the Treasury may otherwise permit).

(4) In this regulation "designated person" has the same meaning as it has in Part 3 (Finance).

#### **Finance: information offences**

**34.** (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 32 (finance: powers to request information);
- (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 32 or 33 (finance: production of documents), destroys, mutilates, defaces, conceals or removes any document;
- (d) otherwise intentionally obstructs the Treasury in the exercise of ~~their~~ **its** powers under regulation 32 or 33.

(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.

#### **Trade: application of information powers in CEMA**

**35.** (1) ~~Section 77A of CEMA~~ **Section 78A of CEMA (information powers)** applies in relation to a person carrying on a relevant activity as it applies in relation to a person concerned in the importation or exportation of goods but as if—

- (a) in subsection (1), the reference to a person concerned in the importation or exportation of goods for which for that purpose an entry is required by regulation 5 of the ~~Customs Controls on Importation of Goods Regulations 1991~~ **Customs Controls on Importation of Goods Regulations 1994 (of Tynwald)**<sup>58</sup> or an entry or specification is required by or under CEMA were to a person carrying on a relevant activity;
- (b) any other reference to importation or exportation were to a relevant activity;
- (c) any other reference to goods were to the goods, technology, services or funds to which the relevant activity relates.

(2) For the purposes of paragraph (1), a "relevant activity" means an activity which would constitute a contravention of —

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<sup>58</sup> SD 211/94.

- (a) any prohibition in Part 4 (Trade) except the prohibition in regulation 15(1) (export of military goods), or
- (b) the prohibition in regulation 23 (circumventing etc. prohibitions).

### Disclosure of information

**36.** (1) ~~The Secretary of State, the Treasury or the Commissioners~~ **The Treasury** may, in accordance with this regulation, disclose—

- (a) any information obtained under or by virtue of Part 5 (Exceptions and licences), this Part or Part 8 (Maritime enforcement), or
- (b) any information held in connection with—
  - (i) anything done under or by virtue of Part 2 (Designations), Part 3 (Finance) or Part 4 (Trade), or
  - (ii) any exception or licence under Part 5 or anything done in accordance with such an exception or under the authority of such a licence.

(2) Information referred to in paragraph (1) may be disclosed for, or in connection with, any of the following purposes—

- (a) the purposes stated in regulation 4 (purposes);
- (b) the exercise of functions under these Regulations;
- (c) facilitating, monitoring or ensuring compliance with these Regulations;
- (ca) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the Isle of Man for an offence under any provisions of these Regulations;**
- (d) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the United Kingdom—
  - (i) for an offence under any provision of these Regulations **(as they have effect in the United Kingdom),**
  - (ii) for an offence under ~~CEMA~~ **the Customs and Excise Management Act 1979 (of Parliament)**<sup>59</sup> in connection with the prohibition mentioned in regulation 15(1) (export of military goods) **(as that regulation has effect in the United Kingdom),** or
  - (iii) in relation to a monetary penalty under section 146 of the Policing and Crime Act 2017 (breach of financial sanctions legislation)<sup>60</sup>;
- (e) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in any of the Channel Islands, ~~the Isle of Man~~ or any British overseas territory for an offence—
  - (i) under a provision in any such jurisdiction that is similar to a provision of these Regulations, or
  - (ii) in connection with a prohibition in any such jurisdiction that is similar to the prohibition referred to in sub-paragraph (d)(ii);
- (f) compliance with an international obligation;
- (g) facilitating the exercise by an authority outside the ~~United Kingdom~~ **Isle of Man** or by an international organisation of functions which

<sup>59</sup> 1979 Chapter 2.

<sup>60</sup> 2017 Chapter 3.



correspond to functions under these Regulations.

- ~~(3) Information referred to in paragraph (1) may be disclosed to the following persons —~~
- ~~(a) a police officer;~~
  - ~~(b) any person holding or acting in any office under or in the service of —~~
    - ~~(i) the Crown in right of the Government of the United Kingdom;~~
    - ~~(ii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government;~~
    - ~~(iii) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark;~~
    - ~~(iv) the Government of the Isle of Man, or~~
    - ~~(v) the Government of any British overseas territory;~~
  - ~~(c) any law officer of the Crown for Jersey, Guernsey or the Isle of Man;~~
  - ~~(d) the Scottish Legal Aid Board;~~
  - ~~(e) the Financial Conduct Authority, the Prudential Regulation Authority, the Bank of England, the Jersey Financial Services Commission, the Guernsey Financial Services Commission or the Isle of Man Financial Services Authority;~~
  - ~~(f) any other regulatory body (whether or not in the United Kingdom);~~
  - ~~(g) any organ of the United Nations;~~
  - ~~(h) the Council of the European Union, the European Commission or the European External Action Service;~~
  - ~~(i) the Government of any country;~~
  - ~~(j) any other person where the Secretary of State, the Treasury or the Commissioners (as the case may be) consider that it is appropriate to disclose the information.~~

**(3) Information referred to in paragraph (1) may be disclosed to the following persons —**

- (a) a police officer;**
- (b) any person holding or acting in any office under or in the service of —**
  - (i) the Government of the Isle of Man;**
  - (ii) the Crown in right of the Government of the United Kingdom;**
  - (iii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government;**
  - (iv) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark; or**
  - (v) the Government of any British overseas territory;**
- (c) any law officer of the Crown in any of the British Islands;**
- (d) the Legal Aid Agency in England and Wales, the Scottish Legal Aid Board or the Legal Services Agency Northern Ireland;**

- (e) **the Isle of Man Financial Services Authority and any body of any other part of the British Islands exercising an equivalent function;**
- (f) **any other regulatory body (whether or not in the Isle of Man);**
- (g) **any organ of the United Nations;**
- (h) **any person in the service of the United Nations, the Council of the European Union, the European Commission or the European External Action Service;**
- (i) **the Government of any country;**
- (j) **any other person where the Treasury considers that it is appropriate to disclose the information.**

(4) Information referred to in paragraph (1) may be disclosed to any person with the consent of a person who, in their own right, is entitled to the information.

(5) In paragraph (4) "in their own right" means not merely in the capacity as a servant or agent of another person.

(6) In paragraph (1)(b)—

- (a) the reference to information includes information obtained at a time when any provision of these Regulations is not in force, and
- (b) the reference to a licence under Part 5 includes—
  - (i) a licence or authorisation which is treated as if it were a licence which had been issued under that Part, and
  - (ii) a licence which is deemed to have been issued under that Part.

## **Part 6: supplementary**

**37.** (1) A disclosure of information under regulation 36 (disclosure of information) does not breach any restriction on such disclosure imposed by statute or otherwise.

~~(2) But nothing in that regulation authorises a disclosure that —~~

- ~~(a) contravenes the data protection legislation, or~~
- ~~(b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016~~(a)~~.~~

**(2) But nothing in that regulation authorises a disclosure —**

- (a) that contravenes the data protection legislation;**
- (b) of intercepted material that is not otherwise permitted under the safeguards arrangements relating to a warrant issued under the Interception of Communications Act 1988 (of Tynwald)<sup>61</sup>.**

(3) Nothing in this Part is to be read as requiring a person who has acted or is acting as ~~counsel or solicitor~~ **an advocate or lawyer** for any person to disclose any privileged information in their possession in that capacity.

(4) Regulation 36 does not limit the circumstances in which information may be disclosed apart from that regulation.

(5) Nothing in this Part limits any conditions which may be contained in a Treasury licence.

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<sup>61</sup> AT 18 of 1988.

(6) In this regulation—

~~“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act)(b);~~

**“the data protection legislation” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018 (of Tynwald)<sup>62</sup>;**

~~“privileged information” means information with respect to which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.~~

## **PART 7**

### **Enforcement**

#### **Penalties for offences**

~~**38.** (1) A person who commits an offence under any provision of Part 3 (Finance) or regulation 29 (finance: licensing offences), is liable—~~

- ~~(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months 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 7 years or a fine (or both).~~

~~(2) A person who commits an offence under any provision of Part 4 (Trade) is liable—~~

- ~~(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months 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 10 years or a fine (or both).~~

~~(3) A person who commits an offence under regulation 30(6) or 34 (information offences in connection with Part 3) is liable—~~

- ~~(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 6 months or a fine (or both);~~
- ~~(b) on summary conviction in Scotland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both);~~
- ~~(c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the~~

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<sup>62</sup> SD 2018/0145.

~~standard scale (or both).~~

~~(4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003(a) comes into force, the reference in each of paragraphs (1)(a) and (2)(a) to 12 months is to be read as a reference to 6 months.~~

### **Penalties for offences**

**38. (1) A person guilty of an offence under any provision of Part 3 (finance) of regulation 29 (finance: licensing offences), is liable —**

- (a) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;**
- (b) on conviction on information, to custody for a term not exceeding 7 years or to a fine, or to both.**

**(2) A person guilty of an offence under any provision of Part 4 (trade) is liable —**

- (a) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;**
- (b) on conviction on information, to custody for a term not exceeding 10 years or to a fine, or to both.**

**(3) A person guilty of an offence under regulation 30(6) or 34 (information offences in connection with Part 3) is liable on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.**

### **Liability of officers of bodies corporate etc.**

**39. (1) Where an offence under these Regulations, committed by a body corporate,—**

- (a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or**
- (b) is attributable to any neglect on the part of any such person,**

that person as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Paragraph (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—

- (a) in the case of a partnership, to a partner;**
- (b) in the case of an unincorporated body other than a partnership—**
  - (i) where the body's affairs are managed by its members, to a member of the body;**
  - (ii) in any other case, to a member of the governing body.**

(4) ~~Section 171(4)~~ **Section 179(3)** of CEMA (which is a provision similar to this regulation) does not apply to any offence under these Regulations to which that provision would, in the absence of this paragraph, apply.

### **Jurisdiction to try offences**

**40.** (1) ~~Where an offence under Part 3 (Finance), regulation 29 (finance: licensing offences) or regulation 30(6) or 34 (information offences in connection with Part 3) is committed in the United Kingdom—~~

- ~~(a) proceedings for the offence may be taken at any place in the United Kingdom, and~~
- ~~(b) the offence may for all incidental purposes be treated as having been committed at any such place.~~

(2) Where an offence under these Regulations is committed outside the United Kingdom **Isle of Man—**

- (a) proceedings for the offence may be taken at any place in the United Kingdom **Isle of Man**, and
- (b) the offence may for all incidental purposes be treated as having been committed at any such place **in the Isle of Man**.

~~(3) In the application of paragraph (2) to Scotland, any such proceedings against a person may be taken—~~

- ~~(a) in any sheriff court district in which the person is apprehended or is in custody, or~~
- ~~(b) in such sheriff court district as the Lord Advocate may determine.~~

~~(4) In paragraph (3) "sheriff court district" is to be read in accordance with the Criminal Procedure (Scotland) Act 1995 (see section 307(1) of that Act)(a).~~

#### **Procedure for offences by unincorporated bodies**

**41.** (1) Paragraphs (2) and (3) apply if it is alleged that an offence under these Regulations has been committed by an unincorporated body (as opposed to by a member of the body).

(2) Proceedings in England and Wales or Northern Ireland **the Isle of Man** for such an offence must be brought against the body in its own name.

(3) For the purposes of proceedings for such an offence brought against an unincorporated body—

- (a) rules of court relating to the service of documents have effect as if the body were a body corporate;
- (b) the following provisions apply as they apply in relation to a body corporate—
  - ~~(i) section 33 of the Criminal Justice Act 1925(b) and Schedule 3 to the Magistrates' Courts Act 1980(c);~~
  - (i) section 32 of the Summary Jurisdiction Act 1989 (of Tynwald)<sup>63</sup>;**
  - ~~(ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945(d) and Article 166 of, and Schedule 4 to, the Magistrates' Courts (Northern Ireland) Order 1981(e).~~

(4) A fine imposed on an unincorporated body on its conviction of an offence under these Regulations is to be paid out of the funds of the body.

#### **Time limit for proceedings for summary offences**

**42.** (1) Proceedings for an offence under these Regulations which is triable only summarily may be brought within the period of 12 months beginning with the date on which

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<sup>63</sup> AT 15 of 1989.

evidence sufficient in the opinion of the ~~prosecutor~~ **Attorney General** to justify the proceedings comes to the ~~prosecutor's~~ **Attorney General's** knowledge.

(2) But such proceedings may not be brought by virtue of paragraph (1) more than 3 years after the commission of the offence.

(3) A certificate signed by the ~~prosecutor~~ **Attorney General** as to the date on which the evidence in question came to the ~~prosecutor's~~ **Attorney General's** knowledge is conclusive evidence of the date on which it did so; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

~~(4) In relation to proceedings in Scotland—~~

~~(a) section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date of commencement of summary proceedings) applies for the purposes of this regulation as it applies for the purposes of that section, and~~

~~(b) references in this regulation to the prosecutor are to be treated as references to the Lord Advocate.~~

**(5) In this regulation, "Attorney General" has the meaning given in the Interpretation Act 2015 (of Tynwald)<sup>64</sup>.**

#### **Trade enforcement: application of CEMA**

**43.** (1) Where the ~~Commissioners investigate or propose~~ **Treasury investigates or proposes** to investigate any matter with a view to determining—

(a) whether there are grounds for believing that a relevant offence has been committed, or

(b) whether a person should be prosecuted for such an offence,

the matter is to be treated as an assigned matter.

(2) In paragraph (1) "assigned matter" has the meaning given by ~~section 1(1)~~ **section 184(1)** of CEMA.

(3) In this regulation a "relevant offence" means an offence under Part 4 (Trade).

(4) ~~Section 138~~ **Section 145** of CEMA (arrest of persons) applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, a relevant offence as it applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, an offence for which the person is liable to be arrested under the customs and excise Acts, but as if—

(a) any reference to an offence under, or for which a person is liable to be arrested under, the customs and excise Acts were to a relevant offence;

(b) in subsection (2), the reference to any person so liable were to a person who has committed, or whom there are reasonable grounds to suspect of having committed, a relevant offence.

(5) The provisions of CEMA mentioned in paragraph (6) apply in relation to proceedings for a relevant offence as they apply in relation to proceedings for an offence under the customs and excise Acts, but as if—

(a) any reference to the customs and excise Acts were to any of the provisions referred to in paragraph (3);

(b) in ~~section 145(6)~~ **section 152(5)**, the reference to an offence for which a person is liable to be arrested under the customs and excise Acts were to a relevant offence;

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<sup>64</sup> AT 11 of 2015.

- (c) in ~~section 151~~ **section 158**, the reference to any penalty imposed under the customs and excise Acts were to any penalty imposed under these Regulations in relation to a relevant offence;
- (d) in ~~section 154(2)~~ **section 161(2)**—
  - (i) the reference to proceedings relating to customs or excise were to proceedings under any of the provisions mentioned in paragraph (3), and
  - (ii) the reference to the place from which any goods have been brought included a reference to the place to which goods have been exported, supplied or delivered or the place to or from which technology has been transferred.

(6) The provisions of CEMA are ~~sections 145, 146, 147, 148(1), 150, 151, 152, 154 and 155(d)~~ **sections 152, 153, 154(5), 157, 158, 159, 161 and 162** (legal proceedings).

#### **Trade offences in CEMA: modification of penalty**

**44.** (1) Paragraph (2) applies where a person is guilty of an offence under ~~section 68(2)~~ **section 69(2)** of CEMA in connection with the prohibition mentioned in regulation 15(1) (export of military goods).

(2) Where this paragraph applies, the reference to 7 years in ~~section 68(3)(b)~~ **section 69(3)(b)** of CEMA is to be read as a reference to 10 years.

(3) Paragraph (4) applies where a person is guilty of an offence under ~~section 170(2)~~ **section 178(2)** of CEMA in connection with the prohibition mentioned in regulation 15(1) (export of military goods).

(4) Where this paragraph applies, the reference to 7 years in ~~section 170(3)(b)~~ **section 178(3)(b)** of CEMA is to be read as a reference to 10 years.

#### **Application of Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005**

**45.**—Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005 (investigatory powers)~~(c)~~ applies to any offence under Part 3 (Finance) or regulation 29 (finance: licensing offences).

#### **Monetary penalties**

**46.**—The following provisions are to be regarded as not being financial sanctions legislation for the purposes of Part 8 of the Policing and Crime Act 2017~~(d)~~—

- (a)—regulation 17(1) (making military goods and military technology available);
- (b)—regulation 18(1) (transfer of military technology);
- (c)—regulation 20(1) and (2) (financial services and funds relating to military goods and military technology);
- (d)—regulation 21(f)(i) and (g) (brokering services relating to financial services and funds relating to military goods and military technology);
- (e)—regulation 22(1) (enabling or facilitating conduct of armed hostilities).

## **PART 8**

### **Maritime enforcement**

#### **Exercise of maritime enforcement powers**

**47.** (1) A maritime enforcement officer may, for a purpose mentioned in paragraph (2) or (3), exercise any of the maritime enforcement powers in relation to—

- (a) a ~~British ship~~ **Manx ship** in foreign waters or international waters,
- (b) a ship without nationality in international waters, or

(c) a foreign ship in international waters,

and a ship within sub-paragraph (a), (b) or (c) is referred to in this Part as “a relevant ship”.

(2) The maritime enforcement powers may be exercised for the purpose of enforcing any of the following—

- (a) the prohibition in regulation 15(1) (export of military goods);
- (b) the prohibition in regulation 16(1) (supply and delivery of military goods);
- (c) the prohibition in regulation 17(1) (making military goods and military technology available);
- (d) the prohibition in regulation 18(1) (transfer of military technology).

(3) The maritime enforcement powers may also be exercised in relation to a relevant ship for the purpose of—

- (a) investigating the suspected carriage of relevant goods on the ship, or
- (b) preventing the continued carriage on the ship of goods suspected to be relevant goods.

(4) In this Part, “the maritime enforcement powers” are the powers conferred by regulations 49 and 50.

(5) This regulation is subject to regulation 51 (restrictions on exercise of maritime enforcement powers).

#### **Maritime enforcement officers**

**48.** (1) The following persons are “maritime enforcement officers” for the purposes of this Part—

- (a) a commissioned officer of any of Her Majesty’s ships;
- (b) a member of the Ministry of Defence Police (within the meaning of section 1 of the Ministry of Defence Police Act 1987 (**Act of Parliament**)<sup>65</sup>);
- (c) a constable—
  - (i) who is a member of a police force in England and Wales,
  - (ii) within the meaning of section 99 of the Police and Fire Reform (Scotland) Act 2012 (**an Act of the Scottish Parliament**)<sup>66</sup>, or
  - (iii) who is a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;
- (d) a special constable—
  - (i) appointed under section 27 of the Police Act 1996 (**Act of Parliament**)<sup>67</sup>,
  - (ii) appointed under section 9 of the Police and Fire Reform (Scotland) Act 2012 (**an Act of the Scottish Parliament**)<sup>68</sup>, or
  - (iii) in Northern Ireland, appointed by virtue of provision incorporating section 79 of the Harbours, Docks, and Piers

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<sup>65</sup> 1987 Chapter 4.

<sup>66</sup> 2012 asp 8.

<sup>67</sup> 1996 Chapter 16.

<sup>68</sup> 2012 asp 8.



Clauses Act 1847 (**Act of Parliament**)<sup>69</sup>;

- (e) a constable who is a member of the British Transport Police Force;
- (f) a port constable, within the meaning of section 7 of the Marine Navigation Act 2013 (**Act of Parliament**)<sup>70</sup>, or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964 (**Act of Parliament**)<sup>71</sup>;
- (g) a designated customs official within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009 (**Act of Parliament**)<sup>72</sup> (see section 14(6) of that Act);
- (h) a designated NCA officer who is authorised by the Director General of the National Crime Agency (whether generally or specifically) to exercise the powers of a maritime enforcement officer under this Part.
- (i) **an officer within the meaning given under section 184(1) of the Customs and Excise Management Act 1986 (of Tynwald)**<sup>73</sup>; and
- (j) **a constable appointed by the Department of Home Affairs.**

(2) In this regulation, “a designated NCA officer” means a National Crime Agency officer who is either or both of the following—

- (a) an officer designated under section 10 of the Crime and Courts Act 2013 (**Act of Parliament**)<sup>74</sup> as having the powers and privileges of a constable;
- (b) an officer designated under that section as having the powers of a general customs official.

**Power to stop, board, search etc.**

**49.** (1) This regulation applies if a maritime enforcement officer has reasonable grounds to suspect that a relevant ship is carrying prohibited goods or relevant goods.

(2) The officer may—

- (a) stop the ship;
- (b) board the ship;
- (c) for the purpose of exercising a power conferred by paragraph (3) or regulation 50 (seizure power), require the ship to be taken to, and remain in, a port or anchorage in the ~~United Kingdom~~ **Isle of Man** or any other country willing to receive it.

(3) Where the officer boards a ship by virtue of this regulation, the officer may—

- (a) stop any person found on the ship and search that person for—
  - (i) prohibited goods or relevant goods, or
  - (ii) any thing that might be used to cause physical injury or damage to property or to endanger the safety of any ship;
- (b) search the ship, or any thing found on the ship (including cargo) for prohibited goods or relevant goods.

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<sup>69</sup> 1847 Chapter 27.

<sup>70</sup> 2013 Chapter 23.

<sup>71</sup> 1964 Chapter 40.

<sup>72</sup> 2009 Chapter 11.

<sup>73</sup> AT 34 of 1986.

<sup>74</sup> 2013 Chapter 22.

- (4) The officer may—
- (a) require a person found on a ship boarded by virtue of this regulation to provide information or produce documents;
  - (b) inspect and copy such information or documents.
- (5) The officer may exercise a power conferred by paragraph (3)(a)(i) or (b) only to the extent reasonably required for the purpose of discovering prohibited goods or relevant goods.
- (6) The officer may exercise the power conferred by paragraph (3)(a)(ii) in relation to a person only where the officer has reasonable grounds to believe that the person might use a thing to cause physical injury or damage to property or to endanger the safety of any ship.
- (7) The officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

### **Seizure power**

- 50.** (1) This regulation applies if a maritime enforcement officer is lawfully on a relevant ship (whether in exercise of the powers conferred by regulation 49 (power to stop, board, search etc.) or otherwise).
- (2) The officer may seize any of the following which are found on the ship, in anything found on the ship, or on any person found on the ship—
- (a) goods which the officer has reasonable grounds to suspect are prohibited goods or relevant goods, or
  - (b) things within regulation 49(3)(a)(ii).
- (3) The officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

### **Restrictions on exercise of maritime enforcement powers**

**51. (A1) A maritime enforcement officer must not by virtue of these Regulations exercise any maritime enforcement powers in relation to a British ship (other than a Manx ship) in foreign waters or international waters.**

- (1) The authority of the Secretary of State is required before any maritime enforcement power is exercised in reliance on regulation 47 (exercise of maritime enforcement powers) in relation to—
- (a) a ~~British ship~~ **Manx ship** in foreign waters, or
  - (b) a foreign ship in international waters.
- (2) In relation to a ~~British ship~~ **Manx ship** in foreign waters other than the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant British possession, the Secretary of State may give authority under paragraph (1) only if the State in whose waters the power would be exercised consents to the exercise of the power.
- (3) In relation to a foreign ship in international waters, the Secretary of State may give authority under paragraph (1) only if—
- (a) the home state has requested the assistance of the ~~United Kingdom~~ **United Kingdom and the Isle of Man** for a purpose mentioned in regulation 47(2) or (3),
  - (b) the home state has authorised the ~~United Kingdom~~ **United Kingdom and the Isle of Man** to act for such a purpose, or
  - (c) the United Nations Convention on the Law of the Sea 1982<sup>75</sup> or a UN Security Council Resolution otherwise permits the exercise of the

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<sup>75</sup> Command 8941.

power in relation to the ship.

### **Interpretation of Part 8**

~~52. (1) Subject to paragraph (2), any expression used in this Part and in section 19 or 20 of the Act has the same meaning in this Part as it has in section 19 or (as the case may be) section 20 of the Act.~~

~~(2) For the purpose of interpreting any reference to "prohibited goods" or "relevant goods" in this Part, any reference in section 19 or 20 of the Act to a "relevant prohibition or requirement" is to be read as a reference to any prohibition specified in regulation 47(2)(a) to (d) (exercise of maritime enforcement powers).~~

### **Interpretation of Part 8**

#### **52. (1) In this Part —**

**"British ship" has the meaning given in section 19 of the Act;**

**"foreign ship" means a ship which —**

- (a) is registered in a territory other than the Isle of Man, or**
- (b) is not so registered but is entitled to fly the flag of a territory other than the Isle of Man;**

**"foreign waters" means the sea and other waters within the seaward limits of the territorial sea adjacent to any territory other than the Isle of Man;**

**"home state", in relation to a foreign ship, means —**

- (a) the State in which the ship is registered, or**
- (b) the State whose flag the ship is otherwise entitled to fly;**

**"international waters" means the waters beyond the territorial sea of the Isle of Man or of any other State or territory;**

**"Manx ship" means a ship which —**

- (a) is registered under Part I, II, III or IV of the Merchant Shipping Registration Act 1991 (of Tynwald)<sup>76</sup>, or**
- (b) is not registered under the law of a country outside the Isle of Man but is wholly owned by persons each of whom has an Isle of Man connection;**

**"prohibited goods" means goods which have been, or are being, dealt with in contravention of any prohibition specified in regulation 47(2)(a) to (d);**

**"relevant British possession" means —**

- (a) any of the Channel Islands,**
- (b) the Isle of Man, or**
- (c) any British overseas territory;**

**"relevant goods" means goods in relation to which relevant non-IOM conduct is occurring or has occurred;**

**"relevant non-IOM conduct" means conduct outside the Isle of Man by a person other than an Island person that would constitute a contravention of a prohibition specified in regulation 47(2)(a) to (d) if the conduct had been —**

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<sup>76</sup> AT 15 of 1991.

- (a) in the Isle of Man, or
- (b) by an Island person;

**“ship” includes every description of vessel (including a hovercraft) used in navigation, except the naval, military or air-force ships of any country;**

**“ship without nationality” means a ship which —**

- (a) is not registered in, or otherwise entitled to fly the flag of, any State or relevant British possession, or
- (b) sails under the flags of two or more States or relevant British possessions, or under the flags of a State and relevant British possession, using them according to convenience.

**(2) In the definition of “relevant non-IOM conduct” in paragraph (1), the reference to conduct that would constitute a contravention of a prohibition specified in regulation 47(2)(a) to (d) if the conduct had been in the Isle of Man or by an Island person includes a reference to a case where —**

- (a) arrangements relating to goods have been entered into that have not been fully implemented, and
- (b) if those arrangements were to be fully implemented (and if the conduct had been in the Isle of Man or by an Island person) the goods would be dealt with in contravention of that prohibition.

**(3) For the purposes of paragraph (b) of the definition of “Manx ship”, a person has an “Isle of Man connection” if the person is —**

- (a) a British citizen, a British overseas territories citizen or a British overseas citizen who is resident in the Isle of Man,
- (b) an individual who is habitually resident in the Isle of Man, or
- (c) a body corporate which is established under the law of the Isle of Man and has its principal place of business in the Isle of Man.

## **PART 9**

### **Supplementary and final provision**

#### **Notices**

**53.** (1) This regulation applies in relation to a notice required by regulation 28 (Treasury licences) to be given to a person.

(2) The notice may be given to an individual—

- (a) by delivering it to the individual,
- (b) by sending it to the individual by post addressed to the individual at his or her usual or last-known place of residence or business, or
- (c) by leaving it for the individual at that place.

(3) The notice may be given to a person other than an individual—

- (a) by sending it by post to the proper officer of the body at its principal office, or
- (b) by addressing it to the proper officer of the body and leaving it at that office.

- (4) The notice may be given to the person by other means, including by electronic means, with the person's consent.
- (5) In this regulation, the reference in paragraph (3) to a "principal office"—
- (a) in relation to a registered company, is to be read as a reference to the company's registered office;
  - (b) in relation to a body incorporated or constituted under the law of a country other than the ~~United Kingdom~~ **Isle of Man**, includes a reference to the body's principal office in the ~~United Kingdom~~ **Isle of Man** (if any).
- (6) In this regulation—
- "proper officer"—
- (a) in relation to a body other than a partnership, means the secretary or other executive officer charged with the conduct of the body's general affairs, and
  - (b) in relation to a partnership, means a partner or a person who has the control or management of the partnership business;
- "registered company" means a company registered under the enactments relating to companies for the time being ~~in force in the United Kingdom~~ **in operation in the Isle of Man**.

#### **Trade: overlapping offences**

- 54.** A person is not to be taken to commit an offence under the Export Control Order 2008 if the person would, in the absence of this regulation, commit an offence under both—
- (a) article 34 of that Order, and
  - (b) any provision of Part 4 (Trade).

#### **Protection for acts done for purposes of compliance**

**54A. (1) A person is not liable to any civil proceedings to which that person would, in the absence of this regulation, have been liable in respect of an act if that act is done in the reasonable belief that the act is in compliance with these Regulations.**

**(2) In this regulation, "act" includes an omission.**

#### **Revocations**

~~**55.** (1) Council Regulation (EU) No 753/2011 of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan is revoked.~~

~~(2) The Export Control (Al-Qaida and Taliban Sanctions) Regulations 2011(a) are revoked.~~

~~(3) The Afghanistan (Asset-Freezing) Regulations 2011(b) are revoked.~~

#### **Amendment of the United Nations and European Union Financial Sanctions (Linking) Regulations 2017**

~~**56.** In the Schedule to the United Nations and European Union Financial Sanctions (Linking) Regulations 2017(e) omit the following row from the table—~~

<del>"United Nations Security Council Resolution 2255 (2015)</del>	<del>Council Regulation (EU) No. 753/2011 of 1st August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan"</del>
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### Transitional provision: Treasury licences

- 57.** (1) Paragraphs (2) to (4) apply to a licence which—
- (a) was granted, or deemed to be granted, by the Treasury under ~~regulation 9 (licences) of the 2011 Regulations~~ **regulation 5 of the 2012 Regulations**,
  - (b) was in effect immediately before the relevant date, and
  - (c) authorises conduct which would (on and after the relevant date, and in the absence of paragraphs (2) to (4)) be prohibited under Part 3 (Finance),

and such a licence is referred to in this regulation as “an existing financial sanctions licence”.

(2) An existing financial sanctions licence which authorises an act which would otherwise be prohibited has effect on and after the relevant date as if it had been issued by the Treasury under regulation 28(1) (Treasury licences).

(3) Any reference in an existing financial sanctions licence to the ~~2011 Regulations~~ **2012 Regulations** or the EU Afghanistan Regulation is to be treated on and after the relevant date as a reference to these Regulations.

- (4) Any reference in an existing financial sanctions licence to a prohibition in—
- (a) the ~~2011 Regulations~~ **2012 Regulations**, or
  - (b) the EU Afghanistan Regulation,

is to be treated on and after the relevant date as a reference to the corresponding prohibition in Part 3.

- (5) Paragraph (6) applies where—
- (a) an application for a licence, or for the variation of a licence, under the ~~2011 Regulations~~ **2012 Regulations** was made before the relevant date,
  - (b) the application is for the authorisation of conduct which would (on and after the relevant date) be prohibited under Part 3, and
  - (c) a decision to grant or refuse the application has not been made before that date.

(6) The application is to be treated on and after the relevant date as an application for a licence, or for the variation of a licence (as the case may be), under regulation 28(1) (Treasury licences).

~~(7) In this regulation—~~

~~“the 2011 Regulations” means the Afghanistan (Asset Freezing) Regulations 2011;~~

~~“the EU Afghanistan Regulation” means Council Regulation (EU) No 753/2011 of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan(a);~~

~~“the relevant date” means—~~

- ~~(a) where regulations under section 56 of the Act provide that Part 3 comes into force at a specified time on a day, that time on that day;~~
- ~~(b) otherwise, the date on which Part 3 comes into force.~~

**(7) In this regulation —**

**“the 2012 Regulations” means the Afghanistan Sanctions (Application) Regulations 2020 (of Tynwald)<sup>77</sup>;**

**“the EU Afghanistan Regulation” means Council Regulation (EU) No 753/2011 of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan, as it has effect in the Isle of Man immediately before IP completion day<sup>78</sup>;**

**“the relevant date” means IP completion day.**

**Transitional provision: prior obligations**

**58.** (1) Where, immediately before the relevant date, a person was named on the 1988 Sanctions List, any reference in a provision mentioned in paragraph (2) to the date on which a person became a designated person is to be read as a reference to the date on which the person was so named.

(2) The provisions referred to in paragraph (1) are—

- (a) regulation 25(5) (finance: exceptions from prohibitions), and
- (b) paragraph 6(a) of Schedule 2 (Treasury licences: purposes).

(3) In this regulation—

“designated person” has the same meaning as it has in Part 3 (Finance);

“the relevant date” means—

- ~~(a) where regulations under section 56 of the Act provide that Part 3 comes into force at a specified time on a day, that time on that day;~~
- ~~(b) otherwise, the date on which Part 3 comes into force.~~

**“the relevant date” means IP completion day.**

*Ahmad*

Minister of State Foreign, Commonwealth and Development Office

3rd September 2020

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<sup>77</sup> SD 0473/12/

<sup>78</sup> Council Regulation (EU) No 753/2011 applies to the Isle of Man by virtue of SD 0472/12.

SCHEDULES  
SCHEDULE 1  
Regulation 7(3)

**Rules for interpretation of regulation 7(2)**

**Application of Schedule**

1. (1) The rules set out in the following paragraphs of this Schedule apply for the purpose of interpreting regulation 7(2) (meaning of "owned or controlled directly or indirectly" in Part 3).

(2) They also apply for the purpose of interpreting this Schedule.

**Joint interests**

2. If two or more persons each hold a share or right jointly, each of them is treated as holding that share or right.

**Joint arrangements**

3. (1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated as holding the combined shares or rights of both of them.

(2) A "joint arrangement" is an arrangement between the holders of shares or rights that they will exercise all or substantially all the rights conferred by their respective shares or rights jointly in a way that is pre-determined by the arrangement.

(3) "Arrangement" has the meaning given by paragraph 12.

**Calculating shareholdings**

4. (1) In relation to a person who has a share capital, a reference to holding "more than 50% of the shares" in that person is to holding shares comprised in the issued share capital of that person of a nominal value exceeding (in aggregate) 50% of that share capital.

(2) In relation to a person who does not have a share capital—

(a) a reference to holding shares in that person is to holding a right or rights to share in the capital or, as the case may be, profits of that person;

(b) a reference to holding "more than 50% of the shares" in that person is to holding a right or rights to share in more than 50% of the capital or, as the case may be, profits of that person.

**Voting rights**

5. (1) A reference to the voting rights in a person is to the rights conferred on shareholders in respect of their shares (or, in the case of a person not having a share capital, on members) to vote at general meetings of the person on all or substantially all matters.

(2) In relation to a person that does not have general meetings at which matters are decided by the exercise of voting rights—

(a) a reference to holding voting rights in the person is to be read as a reference to holding rights in relation to the person that are equivalent to those of a person entitled to exercise voting rights in a company;

(b) a reference to holding "more than 50% of the voting rights" in the person is to be read as a reference to holding the right under the constitution of the person to block changes to the overall policy of the person or to the terms of its constitution.

6. In applying regulation 7(2) and this Schedule, the voting rights in a person are to be reduced by any rights held by the person itself.



### **Rights to appoint or remove members of the board**

**7.** A reference to the right to appoint or remove a majority of the board of directors of a person is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.

**8.** A reference to a board of directors, in the case of a person who does not have such a board, is to be read as a reference to the equivalent management body of that person.

### **Shares or rights held "indirectly"**

**9.** (1) A person holds a share "indirectly" if the person has a majority stake in another person and that other person—

- (a) holds the share in question, or
- (b) is part of a chain of persons—
  - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
  - (ii) the last of whom holds the share.

(2) A person holds a right "indirectly" if the person has a majority stake in another person and that other person—

- (a) holds that right, or
- (b) is part of a chain of persons—
  - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
  - (ii) the last of whom holds that right.

(3) For these purposes, a person ("A") has a "majority stake" in another person ("B") if—

- (a) A holds a majority of the voting rights in B,
- (b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B,
- (c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B, or
- (d) A has the right to exercise, or actually exercises, dominant influence or control over B.

(4) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a person ("A") is to be treated as having the right to appoint a director if—

- (a) any person's appointment as director follows necessarily from that person's appointment as director of A, or
- (b) the directorship is held by A itself.

### **Shares held by nominees**

**10.** A share held by a person as nominee for another is to be treated as held by the other (and not by the nominee).

### **Rights treated as held by person who controls their exercise**

**11.** (1) Where a person controls a right, the right is to be treated as held by that person (and not by the person who in fact holds the right, unless that person also controls it).

(2) A person "controls" a right if, by virtue of any arrangement between that person and others, the right is exercisable only—

- (a) by that person,
- (b) in accordance with that person's directions or instructions, or
- (c) with that person's consent or concurrence.

**12.** "Arrangement" includes—

- (a) any scheme, agreement or understanding, whether or not it is legally enforceable, and
- (b) any convention, custom or practice of any kind.

**Rights exercisable only in certain circumstances etc.**

**13.** (1) Rights that are exercisable only in certain circumstances are to be taken into account only—

- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
- (b) when the circumstances are within the control of the person having the rights.

~~(2) — But rights that are exercisable by an administrator or by creditors while a person is subject to relevant insolvency proceedings are not to be taken into account while the person is subject to those proceedings.~~

~~(3) — "Relevant insolvency proceedings" means—~~

- ~~(a) — administration within the meaning of the Insolvency Act 1986(a),~~
- ~~(b) — administration within the meaning of the Insolvency (Northern Ireland) Order 1989(b), or~~
- ~~(c) — proceedings under the insolvency law of another country during which a person's assets and affairs are subject to the control or supervision of a third party or creditor.~~

(4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

**Rights attached to shares held by way of security**

**14.** Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person—

- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person's instructions, and
- (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person's interests.

SCHEDULE 2

Regulation 28

**Treasury licences: purposes**

**Interpretation**

**1.** In this Schedule—

"designated person" has the same meaning as it has in Part 3 (Finance);

"frozen funds or economic resources" means funds or economic resources frozen by virtue of regulation 8 (asset-freeze in relation to designated persons), and any

reference to a person's frozen funds or economic resources is to funds or economic resources frozen as a consequence of the designation of that person for the purposes of that regulation.

### **Basic needs**

**2.** (1) To enable the basic needs of a designated person, or (in the case of an individual) any dependent family member of such a person, to be met.

(2) In the case of an individual, in sub-paragraph (1) "basic needs" includes—

- (a) medical needs;
- (b) needs for—
  - (i) food;
  - (ii) payment of insurance premiums;
  - (iii) payment of tax;
  - (iv) rent or mortgage payments;
  - (v) utility payments.

(3) In the case of a person other than an individual, in sub-paragraph (1) "basic needs" includes needs for—

- (a) payment of insurance premiums;
- (b) payment of reasonable fees for the provision of property management services;
- (c) payment of remuneration, allowances or pensions of employees;
- (d) payment of tax;
- (e) rent or mortgage payments;
- (f) utility payments.

(4) In sub-paragraph (1)—

"dependent" means financially dependent;

"family member" includes—

- (a) the wife or husband of the designated person;
- (b) the civil partner of the designated person;
- (c) any parent or other ascendant of the designated person;
- (d) any child or other descendant of the designated person;
- (e) any person who is a brother or sister of the designated person, or a child or other descendant of such a person.

### **Legal services**

**3.** To enable the payment of—

- (a) reasonable professional fees for the provision of legal services, or
- (b) reasonable expenses associated with the provision of legal services.

### **Maintenance of frozen funds and economic resources**

**4.** To enable the payment of—

- (a) reasonable fees, or
- (b) reasonable service charges,

arising from the routine holding or maintenance of frozen funds or economic resources.

### **Extraordinary expenses**

5. To enable an extraordinary expense of a designated person to be met.

### **Prior obligations**

6. To enable, by the use of a designated person's frozen funds or economic resources, the satisfaction of an obligation of that person (whether arising under a contract, other agreement or otherwise), provided that—

- (a) the obligation arose before the date on which the person became a designated person, and
- (b) no payments are made to another designated person, whether directly or indirectly.

### **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 give effect to the United Kingdom's international obligations resulting from various United Nations Security Council Resolutions imposing a sanctions regime in view of the situation in Afghanistan, including UN Security Council Resolution 2255 (2017) adopted by the Security Council on 21 December 2015 (and previously UN Security Council Resolution 1988 (2011)). Following the United Kingdom's withdrawal from the European Union, these Regulations will replace the corresponding EU sanctions regime, which is currently implemented by an EU Council Decision and Regulation.

The Regulations provide that those persons designated by the UN as associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan are designated for the purposes of these Regulations. Persons designated by the UN are subject to financial sanctions, which include having their funds and/or economic resources frozen. Those persons are also subject to trade restrictions on military goods and military technology and associated services. They are also "excluded persons" under section 8B of the Immigration Act 1971, meaning generally that they must be refused leave to enter the United Kingdom and leave to remain in the United Kingdom, and any leave that has been granted is invalid. The Regulations provide for certain exceptions to this sanctions regime, in particular in relation to financial sanctions (for example to allow for frozen accounts to be credited with interest or other earnings) and also acts done for the purpose of national security or the prevention of serious crime. The Regulations also confer powers on the Treasury to issue licences in respect of activities that would otherwise be prohibited under the financial sanctions. Schedule 2 to these Regulations sets out the purposes pursuant to which the Treasury may issue such licences.

The Regulations make it a criminal offence to contravene, or circumvent, any of the prohibitions in these Regulations and prescribe the mode of trial and penalties that apply to such offences. The Regulations also confer powers on specified maritime enforcement officers to stop and search ships in international and foreign waters for the purpose of enforcing specified trade sanctions and to seize goods found on board ships which are being, or have been, dealt with in contravention, or deemed contravention, of those prohibitions. The Regulations prescribe powers for the provision and sharing of information to enable the effective implementation and enforcement of the sanctions regime.

Council Regulation (EU) No 753/2011 of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan is revoked by these Regulations. The Export Control (Al-Qaida and Taliban Sanctions) Regulations 2011 and the Afghanistan (Asset-Freezing) Regulations 2011 are also revoked. An amendment is also made by these Regulations to the Schedule to the United Nations and European Union Financial Sanctions (Linking) Regulations 2017.

An Impact Assessment has not been produced for these Regulations, as they are intended to ensure existing sanctions remain in place following the United Kingdom's withdrawal from the

European Union. These Regulations are intended to deliver substantially the same policy effects as the existing European Union sanctions. An 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](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/653271/Sanctions_and_Anti-Money_Laundering_Bill_Impact_Assessment_18102017.pdf).

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.