

2021 No. 1256

OVERSEAS TERRITORIES

SANCTIONS

**The Republic of Belarus (Sanctions) (Overseas Territories)
(Amendment) Order 2021**

Made - - - - *10th November 2021*

Coming into force - - *11th November 2021*

At the Court at Windsor Castle, the 10th day of November 2021

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 63(3)(c) and (4) of the Sanctions and Anti-Money Laundering Act 2018(a), is pleased, by and with the advice of Her Privy Council, to make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Republic of Belarus (Sanctions) (Overseas Territories) (Amendment) Order 2021 and comes into force on 11th November 2021.

(2) This Order extends to each British overseas territory listed in the Schedule.

Amendment of the Republic of Belarus (Sanctions) (Overseas Territories) Order 2020

2. The Republic of Belarus (Sanctions) (Overseas Territories) Order 2020(b) is amended as follows.

3. In Schedule 2 (modifications to be made in the extension of the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019(c) to each British overseas territory listed in Schedule 1)—

(a) in paragraph 2, for sub-paragraph (c) substitute—

“(c) at the end insert—

“(3) In the application of these Regulations to a particular British overseas territory, the expression “the Territory” means that territory.””

(b) after paragraph 10 insert—

(a) 2018 c. 13.
(b) S.I. 2020/1271.
(c) S.I. 2019/600.

“10A. In regulation 15D(a) (interpretation of terms relating to other financial restrictions)—

(a) in paragraph (1)—

(i) for the definition of “non-UK country”, substitute—

““non-Territory country” means a country that is not the Territory;”

(ii) in the definition of “relevant person”, for “non-UK country” substitute “non-Territory country”.”

(c) after paragraph 15 insert—

“15A. In regulation 27C (supply and delivery of dual-use goods), in paragraph (4) for “United Kingdom, the Isle of Man” substitute “Territory”.

15B. In regulation 27H (brokering services: non-UK activity relating to dual-use goods and dual-use technology)—

(a) in the heading, for “non-UK” substitute “non-Territory”;

(b) in paragraph (1), for “non-UK country”, in each place it occurs, substitute “non-Territory country”;

(c) for paragraph (4) substitute—

“(4) In this regulation—

“non-Territory country” means a country that is not the Territory;

“third country” means a country that is not the Territory or Belarus.”

15C. In regulation 27K (supply and delivery of potash and petroleum products)—

(a) in paragraph (2), for “non-UK country”, in each place it occurs, substitute “non-Territory country”;

(b) for paragraph (6) substitute—

“(6) In this regulation—

“non-Territory country” means a country that is not the Territory;

“third country” means a country that is not the Territory or Belarus.”

15D. In regulation 27L (technical assistance relating to petroleum products)—

(a) in paragraph (1), for “non-UK country”, in each place it occurs, substitute “non-Territory country”;

(b) for paragraph (4) substitute—

“(4) In this regulation—

“non-Territory country” means a country that is not the Territory;

“third country” means a country that is not the Territory or Belarus.”

15E. In regulation 27M (financial services, funds and brokering services relating to petroleum products)—

(a) in paragraph (1), for “non-UK country”, in each place it occurs, substitute “non-Territory country”;

(b) for paragraph (6) substitute—

“(6) In this regulation—

“non-Territory country” means a country that is not the Territory;

“third country” means a country that is not the Territory or Belarus.”

(a) Regulations 15A to D were inserted by regulation 8 of the Republic of Belarus (Sanctions) (EU Exit) (Amendment) Regulations 2021, S.I. 2021/922.

15F. In regulation 29A (movement of aircraft)—

(a) for paragraph (1) substitute—

“(1) The Secretary of State, or the Governor (as the case may be), may—

- (a) refuse permission under article 135 of the ANO in respect of Belarusian aircraft;
- (b) refuse permission under article 137 of the ANO in respect of Belarusian aircraft;
- (c) revoke any permission granted under article 135 of the ANO in respect of Belarusian aircraft;
- (d) revoke any permission granted under article 137 of the ANO in respect of Belarusian aircraft.”;

(b) in paragraph (2), for “United Kingdom”, in both places it occurs, substitute “Territory”;

(c) in paragraph (3), for “Secretary of State” substitute “Governor”;

(d) in paragraph (4), after “airport operator” insert “or air traffic control”;

(e) for paragraph (5) substitute—

“(5) The Governor may direct an airport operator or air traffic control to give directions under paragraph (4).”

15G. For regulation 29C (directions under regulation 29A: supplementary) substitute—

“**29C.**—(1) Where a direction is given under regulation 29A(1)(c) or (d) to the extent that the direction conflicts with the requirements of article 12 of the ANO (revocation etc of permissions), those requirements are to be disregarded.

(2) Where a direction is given under regulation 29A which conflicts with a permission under article 135 or 137 of the ANO, the permission is to be disregarded.

(3) In so far as a direction under regulation 29A conflicts with any requirement in the applicable law of the Territory that corresponds to the requirements of section 93 of the Transport Act 2000(a) or of an order under section 94 of that Act, the direction is to be disregarded.

(4) In so far as a direction under regulation 29A conflicts with the requirements of any other relevant law applicable to the Territory, the requirements are to be disregarded.

(5) The Secretary of State may notify a person that the existence of a direction under regulation 29A, any part of the content of the direction, or anything done under the direction, is to be treated as confidential.

(6) The Governor may notify a person that the existence of a direction issued by the Governor under regulation 29A, any part of the content of the direction, or anything done under the direction, is to be treated as confidential.

(7) A person must not disclose any information if the Secretary of State or the Governor (as the case may be) notifies that person under paragraph (5) or (6) that the information is to be treated as confidential.

(8) For the purposes of this regulation, a “direction” under regulation 29A includes the refusal or revocation of permission under regulation 29A(1).”

15H. In regulation 29D (offences), in paragraph (1), for “Secretary of State” substitute “Governor”.

15I. In regulation 29E (interpretation of Part 5A)—

(a) 2000 c.38.

- (a) in paragraph (1)—
 - (i) for the definition of “air traffic control” substitute—
 - ““air traffic control” means a person which provides any of the following services in the Territory—
 - (a) an air traffic control service (which has the meaning that it has in article 3(1) of the ANO), or
 - (b) a flight information service (which has the meaning that it has in article 3(1) of the ANO);”
 - (ii) for the definition of “the ANO” substitute—
 - ““the ANO” means the Air Navigation (Overseas Territories) Order 2013(a);”;
 - (iii) at the appropriate places, insert—
 - ““airport” means the aggregate of the land, water, buildings and works comprised in an aerodrome within the meaning of article 3(1) of the ANO;”;
 - ““airport operator”, in relation to the Territory, means a person in charge of the operation of an airport in the Territory;”;
- (b) in paragraph (3), after “in that section” insert “, unless otherwise provided in this regulation”.
- (d) for paragraph 17 substitute—
 - “**17.** For regulation 30A (exceptions for authorised conduct outside the Territory) substitute—

“Exceptions for authorised conduct outside the Territory

30A.—(1) Where a person’s conduct outside the Territory would, in the absence of this paragraph, contravene a prohibition in any of regulations 11 to 15 (asset-freeze etc.), 15B (loans and credit arrangements) or 15C (insurance and reinsurance services) or Chapters 2, 2A, 2B or 2C (Trade), the prohibition is not contravened if the conduct is authorised by a licence issued under regulation 32 (Treasury licences) (as it has effect in the United Kingdom) or regulation 33 (trade 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 a prohibition in any of regulations 11 to 15 or Chapter 2 or 3 of Part 5 (“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) the Isle of Man, or
- (c) any British overseas territory other than the Territory.”

- (e) for paragraph 18 substitute—

“**18.** For regulation 31 (exception for acts done for purposes of national security or prevention of serious crime) substitute—

(a) S.I. 2013/2870, amended by S.I. 2014/2925; S.I. 2014/3281; S.I. 2015/1769; S.I. 2019/853; S.I. 2021/524 and S.I. 2021/755.

“31.—(1) Where an act would, in the absence of this paragraph, be prohibited by regulation 9(2) (confidential information in certain cases) or any prohibition in Part 3 (Finance), Part 5 (Trade) or Part 5A (aircraft), that prohibition does not apply to the act if the act is one which—

- (a) a responsible officer has determined would be in the interests of—
 - (i) national security, or
 - (ii) the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (b) the Governor, with the consent of the Secretary of State, has determined would be in the interests of the prevention or detection of serious crime in the Territory.

(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 5A (Aircraft), Part 7 (Information and records) or Part 9 (Maritime enforcement), that requirement does not apply if—

- (a) a responsible officer has determined that not doing the thing in question would be in the interests of—
 - (i) national security, or
 - (ii) the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (b) the Governor, with the consent of the Secretary of State, has determined that not doing the thing in question would be in the interests of the prevention or detection of serious crime in the Territory.

(3) In this regulation, “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.””

(f) after paragraph 18 insert—

“18A. In regulation 31A (exceptions relating to loans and credit arrangements), in paragraph (3)—

- (a) in the definition of “non-restricted trade”—
 - (i) for “United Kingdom”, in each place it occurs, substitute “Territory ”,
 - (ii) for “non-UK country”, in both places it occurs, substitute “non-Territory country”;
- (b) for the definition of “non-UK country”, substitute—

““non-Territory country” means a country that is not the Territory;”

18B. In regulation 31B (exceptions relating to insurance and reinsurance services), in paragraph (1), for “United Kingdom”, in each place it occurs, substitute “Territory”.”

(g) for paragraph 19 substitute—

“19. For regulation 32 (Treasury licences) substitute—

“Financial sanctions licences

32.—(1) The prohibitions in regulations 11 to 15 (asset-freeze etc.) do not apply to anything done under the authority of a licence issued by the Governor under this paragraph.

(2) The prohibitions in regulation 15B (loans and credit arrangements) do not apply to anything done under the authority of a licence issued by the Governor under this paragraph.

(3) The prohibition in regulation 15C (insurance and reinsurance services) does not apply to anything done under the authority of a licence issued by the Governor under this paragraph.

(4) The Governor may issue a financial sanctions licence only with the consent of the Secretary of State.

(5) The Governor may issue a financial sanctions licence under paragraph (1) which authorises acts by a particular person only where the Governor considers that it is appropriate to issue the licence for a purpose set out in Part 1 of Schedule 3.

(6) The Governor may issue a financial sanctions licence under paragraph (2) which authorises acts by a particular person only where the Governor considers that it is appropriate to issue the licence for a purpose set out in Part 2 of Schedule 3.

(7) The Governor may issue a financial sanctions licence under paragraph (3) which authorises acts by a particular person only where the Governor considers that it is appropriate to issue the licence for a purpose set out in Part 3 of Schedule 3.””

(h) for paragraph 29 substitute—

“**32.** For regulation 43 (trade: application of information powers in CEMA) substitute—

“Trade: information powers

43.—(1) An authorised officer may request a person who is concerned (in whatever capacity) in a relevant activity to provide such information as the authorised officer may reasonably require about the relevant activity.

(2) The authorised officer may specify the way in which, and the period within which, information is to be provided.

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

(4) A request under paragraph (1) may include a request to produce specified documents or documents of a specified description.

(5) Where the authorised officer requests that documents be produced, the authorised officer may—

- (a) take copies or extracts from any document so produced,
- (b) request any person producing a document to give an explanation of it,
- (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 an explanation for it, and

- (d) remove, at a reasonable time and for a reasonable period, any document so produced if the authorised officer considers it is necessary to do so.

(6) Where a document has been removed by an authorised officer under paragraph (5)(d)—

- (a) the authorised officer must, on request, provide a receipt for the document;
- (b) if the document is reasonably required for the proper conduct of a business, the authorised officer must, as soon as practicable and free of charge, provide a copy of the document to the person who produced it.

(7) Where a document requested to be produced under paragraph (4) is subject to a lien, the production or removal of the document in accordance with this regulation does not affect, and is not to be regarded as breaking, the lien.

- (8) For the purposes of paragraph (1), a “relevant activity” means an activity—
- (a) which would, unless done under the authority of a trade licence, constitute a contravention of any prohibition in Chapters 2, 2A, 2B or 2C of Part 5 (Trade) except the prohibitions in regulation 21(1) (export of restricted goods and tobacco industry goods), regulation 27B(1) and (2) (export of dual-use goods), and regulation 27I(1) (import of potash and petroleum products), or
 - (b) which would constitute a contravention of the prohibition in regulation 28 (circumventing etc prohibitions).”
- (i) for paragraph 33 substitute—
- “33.** In regulation 46 (disclosure of information)—
- (a) in paragraph (1), for “Secretary of State, the Treasury or the Commissioners” substitute “Governor or an authorised officer”;
 - (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 Territory for an offence under any provisions of these Regulations;”;
 - (ii) in sub-paragraph (d)—
 - (aa) in paragraph (i), after “Regulations” insert “(as they have effect in the United Kingdom)”;
 - (bb) in paragraph (ii), after “regulation 27I(1) or (2) (import of potash and petroleum)” insert “(as they have effect in the United Kingdom)”;
 - (iii) in sub-paragraph (e), after “any British overseas territory” insert “other than the Territory”;
 - (iv) in sub-paragraph (g), for “United Kingdom” substitute “Territory”;
 - (c) in paragraph (3)(j), for “Secretary of State, the Treasury or the Commissioners (as the case may be)” substitute “Governor”.”
- (j) for paragraph 36 substitute—
- “36.** For regulation 48 (penalties for offences) substitute—
- “48.—**(1) Paragraphs (3) to (7) apply to—
- (a) Anguilla;
 - (b) British Antarctic Territory;
 - (c) British Indian Ocean Territory;
 - (d) Cayman Islands;
 - (e) Montserrat;
 - (f) Pitcairn, Henderson, Ducie and Oeno Islands;
 - (g) Turks and Caicos Islands;
 - (h) Virgin Islands.
- (2) Paragraphs (8) to (12) apply to—
- (a) Falkland Islands;
 - (b) St Helena, Ascension and Tristan da Cunha;
 - (c) South Georgia and the South Sandwich Islands;
 - (d) the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus.

(3) A person who commits an offence under any provision of Part 3 (Finance), regulation 29D(1), (2) or (3) (aircraft: offences) or regulation 35 (finance: licensing offences) is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years, or a fine, or both.

(4) A person who commits an offence under any provision of Part 5 (Trade) is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years, or a fine, or both.

(5) A person who commits an offence under regulation 9(6) (confidentiality), 36, 44(6) or 45(5) (offences in connection with trade licences) is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both.

(6) A person who commits an offence under regulation 29D(4) (confidentiality), 38(6) or 42 (information offences in connection with Part 3) is liable, on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both.

(7) A person who commits an offence under regulation 43A (trade: information offences) is liable, on summary conviction, to a fine not exceeding £1,000 or its equivalent in the currency of the Territory.

(8) A person who commits an offence under any provision of Part 3 (Finance), regulation 29D(1), (2) or (3) (aircraft: offences) or regulation 35 (finance: licensing offences) is liable on conviction to imprisonment for a term not exceeding 7 years, or a fine, or both.

(9) A person who commits an offence under any provision of Part 5 (Trade) is liable on conviction to imprisonment for a term not exceeding 10 years, or a fine, or both.

(10) A person who commits an offence under regulation 9(6) (confidentiality), 36, 44(6) or 45(5) (offences in connection with trade licences) is liable on conviction to imprisonment for a term not exceeding 2 years, or a fine, or both.

(11) A person who commits an offence under regulation 29D(4) (confidentiality), 38(6) or 42 (information offences in connection with Part 3) is liable on conviction to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both.

(12) A person who commits an offence under regulation 43A (trade: information offences) is liable on conviction to a fine not exceeding £1,000 or its equivalent in the currency of the Territory.

(13) Where a fine in this regulation is expressed to be a sum in sterling or its equivalent in the currency of the Territory, the Governor may issue guidance specifying how to calculate the amount in the currency of the Territory which is to be considered equivalent to that sum in sterling.””

(k) In paragraph 59, after paragraph (c) insert—

“(d) in paragraph 14, for “United Kingdom” substitute “Territory”.”

Ceri King
Deputy Clerk of the Privy Council

SCHEDULE

Article 1(2)

British overseas territories

Anguilla
British Antarctic Territory
British Indian Ocean Territory
Cayman Islands
Falkland Islands
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena, Ascension and Tristan da Cunha
South Georgia and the South Sandwich Islands
The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus
Turks and Caicos Islands
Virgin Islands

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Republic of Belarus (Sanctions) (Overseas Territories) Order 2020 (S.I. 2020/1271) (“the 2020 Order”), which gives effect in all Overseas Territories except Bermuda and Gibraltar (which implement sanctions through their own domestic legislation) to the sanctions regime established by the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/600) (“the 2019 Regulations”) made under section 1 of the Sanctions and Anti-Money Laundering Act 2018 (c.13). The modifications made by this Order are in consequence of the amendments to the 2019 Regulations made by the Republic of Belarus (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2021 (S.I. 2021/ 1146) (“the 2021 Regulations”) which are automatically extended to the overseas territories by virtue of article 2 of the 2020 Order.

The modifications made by this Order relate to amendments made by the 2021 Regulations which:

- impose new financial sanctions on dealing with certain financial instruments;
 - impose new trade sanctions in relation to trade in interception and monitoring goods and technology (as specified in new Schedule 2A) and interception and monitoring services, dual-use goods and technology, goods for the tobacco industry, petroleum products and potash (as defined in new Schedule 2B). Restrictions are also imposed in relation to the provision of technical assistance relating to aircraft;
 - confer powers to make directions for the purpose of preventing certain aircraft from entering the airspace over, or from landing in, the Territory
- together with related provisions in relation to exceptions and licences and penalties for offences.

An Impact Assessment has not been prepared for this instrument: the territorial extent of the instrument and the modified Regulations is the British overseas territories listed in Schedule 1, and no, or no significant, impact is foreseen on the private, voluntary or public sectors in the United Kingdom.

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