

2016 No. 1208

CRIMINAL LAW

**The Democratic Republic of the Congo (Asset-Freezing)
(Amendment) Regulations 2016**

Made - - - - at 11.00 a.m. on 13th December 2016

Laid before Parliament at 2.30 p.m. on 13th December 2016

Coming into force - - at 3.30 p.m. on 13th December 2016

The Treasury are designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to restrictive measures against persons or bodies listed by an international organisation.

The Treasury, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Democratic Republic of the Congo (Asset-Freezing) (Amendment) Regulations 2016 and come into force at 3.30 p.m. on 13th December 2016.

Amendments to the Democratic Republic of the Congo (Asset-Freezing) Regulations 2012

2.—(1) The Democratic Republic of the Congo (Asset-Freezing) Regulations 2012(c) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “the Council Regulation”—

(i) after “Annex I” insert “or Ia”;

(ii) for “that Annex” substitute “Annex I or Ia”;

(b) in the definition of “designated person”, after “Annex I” insert “or Ia”.

(3) For regulation 3(1) (freezing of funds and economic resources) substitute—

“(1) A person (“P”) must not deal with funds or economic resources belonging to, or owned, held or controlled, directly or indirectly, by a designated person, including funds or economic resources owned, held or controlled by a third party acting on the designated person’s behalf or at the designated person’s direction, if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.”.

(a) S.I. 2010/1834.

(b) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and the European Union (Amendment) Act 2008 (c. 7), Schedule 1, Part 1.

(c) S.I. 2012/1511, as amended by S.I. 2013/472 and S.I. 2013/534 and modified by the Wales Act 2014 (c. 29), section 4(4)(a).

- (4) In regulation 8 (credits to a frozen account)—
- (a) at the end of paragraph (1)(a), omit the “or”;
 - (b) at the end of paragraph (1)(b), insert “, or”;
 - (c) after paragraph 1(b) insert—
 - “(c) payments due to a person listed in Annex Ia to the Council Regulation under a judicial, administrative or arbitral decision which—
 - (i) was made in the European Union, or
 - (ii) is enforceable in the United Kingdom.”; and
 - (d) for paragraph (4) substitute—
 - “(4) In this regulation, “frozen account” means an account with a relevant institution which is owned, held or controlled, directly or indirectly, by a designated person or by a third party acting on the designated person’s behalf or at the designated person’s direction.”

*David Evennett
Andrew Griffiths*

At 11.00 a.m. on 13th December 2016
Treasury

Two of the Lords Commissioners of Her Majesty’s

EXPLANATORY NOTE

(This note is not part of the Regulations)

Council Regulation (EC) No 1183/2005 (“the Council Regulation”) of 18th July 2005 (OJ L 193 23.7.2005, p.1) imposes sanctions directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo. These include restrictive measures freezing the funds and economic resources of persons and entities listed in Annex I to the Council Regulation. Criminal penalties for the breach of the restrictive measures imposed by the Council Regulation are imposed in the UK by the Democratic Republic of the Congo (Asset-Freezing) Regulations 2012 (S.I. 2012/1511) (“the 2012 Regulations”).

Council Regulation (EU) No 2016/2230 of 12th December 2016 (OJ No L 336I, 12.12.2016, p.1) imposes additional restrictive measures against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo. These include restrictive measures freezing the funds and economic resources of persons listed in Annex Ia to the Council Regulation as inserted by Council Regulation (EU) No 2016/2230.

These Regulations amend the 2012 Regulations, to bring them into line with the amendments made to the Council Regulation and to update the enforcement provisions of the 2012 Regulations accordingly.

Regulation 2(2) amends the definitions of “Council Regulation” and “designated person” in regulation 2 of the 2012 Regulations to ensure they include reference to Annex Ia to the Council Regulation as inserted by Council Regulation (EU) No 2016/2230.

Regulation 2(3) amends regulation 3 of the 2012 Regulations to provide that the prohibition on dealing with funds or economic resources includes funds or economic resources owned, held or controlled by a third party acting on a designated person’s behalf or at their direction.

Regulation 2(4)(c) amends regulation 8 of the 2012 Regulations to add an exception to the prohibition in regulations 4 and 5 of the 2012 Regulations for payments due to Annex Ia designated persons under judicial, administrative or arbitral decisions rendered in the European Union or enforceable in the United Kingdom.

Regulation 2(4)(d) further amends regulation 8 of the 2012 Regulations to confirm that a frozen account includes an account which is owned, held or controlled by a third party acting on behalf of a designated person or at their direction.

An impact assessment has not been produced for this instrument as no significant impact on the costs of business and the voluntary sector is foreseen.

A list of designated persons is available at: www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets or can be obtained from the Office of Financial Sanctions Implementation, H.M. Treasury, 1 Horse Guards Road, London SW1A 2HQ.

Further information is available from the Office of Financial Sanctions Implementation at the above address and on H.M. Treasury website (www.gov.uk/government/organisations/hm-treasury).

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