

Explanatory Memorandum for Tynwald Members

Issued by the Treasury

To The Hon Stephen Rodan MLC, President of Tynwald and the Hon Council and Keys in Tynwald assembled

Tynwald – November 2020

1. TITLE OF MEASURE

The following 10 Regulations apply UK Statutory Instruments made under the Sanctions and Anti-Money Laundering Act 2018 (of Parliament) which will replace the existing EU Sanctions Regulations which currently have effect in the Island, as a consequence of the UK's departure from the European Union –

- Burundi Sanctions (Application) Regulations 2020
- Counter Terrorism Sanctions (Application) Regulations 2020
- Guinea Sanctions (Application) Regulations 2020
- Republic of Guinea-Bissau Sanctions (Application) Regulations 2020
- Chemical Weapons Sanctions (Application) Regulations 2020
- Cyber Sanctions (Application) Regulations 2020
- Bosnia and Herzegovina Sanctions (Application) Regulations 2020
- Nicaragua Sanctions (Application) Regulations 2020
- Lebanon Sanctions (Assassination of Rafiq Hariri and Others) (Application) Regulations 2020
- Mali Sanctions (Application) Regulations 2020.

2. CHANGES IN POLICY

The Isle of Man Government's policy in relation to sanctions:

"It is the policy of the Isle of Man Government to maintain the implementation of international sanctions measures in the Isle of Man in line with such measures as have effect in the United Kingdom from time to time."

The policy was revised in July 2019 in part to align more closely with UK policy on sanctions, as a consequence of the UK's departure from the EU.

3. EFFECTS OF THE MEASURES

The Regulations are being made for the purposes of compliance with United Nations obligations and other international purposes, such as the prevention of terrorism,

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national security, promoting international peace and security, promoting compliance with international human rights law and respect for human rights. There are no new sanctions regimes being introduced by these Regulations, they will replace, with substantially the same effect, the EU Sanctions Regulations which already have effect in the Island.

The Regulations provide that a person designated by the Secretary of State from time to time is a designated person for the purpose of the UK Sanctions Regulations as they have effect in the Island.

The effects of the Regulations are –

- the imposition of asset freezes on funds and economic resources of designated persons, and
- travel bans which banned designated persons from travelling to or via the IOM/UK.

The Regulations make provision in respect of exceptions and licences that may apply or be available, as the case may be, in respect of prohibitions and requirements under the regimes. For example, a designated person can apply for a licence from the Treasury allowing funds to be released in order to pay for essential goods or services such as food.

The Regulations also confer powers on the Treasury to deal with the contravention, or deemed contravention of the sanctions.

The Regulations also revoke a number of Orders and Regulations which previously applied EU sanctions law to the Island, and will no longer be required at the end of the implementation period.

4. REASONS FOR THE MEASURES

The Isle of Man currently implements United Nations and European Union financial and trade sanctions by virtue of the European Communities (Isle of Man) Act 1973, either through the direct application of EU Sanctions Regulations under section 2(1), or by the application of EU Sanctions Regulations under section 2A.

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At the end of the transition period, the UK will be introducing UK Sanctions Regulations made under the Sanctions and Anti-Money Laundering Act 2018 (of Parliament). As a result, the corresponding EU Sanctions Regulations which had previously applied automatically to the UK, will no longer have effect there.

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The policy was revised in July 2019 in part to align more closely with UK policy on sanctions, as a consequence of the UK's departure from the EU. The Foreign and Commonwealth Office have been liaising with the Cabinet Office and the Treasury with regard to the policy.

The Island had already taken steps to ensure that the financial and trade sanctions will continue to operate effectively post-transition by retaining direct EU Sanctions Regulations and making the appropriate modifications to the sanctions regimes; however, in order to be more closely aligned with the UK, it has been deemed appropriate and necessary to apply the new UK Sanctions Regulations to the Island.

The names of individuals and entities which are subject to the UK Sanctions Regulations will be published on gov.uk. Consequently, as a result of applying the UK Sanctions Regulations to the Island, the lists will also have effect in the Island, as they are amended from time to time. Although the lists are not expected to diverge significantly from the EU Sanctions Regulations that currently apply, there are anticipated to be some differences and therefore it is important that the Island stays in line with the UK to provide certainty to businesses and persons in the Island.

5. RESOURCE IMPLICATIONS

There are thought to be no resource implications arising directly from these Regulations. The Regulations have substantially the same effect as the EU Sanctions Regulations that are being replaced. The Customs and Excise Division intends to publish guidance on the changes to Island persons to ensure that they are aware of their obligations.

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6. TYNWALD PROCEDURE

The power to make these Regulations is contained in the European Union and Trade Act 2019. Regulations made under section 19 of that Act are made by the Council of Ministers and cannot come into operation until Tynwald have approved the Regulations.

These Regulations have been vetted by the Attorney General's Chambers following the normal process.