

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 – January 2021

1. TITLE OF MEASURE

The following 3 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 –

- Misappropriation Sanctions (Application) Regulations 2020
- Unauthorised Drilling in the Eastern Mediterranean Sanctions (Application) Regulations 2020
- Libya 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 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.

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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, including the Libyan Investment Authority and the Libyan Africa Investment Portfolio,
- travel bans which banned designated persons from travelling to or via the IOM/UK,
- trade sanctions in relation to Libya to restrict the trade in certain goods and technology, including military goods and goods that could be used for internal repression,
- in relation to Libya, shipping sanctions to prohibit the transport of Libyan oil on board UN-designated ships and prevent those designated ships from entering an Isle of Man port and related services, and
- in relation to Libya, aircraft sanctions to prohibit aircraft which are being used to transport military goods or armed personnel to any place in Libya from landing or overflying the Island.

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 and on maritime enforcement officers 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

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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.

The UK Sanctions Regulations made under the Sanctions and Anti-Money Laundering Act 2018 (of Parliament) came into force in the UK at the end of the transition period. As a result, the corresponding EU Sanctions Regulations which had previously applied automatically to the UK, no longer have effect there.

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. 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 are published on gov.uk. Consequently, as a result of applying the UK Sanctions Regulations to the Island, the lists also have effect in the Island, as they are amended from time to time. Although the lists do not diverge significantly from the EU Sanctions Regulations that previously applied, there are 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

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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 has been publishing guidance on the changes to Island persons to ensure that they are aware of their obligations.

6. TYNWALD PROCEDURE

The power to make these Regulations is contained in the European Union and Trade Act 2019. In the normal course of events, regulations made under sections 15 and 19 of that Act are made by the Council of Ministers and cannot come into operation until Tynwald have approved the Regulations. However, due to the time constraints there have been such as waiting for these 3 UK Sanctions Regulations to be published, the time to make the necessary modifications to work for the Island and time for the Attorney General's Chambers to properly review the Regulations, the Treasury requested that the Council of Ministers approve the use of the affirmative Tynwald procedure in this case.

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