
STATUTORY INSTRUMENTS

2019 No. 855

The Russia (Sanctions) (EU Exit) Regulations 2019

PART 9

Enforcement

Penalties for offences

80.—(1) A person who commits an offence under any provision of Part 3 (Finance), regulation 67 (finance: licensing offences), [^{F1}[^{F2}57 (Crimean ports direction, Donetsk ports direction or Kherson and Zaporizhzhia ports direction)], 57A (prohibition on port entry), 57B(4) (directions prohibiting port entry), 57C(3) (movement of ships) or 57N(1) to (4) (aircraft offences)] is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding [^{F3}the general limit in a magistrates' court] 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 5 (Trade) is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding [^{F4}the general limit in a magistrates' court] 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 9(6) [^{F5}or 9B(6)] (confidentiality), 68 (trade: licensing offences), [^{F6}68A (aircraft: licensing offences),] 76(6) (general trade licences: records) or 77(5) (general trade licences: inspection of records) is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding [^{F7}the general limit in a magistrates' court] 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 2 years or a fine (or both).

(4) A person who commits an offence under regulation [^{F8}57B(6) (directions prohibiting port entry: confidentiality), 57C(5) (movement of ships: confidentiality), 57N(5) (aircraft: confidentiality),] 70(6) [^{F9}, 70A(6)] or 74 (information offences in connection with Part 3) [^{F10}, or 77B (internet services: information offences)] 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 standard scale (or both).

(5) In relation to an offence committed before [^{F11}2nd May 2022] the reference in each of paragraphs (1)(a), (2)(a) and (3)(a) to [^{F12}the general limit in a magistrates' court] is to be read as a reference to 6 months.

Textual Amendments

- F1** Words in reg. 80(1) substituted (30.3.2022 at 5.00 p.m.) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 7) Regulations 2022 (S.I. 2022/395), regs. 1(2), **36(a)**
- F2** Words in reg. 80(1) substituted (20.6.2023) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2023 (S.I. 2023/665), regs. 1(2), **11**
- F3** Words in reg. 80(1)(a) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(2), **Sch. Pt. 2**
- F4** Words in reg. 80(2)(a) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(2), **Sch. Pt. 2**
- F5** Words in reg. 80(3) inserted (30.3.2022 at 5.00 p.m.) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 7) Regulations 2022 (S.I. 2022/395), regs. 1(2), **36(b)(i)**
- F6** Words in reg. 80(3) inserted (30.3.2022 at 5.00 p.m.) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 7) Regulations 2022 (S.I. 2022/395), regs. 1(2), **36(b)(ii)**
- F7** Words in reg. 80(3)(a) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(2), **Sch. Pt. 2**
- F8** Words in reg. 80(4) inserted (8.3.2022 at 5.00 p.m.) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 6) Regulations 2022 (S.I. 2022/241), regs. 1(2), **13(b)**
- F9** Word in reg. 80(4) inserted (26.12.2023) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023 (S.I. 2023/1364), regs. 1(2), **18**
- F10** Words in reg. 80(4) inserted (29.4.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 9) Regulations 2022 (S.I. 2022/477), regs. 1(2), **9**
- F11** Words in reg. 80(5) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(2), **Sch. Pt. 2**
- F12** Words in reg. 80(5) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(2), **Sch. Pt. 2**

Commencement Information

- I1** Reg. 80 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(2)

Liability of officers of bodies corporate etc.

81.—(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) 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.

Commencement Information

I2 Reg. 81 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

Jurisdiction to try offences

82.—(1) Where an offence under regulation 9(6) [^{F13}or 9B(6)] (confidentiality), Part 3 (Finance), [^{F14}regulation 46Z9B, 46Z9C or 46Z9D (maritime transportation of certain oil and oil products),]^{F15}regulation 54D (legal advisory services),] regulation 67 (finance: licensing offences) [^{F16}, 68A (aircraft: licensing offences)]^{F17},] regulation 70(6) or 74 (information offences in connection with Part 3) [^{F18}, or 77B (internet services: information offences)] 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—

- (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.

(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)^{M1}.

Textual Amendments

- F13** Words in reg. 82(1) inserted (30.3.2022 at 5.00 p.m.) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 7) Regulations 2022 (S.I. 2022/395), regs. 1(2), **37(a)**
- F14** Words in reg. 82(1) inserted (5.12.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 16) Regulations 2022 (S.I. 2022/1122), regs. 1(2), **12**
- F15** Words in reg. 82(1) inserted (30.6.2023) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2023 (S.I. 2023/713), regs. 1(2), **7**
- F16** Words in reg. 82(1) inserted (30.3.2022 at 5.00 p.m.) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 7) Regulations 2022 (S.I. 2022/395), regs. 1(2), **37(b)**
- F17** Reg. 82(1): comma substituted for word (29.4.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 9) Regulations 2022 (S.I. 2022/477), regs. 1(2), **10(a)**
- F18** Words in reg. 82(1) inserted (29.4.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 9) Regulations 2022 (S.I. 2022/477), regs. 1(2), **10(b)**

Commencement Information

- I3** Reg. 82 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(2)

Marginal Citations

- M1** 1995 c.46.

Procedure for offences by unincorporated bodies

83.—(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 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^{M2} and Schedule 3 to the Magistrates' Courts Act 1980^{M3};
 - (ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945^{M4} and Article 166 of, and Schedule 4 to, the Magistrates' Courts (Northern Ireland) Order 1981^{M5}.

(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.

Commencement Information

- I4** Reg. 83 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(2)

Marginal Citations

- M2** 1925 c.8, as amended by Statute Law (Repeals) Act 2004 (c.14), section 1(1) and (3) and Schedule 1(17)(11), para. 1. Other amendments have been made to section 33 that are not relevant to these Regulations.
- M3** 1980 c.43. Amendments have been made to Schedule 3 that are not relevant to these Regulations.
- M4** 1945 c.15 (N.I.).
- M5** S.I. 1981/1675 (N.I. 26).

Time limit for proceedings for summary offences

84.—(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 evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the prosecutor'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 as to the date on which the evidence in question came to the prosecutor'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) ^{M6} 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.

Commencement Information

- I5** Reg. 84 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

Marginal Citations

- M6** There have been no amendments to section 136(3).

Trade enforcement: application of CEMA

85.—(1) Where the Commissioners investigate or propose 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) of CEMA ^{M7}.

(3) In this regulation a “relevant offence” means an offence under—

- (a) Part 5 (Trade), [^{F19}except regulation 54D (legal advisory services), but only insofar as the offence under that regulation relates to legal advisory services concerning relevant activity which would be prohibited under any of regulations 11 to 19],

- [^{F20}(aa) regulation 67 (finance: licensing offences) but only insofar as the offence under that regulation relates to offences under regulations 46Z9B to 46Z9D (maritime transportation of certain oil and oil products),]
- (b) regulation 68 (trade: licensing offences),
- (c) regulation 76(6) (general trade licences: records), or
- (d) regulation 77(5) (general trade licences: inspection of records).

[^{F21}(3A) The Commissioners may not investigate the suspected commission of a relevant offence listed in paragraph (3B), unless the suspected offence has been the subject of—

- (a) a referral to the Commissioners by—
 - (i) the Secretary of State,
 - (ii) the Treasury, or
 - (iii) OFCOM, where such referral relates to a suspected offence under regulation 54A(4);
- (b) a decision by the Commissioners to treat the suspected offence as if it had been referred to them under sub-paragraph (a).

(3B) Paragraph (3A) applies to the suspected commission of a relevant offence under any of the following provisions—

- [regulation 24(3) insofar as it relates to the prohibition at regulation 24(1)(c);
^{F22}(za)
- (zb) regulation 29A(3);]
- ^{F23}(a)
- ^{F24}(b)
- (c) regulation 41(3);
- (d) regulation 45(3);
- [regulation 46A(4);]
- ^{F25}(da)
- (e) regulation 46B(4) insofar as it relates to the prohibition at regulation 46B(2)(a);
- [regulation 46BA(3) (technical assistance relating to luxury goods) insofar as the technical
^{F26}(ea) assistance provided relates to the supply or delivery of luxury goods from a third country to a place in Russia;
- (eb) regulation 46BB(3) (financial services and funds relating to luxury goods) insofar as it relates to the prohibition at—
 - (i) regulation 46BB(1)(b) and insofar as the financial services or funds provided relate to the supply or delivery of luxury goods from a third country to a place in Russia;
 - (ii) regulation 46BB(1)(c) and insofar as the financial services or funds provided relate to the supply or delivery of luxury goods from a third country to a place in Russia;
 - (iii) regulation 46BB(1)(d) and insofar as the financial services or funds provided relate to the provision of technical assistance for the supply or delivery of luxury goods from a third country to a place in Russia;
- (ec) regulation 46BC(4) (brokering services relating to luxury goods) insofar as it relates to the prohibition at—
 - (i) regulation 46BC(2)(b) and insofar as the brokering services provided relate to the supply or delivery of luxury goods from a third country to a place in Russia;

- (ii) regulation 46BC(2)(c) and insofar as the brokering services provided relate to the supply or delivery of luxury goods from a third country to a place in Russia;
- (iii) regulation 46BC(2)(d) and insofar as the brokering services provided relate to the provision of technical assistance for the supply or delivery of luxury goods from a third country to a place in Russia;]
- (f) regulation 46F(3);
- (g) regulation 46G(3) insofar as it relates to the prohibition at regulation 46G(1)(c);
- (h) regulation 46H(3) insofar as it relates to the prohibition at regulation 46H(1)(c);
[regulation 46II(3);]
- ^{F27}(ha)
(i) regulation 46K(3);
- (j) regulation 46N(4) insofar as it relates to the prohibition at regulation 46N(2)(a);
[regulation 46XD(3);]
- ^{F28}(ja)
(jb) regulation 46XE(3) insofar as it relates to the prohibition at 46XE(1)(c);
- (jc) regulation 46XF(3) insofar as it relates to the prohibition at 46XF(1)(c);]
- (k) regulation 46Y(4) insofar as it relates to the prohibition at regulation 46Y(2)(a);
- (l) regulation 46Z2(3) insofar as it relates to the prohibitions at regulation 46Z2(1)(e), (f) and (g);
- (m) regulation 46Z9B(8);
- (n) regulation 46Z9B(9);
- (o) regulation 46Z9C(4);
- (p) regulation 46Z9C(5);
- (q) regulation 46Z9D(4);
- (r) regulation 46Z9D(5);
[regulation 46Z16L(3) insofar as the acquisition does not relate to the import of diamonds
- ^{F29}(ra) or diamond jewellery;
- (rb) regulation 46Z16M(3);
- (rc) regulation 46Z16N(3) insofar as it relates to the prohibitions at regulation 46Z16N(1)(b) and (c);
- (rd) regulation 46Z16O(3) insofar as it relates to the prohibitions at regulation 46Z16O(1)(b) and (c);
- (re) regulation 46Z16P(3) insofar as the brokering services provided relate to any arrangements described in regulation 46Z16O(1)(b) or (c);]
- (s) regulation 46Z30(4) insofar as it relates to the prohibition at regulation 46Z30(2)(a);
- (t) regulation 46Z33(3) insofar as it relates to the prohibitions at regulation 46Z33(1)(e), (f) and (g);
- (u) regulation 49(3);
- (v) regulation 53(3);
- (w) regulation 54(3);
- (x) regulation 54A(4);
- (y) regulation 54C(3);

- (z) regulation 54D(4);
- (z1) regulation 67(1);
- (z2) regulation 67(2).

[^{F30}(3BA) In paragraph (3B)(ea) to (ec), “third country” means a country that is not the United Kingdom, the Isle of Man or Russia.

(3BB) Paragraph (3A) also applies to the suspected commission of a relevant offence under regulation 55(2), insofar as the activity to which the suspected offence relates is the circumvention of, or enabling or facilitation of a contravention of, a prohibition in relation to an offence specified in paragraph (3B).]

(3C) [^{F31}Paragraph (3A)] also applies to the suspected commission of a relevant offence under any of regulations 68(1), [^{F32}68(2),] 76(6) and 77(5) insofar as—

- (a) the suspected offence relates to a licence issued under regulation 65, and
- (b) the prohibited activity authorised by that licence would, if no licence had been issued, amount to an offence specified in paragraph (3B)(a) to (z).]

(4) Section 138 of CEMA ^{M8} (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 mentioned in paragraph (3)(a) to (d);
- (b) in section 145(6), 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;
- (c) in section 151, 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)—
 - (i) the reference to proceedings relating to customs or excise were to proceedings under any of the provisions mentioned in paragraph (3)(a) to (d), 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 ^{M9} (legal proceedings).

Textual Amendments

F19 Words in reg. 85(3)(a) inserted (30.6.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 3\) Regulations 2023 \(S.I. 2023/713\)](#), regs. 1(2), **8(a)**

- F20** Reg. 85(3)(aa) inserted (5.12.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 16) Regulations 2022 (S.I. 2022/1122), regs. 1(2), **13**
- F21** Reg. 85(3A)-(3C) inserted (30.6.2023) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2023 (S.I. 2023/713), regs. 1(2), **8(b)**
- F22** Reg. 85(3B)(za)(zb) inserted (15.12.2023) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023 (S.I. 2023/1364), regs. 1(3), **19(2)(a)**
- F23** Reg. 85(3B)(a) omitted (15.12.2023) by virtue of The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023 (S.I. 2023/1364), regs. 1(3), **19(2)(b)**
- F24** Reg. 85(3B)(b) omitted (15.12.2023) by virtue of The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023 (S.I. 2023/1364), regs. 1(3), **19(2)(b)**
- F25** Reg. 85(3B)(da) inserted (15.12.2023) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023 (S.I. 2023/1364), regs. 1(3), **19(2)(c)**
- F26** Reg. 85(3B)(ea)-(ec) inserted (15.12.2023) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023 (S.I. 2023/1364), regs. 1(3), **19(2)(d)**
- F27** Reg. 85(3B)(ha) inserted (15.12.2023) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023 (S.I. 2023/1364), regs. 1(3), **19(2)(e)**
- F28** Reg. 85(3B)(ja)-(jc) inserted (15.12.2023) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023 (S.I. 2023/1364), regs. 1(3), **19(2)(f)**
- F29** Reg. 85(3B)(ra)-(re) inserted (1.1.2024) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 5) Regulations 2023 (S.I. 2023/1367), regs. 1(2), **6**
- F30** Reg. 85(3BA)(3BB) inserted (15.12.2023) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023 (S.I. 2023/1364), regs. 1(3), **19(3)**
- F31** Words in reg. 85(3C) substituted (15.12.2023) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023 (S.I. 2023/1364), regs. 1(3), **19(4)(a)**
- F32** Word in reg. 85(3C) inserted (15.12.2023) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023 (S.I. 2023/1364), regs. 1(3), **19(4)(b)**

Commencement Information

- I6** Reg. 85 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(2)

Marginal Citations

- M7** The definition of “assigned matter” in section 1(1) of CEMA was amended by the Commissioners for Revenue and Customs Act 2005 (c.11), **Schedule 4**, paragraph 22(a), the Scotland Act 2012 (c. 11), **section 24(7)**, the Wales Act 2014 (c.29), **section 7(1)**.
- M8** Section 138 of CEMA was amended by; the Police and Criminal Evidence Act 1984 (c. 60), section 114(1), **Schedule 6**, paragraph 37, and Part 1 of Schedule 7;, the Finance Act 1988 (c. 39), **section 11**; the Serious and Organised Crime Act 2005 (c. 15), **Part 4** of Schedule 7, paragraph 54.; S.I 1989/1341; and S.I. 2007/288.
- M9** Section 145 of CEMA was amended by the Police and Criminal Evidence Act 1984, section 114(1), the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraph 23(a), and S.I. 2014/834. Section 147 was amended by the Criminal Justice Act 1982 (c. 48), **Schedule 14**, paragraph 42, the Finance Act 1989, section 16(2), and the Criminal Justice Act 2003, Part 2 of Schedule 3, paragraph 50. Section 152 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraph 26, and Schedule 5. Section 155 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule, 4, paragraph 27, and Schedule 5.

Trade offences in CEMA: modification of penalty

86.—(1) Paragraph (2) applies where a person is guilty of an offence under section 50(2) of CEMA in connection with a prohibition mentioned in regulations 23 [F33, 46D][F34, 46IB][F35,

46S]^{F36}, 46XB]^{F37}, 46Z4, 46Z11, [^{F38}46Z16B, [^{F39}46Z16C,]] 46Z18]^{F40}, 46Z25]^{F41} 46T] or 47(1) (imports).

(2) Where this paragraph applies, the reference to 7 years in section 50(4)(b) of CEMA ^{M10} is to be read as a reference to 10 years.

(3) Paragraph (4) applies where a person is guilty of an offence under section 68(2) of CEMA in connection with a prohibition mentioned in regulations 22(1), ^{F42}... [^{F43}30B, 40(1), 46B(1), 46N(1),]^{F44}46Y(1)] or 48 (exports).

(4) Where this paragraph applies, the reference to 7 years in section 68(3)(b) of CEMA ^{M11} is to be read as a reference to 10 years.

(5) Paragraph (6) applies where a person is guilty of an offence under section 170(2) of CEMA in connection with a prohibition mentioned in regulation 22(1), 23, ^{F45}... [^{F46}30B, 40(1), 46B(1), 46D, 46N(1), 46S]^{F47}, 46XB], [^{F48}46Y(1), 46Z4, 46Z11, [^{F49}46Z18,]] 47(1) or 48 (exports and imports).

(6) Where this paragraph applies, the reference to 7 years in section 170(3)(b) of CEMA ^{M12} is to be read as a reference to 10 years.

Textual Amendments

- F33** Word in reg. 86(1) inserted (14.4.2022 at 5.00 p.m.) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 8) Regulations 2022 (S.I. 2022/452), regs. 1(2), **8(a)**
- F34** Word in reg. 86(1) inserted (30.9.2023) by The Russia (Sanctions) (EU Exit) (Amendment) Regulations 2023 (S.I. 2023/440), regs. 1(3), **3(2)**
- F35** Word in reg. 86(1) inserted (15.7.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 11) Regulations 2022 (S.I. 2022/792), regs. 1(2), **11(2)** (with reg. 13)
- F36** Word in reg. 86(1) inserted (21.4.2023) by The Russia (Sanctions) (EU Exit) (Amendment) Regulations 2023 (S.I. 2023/440), regs. 1(2), **12(a)**
- F37** Words in reg. 86(1) inserted (21.7.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 14) Regulations 2022 (S.I. 2022/850), regs. 1(2), **24(a)**
- F38** Words in reg. 86(1) inserted (29.10.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 15) Regulations 2022 (S.I. 2022/1110), regs. 1(2)(b), **9(a)**
- F39** Word in reg. 86(1) substituted (16.12.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 17) Regulations 2022 (S.I. 2022/1331), reg. 1(2)(b), **Sch. 4 para. 8(a)(i)**
- F40** Word in reg. 86(1) substituted (16.12.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 17) Regulations 2022 (S.I. 2022/1331), reg. 1(2)(b), **Sch. 4 para. 8(a)(ii)**
- F41** Words in reg. 86(1) inserted (23.6.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 10) Regulations 2022 (S.I. 2022/689), regs. 1(2), **11(2)**
- F42** Word in reg. 86(3) omitted (1.3.2022) by virtue of The Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2022 (S.I. 2022/195), regs. 1(2), **8** (with reg. 11)
- F43** Words in reg. 86(3) substituted (15.7.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 11) Regulations 2022 (S.I. 2022/792), regs. 1(2), **11(3)** (with reg. 13)
- F44** Word in reg. 86(3) inserted (21.7.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 14) Regulations 2022 (S.I. 2022/850), regs. 1(2), **24(b)**
- F45** Word in reg. 86(5) omitted (1.3.2022) by virtue of The Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2022 (S.I. 2022/195), regs. 1(2), **8** (with reg. 11)
- F46** Words in reg. 86(5) substituted (15.7.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 11) Regulations 2022 (S.I. 2022/792), regs. 1(2), **11(4)** (with reg. 13)
- F47** Word in reg. 86(5) inserted (21.4.2023) by The Russia (Sanctions) (EU Exit) (Amendment) Regulations 2023 (S.I. 2023/440), regs. 1(2), **12(b)**
- F48** Words in reg. 86(5) inserted (21.7.2022) by The Russia (Sanctions) (EU Exit) (Amendment) (No. 14) Regulations 2022 (S.I. 2022/850), regs. 1(2), **24(c)**

F49 Word in [reg. 86\(5\)](#) substituted (16.12.2022) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 17\) Regulations 2022 \(S.I. 2022/1331\)](#), [reg. 1\(2\)\(b\)](#), [Sch. 4 para. 8\(b\)](#)

Commencement Information

I7 Reg. 86 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M10 The words “7 years” were inserted in section 50(4)(b) of CEMA by the Finance Act 1988, section 12.
M11 The words “7 years” were inserted in section 68(3)(b) of CEMA by the Finance Act 1988, section 12.
M12 The words “7 years” were inserted in section 170(3)(b) of CEMA by the Finance Act 1988, section 12.

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

87. Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005 (investigatory powers)^{M13} applies to any offence under Part 3 (Finance) [^{F50}, regulations 46Z9B to 46Z9D (maritime transportation of certain oil and oil products)] [^{F51}, regulation 54D (legal advisory services)] or regulation 67 (finance: licensing offences).

Textual Amendments

F50 Words in [reg. 87](#) inserted (5.12.2022) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 16\) Regulations 2022 \(S.I. 2022/1122\)](#), [regs. 1\(2\)](#), [14](#)
F51 Words in [reg. 87](#) inserted (30.6.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 3\) Regulations 2023 \(S.I. 2023/713\)](#), [regs. 1\(2\)](#), [9](#)

Commencement Information

I8 Reg. 87 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M13 [2005 c.15](#), as amended by Schedule 3, para. 4 of the Act.

Monetary penalties

88. Each provision in Part 5 (Trade) which contains a prohibition imposed for a purpose mentioned in section 3(1) or (2) of the Act [^{F52}and regulation 70A (designated persons: reporting obligations) are] to be regarded as not being financial sanctions legislation for the purposes of Part 8 of the Policing and Crime Act 2017^{M14}.

Textual Amendments

F52 Words in [reg. 88](#) substituted (26.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), [regs. 1\(2\)](#), [20](#)

Commencement Information

I9 Reg. 88 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M14 2017 c.3; see [section 143\(4\)\(f\)](#) and (4A).

[^{F53}OFCOM: power to impose monetary penalties

88A.—(1) OFCOM may impose a monetary penalty on a person if they are satisfied, on the balance of probabilities, that—

- (a) the person has failed to comply with a requirement that is imposed under regulation 54A (internet services), or
- (b) the person has failed to comply with an obligation that is imposed by or under regulation 77A (internet services: power to request information and produce documents).

(2) The amount of the penalty is to be such amount as OFCOM may determine, not exceeding £1,000,000.

(3) Any monetary penalty payable under this regulation is recoverable by OFCOM as a civil debt.

(4) Any monetary penalty received by OFCOM by virtue of this regulation must be paid into the Consolidated Fund.

Textual Amendments

F53 [Regs. 88A, 88B](#) inserted (29.4.2022) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 9\) Regulations 2022 \(S.I. 2022/477\)](#), regs. 1(2), **11**

OFCOM: monetary penalties: procedural rights

88B.—(1) Before imposing a monetary penalty on a person under regulation 88A, OFCOM must inform the person of their intention to do so.

(2) OFCOM must also—

- (a) explain the grounds for imposing the penalty,
- (b) specify the amount of the penalty,
- (c) explain that the person is entitled to make representations, and
- (d) specify the period within which any such representations must be made.

(3) If (having considered any representations), OFCOM decides to impose the penalty, OFCOM must inform the person of their decision.

(4) A person to which the decision relates may appeal to the Upper Tribunal against the decision.

(5) On an appeal under paragraph (4), the Upper Tribunal may—

- (a) dismiss the appeal,
- (b) quash OFCOM's decision to impose the penalty, or
- (b) uphold that decision but substitute a different amount for the amount determined by OFCOM.]

Textual Amendments

F53 [Regs. 88A, 88B](#) inserted (29.4.2022) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 9\) Regulations 2022 \(S.I. 2022/477\)](#), regs. 1(2), **11**

[^{F54}Treasury: power to impose monetary penalties

88C.—(1) The Treasury may impose a monetary penalty on a person if they are satisfied, on the balance of probabilities, that the person has committed an offence under regulation 46Z9B, 46Z9C or 46Z9D (maritime transportation of certain oil and oil products).

[
^{F55}(1A) The Treasury may impose a monetary penalty on a person if they are satisfied, on the balance of probabilities, that the person has committed an offence under regulation 70A (designated persons: reporting obligations).]

(2) For the purposes of paragraph (1), any defence that the person did not know and had no reasonable cause to suspect that an offence referred to in that paragraph had been committed is to be ignored.

[
^{F56}(2A) For the purposes of paragraph (1A), any requirement for the person to have acted without reasonable excuse, or with knowledge or recklessness, is to be ignored.]

(3) The Treasury may impose a monetary penalty on a person if they are satisfied, on the balance of probabilities, that the person has committed an offence under—

- (a) regulation 55 (circumventing etc. prohibitions);
- (b) regulation 67 (licensing offences);
- (c) regulation 70(6) (reporting obligations); or
- (d) regulation 74 (information offences),

in so far as the relevant activity relates to an offence referred to in paragraph (1).

(4) In paragraph (3), “relevant activity” means an activity which contravenes a prohibition specified in sub-paragraph (a), (b), (c) or (d) of that paragraph.

(5) The amount of the penalty under paragraph (1) [^{F57}, (1A)] or (3) is to be such amount as the Treasury may determine but it may not exceed the permitted maximum.

(6) Where it is possible to estimate the value of the breach of the prohibition specified in paragraph (1) or (3), the permitted maximum is the greater of—

- (a) £1,000,000, and
- (b) 50% of the estimated value of the breach.

[
^{F58}(6A) Where it is possible to estimate the value of the funds or economic resources which the Treasury have not been informed of under regulation 70A(1), (2) or (5) (as the case may be), the permitted maximum is the greater of—

- (a) £1,000,000, and
- (b) 50% of the value of the funds or economic resources which the Treasury have not been informed of.]

(7) In any other case, the permitted maximum is £1,000,000.

(8) Any monetary penalty payable under this regulation is recoverable by the Treasury as a civil debt.

(9) Any monetary penalty received by the Treasury by virtue of this regulation must be paid into the Consolidated Fund.

(10) The Treasury may publish reports at such intervals as it considers appropriate in cases where—

- (a) a monetary penalty has not been imposed under this regulation; but

- (b) the Treasury [^{F59}are satisfied], on the balance of probabilities, that a person has committed an offence under a provision referred to in paragraph (1) [^{F60}, (1A)] or (3).

Textual Amendments

- F54** Regs. 88C, 88D inserted (5.12.2022) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 16\) Regulations 2022 \(S.I. 2022/1122\)](#), regs. 1(2), **15**
- F55** Reg. 88C(1A) inserted (26.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(2), **21(2)**
- F56** Reg. 88C(2A) inserted (26.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(2), **21(3)**
- F57** Word in reg. 88C(5) inserted (26.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(2), **21(4)**
- F58** Reg. 88C(6A) inserted (26.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(2), **21(5)**
- F59** Words in reg. 88C(10)(b) substituted (26.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(2), **21(6)(a)**
- F60** Word in reg. 88C(10)(b) inserted (26.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(2), **21(6)(b)**

Treasury monetary penalties: procedural rights

88D.—(1) Before imposing a monetary penalty on a person under regulation 88C, the Treasury must inform the person of its intention to do so.

(2) The Treasury must also—

- (a) explain the grounds for imposing the penalty;
- (b) specify the amount of the penalty;
- (c) explain that the person is entitled to make representations; and
- (d) specify the period within which any such representations must be made.

(3) If (having considered any representations), the Treasury decides to impose the penalty, the Treasury must—

- (a) inform the person of its decision;
- (b) explain that the person is entitled to seek a review by a Minister of the Crown; and
- (c) specify the period within which the person must inform the Treasury that the person wishes to seek such a review.

(4) If the person seeks a review, the Minister may—

- (a) uphold the decision to impose the penalty and its amount;
- (b) uphold the decision to impose the penalty but substitute a different amount; or
- (c) cancel the decision to impose the penalty.

(5) If on a review under paragraph (4) the Minister decides to uphold the Treasury's decision to impose the penalty and its amount, or to uphold the Treasury's decision to impose the penalty but to substitute a different amount, the person may appeal (on any ground) to the Upper Tribunal.

(6) On an appeal under paragraph (5), the Upper Tribunal may quash the Minister's decision and if it does so may—

- (a) quash the Treasury's decision to impose the penalty;

- (b) uphold that decision but substitute a different amount for the amount determined by the Treasury (or, in a case where the Minister substituted a different amount, by the Minister).
- (7) In this regulation, “Minister of the Crown” means the holder of an office in His Majesty’s Government in the United Kingdom.]

Textual Amendments

- F54** Regs. 88C, 88D inserted (5.12.2022) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 16\) Regulations 2022 \(S.I. 2022/1122\)](#), regs. 1(2), **15**

Changes to legislation:

There are currently no known outstanding effects for the The Russia (Sanctions) (EU Exit) Regulations 2019, PART 9.