

2020 No. 1233

EXITING THE EUROPEAN UNION

SANCTIONS

**The Syria (United Nations Sanctions) (Cultural Property) (EU
Exit) Regulations 2020**

Made - - - - - *5th November 2020*

Laid before Parliament *9th November 2020*

Coming into force in accordance with regulation 1(2)

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The Secretary of State(a), in exercise of the powers conferred by sections 1(1)(a) and (3)(a), 5, 15(2)(a) and (6), 16, 17, 19, 20, 21(1), 54(1) and (2), and 56(1) of, and paragraphs 16(a) and (b)

(a) The power to make regulations under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 is conferred on an “appropriate Minister”. Section 1(9)(a) of the Act defines an “appropriate Minister” as including the Secretary of State.

and 27 of Schedule 1 to, the Sanctions and Anti-Money Laundering Act 2018^(a), and having decided, upon consideration of the matters set out in section 56(1) of that Act, that it is appropriate to do so, makes the following Regulations:

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Syria (United Nations Sanctions) (Cultural Property) (EU Exit) Regulations 2020.

(2) These Regulations come into force in accordance with regulations made by the Secretary of State under section 56 of the Act.

Interpretation

2. In these Regulations—

“the Act” means the Sanctions and Anti-Money Laundering Act 2018;

“arrangement” includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable;

“CEMA” means the Customs and Excise Management Act 1979^(b);

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“conduct” includes acts and omissions;

“document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include producing a copy of the information in legible form;

“resolution 2199” means resolution 2199 (2015) adopted by the Security Council on 12 February 2015;

“United Kingdom person” has the same meaning as in section 21 of the Act.

Application of prohibitions and requirements outside the United Kingdom

3.—(1) A United Kingdom person may contravene a relevant prohibition by conduct wholly or partly outside the United Kingdom.

(2) Any person may contravene a relevant prohibition by conduct in the territorial sea.

(3) In this regulation, a “relevant prohibition” means any prohibition imposed by Part 2 (Trade).

(4) A United Kingdom person may comply, or fail to comply, with a relevant requirement by conduct wholly or partly outside the United Kingdom.

(5) Any person may comply, or fail to comply, with a relevant requirement by conduct in the territorial sea.

(6) In this regulation, a “relevant requirement” means any requirement imposed by or under Part 4 (Information and records), or by reason of a request made under a power conferred by that Part.

(7) Nothing in this regulation is to be taken to prevent a relevant prohibition or a relevant requirement from applying to conduct (by any person) in the United Kingdom.

(a) 2018 c.13.

(b) 1979 c.2. Amendments have been made to this Act and are cited, where relevant, in respect of the applicable regulations.

Purpose

4. The purpose of the regulations contained in this instrument that are made under section 1 of the Act is compliance with the obligations that the United Kingdom has by virtue of paragraph 17 of resolution 2199.

PART 2

Trade

CHAPTER 1

Interpretation

Definition of illegally removed Syrian cultural property

5.—(1) In this Part, “illegally removed Syrian cultural property” means Syrian cultural property or any other item of archaeological, historical, cultural, rare scientific or religious importance illegally removed from any location in Syria on or after 15 March 2011.

(2) For the purposes of paragraph (1), an item is considered to be “illegally removed” if it has been removed from Syria in contravention of the law of any country or territory applicable to the removal which was in force at the time of the removal, including, in particular—

- (a) the laws of Syria;
- (b) the law of a part of the United Kingdom.

Interpretation of other expressions used in this Part

6.—(1) Paragraphs 32 to 35 of Schedule 1 to the Act (trade sanctions) apply for the purpose of interpreting expressions in this Part.

(2) In this Part, any reference to the United Kingdom includes a reference to the territorial sea.

(3) In this Part—

“brokering service” means any service to secure, or otherwise in relation to, an arrangement, including (but not limited to)—

- (a) the selection or introduction of persons as parties or potential parties to the arrangement,
- (b) the negotiation of the arrangement,
- (c) the facilitation of anything that enables the arrangement to be entered into, and
- (d) the provision of any assistance that in any way promotes or facilitates the arrangement.

CHAPTER 2

Illegally removed Syrian cultural property

Export and import of illegally removed Syrian cultural property

7.—(1) The export of illegally removed Syrian cultural property is prohibited.

(2) The import of illegally removed Syrian cultural property is prohibited.

(3) Paragraphs (1) and (2) are subject to Part 3 (Exceptions).

Supply and delivery of illegally removed Syrian cultural property

8.—(1) A person must not directly or indirectly supply or deliver illegally removed Syrian cultural property from a third country to any other third country.

(2) Paragraph (1) is subject to Part 3 (Exceptions).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the goods were illegally removed Syrian cultural property.

(4) In this regulation, “third country” means a country that is not the United Kingdom or the Isle of Man.

Making available and acquisition of illegally removed Syrian cultural property

9.—(1) A person must not directly or indirectly—

- (a) make available illegally removed Syrian cultural property to another person;
- (b) acquire illegally removed Syrian cultural property from another person.

(2) Paragraph (1) is subject to Part 3 (Exceptions).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the goods were illegally removed Syrian cultural property.

Financial services and funds relating to illegally removed Syrian cultural property

10.—(1) A person must not directly or indirectly provide to another person financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export of illegally removed Syrian cultural property,
- (b) the import of illegally removed Syrian cultural property,
- (c) the direct or indirect supply or delivery of illegally removed Syrian cultural property, or
- (d) the direct or indirect making of illegally removed Syrian cultural property available to a person.

(2) Paragraph (1) is subject to Part 3 (Exceptions).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the financial services or funds were provided in pursuance of or in connection with an arrangement mentioned in that paragraph.

Brokering services: non-UK activity relating to illegally removed Syrian cultural property

11.—(1) A person must not directly or indirectly provide brokering services in relation to an arrangement (“arrangement A”) whose object or effect is—

- (a) the direct or indirect supply or delivery of illegally removed Syrian cultural property from a third country to any other third country,
- (b) the direct or indirect making available of illegally removed Syrian cultural property to a person in a third country, or
- (c) the direct or indirect provision, in a non-UK country, of financial services or funds, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 10(1).

(2) Paragraph (1) is subject to Part 3 (Exceptions).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the brokering services were provided in pursuance of or in connection with an arrangement mentioned in that paragraph.

(4) In this regulation—

- (a) “non-UK country” means a country that is not the United Kingdom;
- (b) “third country” means a country that is not the United Kingdom or the Isle of Man.

Holding or controlling illegally removed Syrian cultural property

12.—(1) A person who holds or controls illegally removed Syrian cultural property must secure its transfer to a constable.

(2) Paragraph (1) is subject to Part 3 (Exceptions).

(3) A person who fails to comply with the requirement in paragraph (1) commits an offence, but it is a defence for a person charged with that offence (“P”) to show that P did not know and had no reasonable cause to suspect that the goods held or controlled by P were illegally removed Syrian cultural property.

CHAPTER 3

Further provision

Circumventing etc. prohibitions

13.—(1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

(a) to circumvent any of the prohibitions in Chapter 2 of this Part, or

(b) to enable or facilitate the contravention of any such prohibition.

(2) A person who contravenes a prohibition in paragraph (1) commits an offence.

Defences

14.—(1) Paragraph (2) applies where a person relies on a defence under Chapter 2 of this Part.

(2) If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

PART 3

Exceptions

Exception for the return of Syrian cultural property

15. The prohibitions in Chapter 2 of Part 2 (Trade) are not contravened by any thing done to facilitate the safe return of items to their legitimate owners in Syria in accordance with the objectives of paragraph 17 of resolution 2199.

Exception for acts done for purposes of national security or prevention of serious crime

16.—(1) Where an act would, in the absence of this paragraph, be prohibited by any prohibition in Part 2 (Trade), that prohibition does not apply to the act if the act is one which a responsible officer has determined would be in the interests of—

(a) national security, or

(b) the prevention or detection of serious crime in the United Kingdom or elsewhere.

(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 4 (Information and records) or Part 6 (Maritime enforcement), that requirement does not apply if a responsible officer has determined that not doing the thing in question would be in the interests of—

(a) national security, or

(b) the prevention or detection of serious crime in the United Kingdom or elsewhere.

(3) In this regulation “responsible officer” means a person in the service of the Crown or holding office under the Crown, acting in the course of that person’s duty.

(4) Nothing in this regulation affects the application of a prohibition or requirement in a case where it would be incompatible with a UN obligation^(a) for the prohibition or requirement not to apply.

PART 4

Information and records

Trade: application of information powers in CEMA

17.—(1) Section 77A of CEMA^(b) applies in relation to a person carrying on a relevant activity as it applies in relation to a person concerned in the importation or exportation of goods but as if—

- (a) in subsection (1), the reference to a person concerned in the importation or exportation of goods for which for that purpose an entry is required by regulation 5 of the Customs Controls on Importation of Goods Regulations 1991^(c) or an entry or specification is required by or under CEMA were to a person carrying on a relevant activity;
- (b) any other reference to importation or exportation were to a relevant activity;
- (c) any other reference to goods were to the goods, services or funds to which the relevant activity relates.

(2) For the purposes of paragraph (1), a “relevant activity” means an activity which would, unless done pursuant to regulation 15 (exception for the return of Syrian cultural property) or 16 (exception for acts done for purposes of national security or prevention of serious crime), constitute a contravention of—

- (a) any prohibition in Chapter 2 of Part 2 (Trade) except any prohibition on imports or exports, or
- (b) the prohibition in regulation 13 (circumventing etc. prohibitions).

Disclosure of information

18.—(1) The Secretary of State or the Commissioners may, in accordance with this regulation, disclose—

- (a) any information obtained under or by virtue of Part 3 (Exceptions), this Part or Part 6 (Maritime enforcement), or
- (b) any information held in connection with—
 - (i) anything done under or by virtue of Part 2 (Trade), or
 - (ii) any exception under Part 3 or anything done in accordance with such an exception.

(2) Information referred to in paragraph (1) may be disclosed for, or in connection with, any of the following purposes—

- (a) the purpose stated in regulation 4 (purpose);
- (b) the exercise of functions under these Regulations;
- (c) facilitating, monitoring or ensuring compliance with these Regulations;
- (d) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the United Kingdom—
 - (i) for an offence under any provision of these Regulations,

(a) Section 1(8) of the Sanctions and Anti-Money Laundering Act 2018 defines a “UN obligation” as an obligation that the United Kingdom has by virtue of a UN Security Council Resolution. UN Security Council Resolution is also defined in section 1(8).

(b) 1979 c.2. Section 77A was inserted by the Finance Act 1987 (c.16), section 10 and amended by S.I. 1992/3095.

(c) S.I. 1991/2724 is amended by S.I. 1992/3095; S.I. 1993/3014; and S.I. 2011/1043 and it is prospectively revoked by S.I. 2018/1247.

- (ii) for an offence under CEMA in connection with a prohibition in regulation 7(1) and (2) (exports and imports);
 - (e) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in any of the Channel Islands, the Isle of Man or any British overseas territory for an offence—
 - (i) under a provision in any such jurisdiction that is similar to a provision of these Regulations, or
 - (ii) in connection with a prohibition in any such jurisdiction that is similar to a prohibition referred to in sub-paragraph (d)(ii);
 - (f) compliance with an international obligation^(a);
 - (g) facilitating the exercise by an authority outside the United Kingdom or by an international organisation of functions which correspond to functions under these Regulations.
- (3) Information referred to in paragraph (1) may be disclosed to the following persons—
- (a) a police officer;
 - (b) any person holding or acting in any office under or in the service of—
 - (i) the Crown in right of the Government of the United Kingdom,
 - (ii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government,
 - (iii) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark,
 - (iv) the Government of the Isle of Man, or
 - (v) the Government of any British overseas territory;
 - (c) any law officer of the Crown for Jersey, Guernsey or the Isle of Man;
 - (d) the Scottish Legal Aid Board;
 - (e) the Financial Conduct Authority, the Prudential Regulation Authority, the Bank of England, the Jersey Financial Services Commission, the Guernsey Financial Services Commission or the Isle of Man Financial Services Authority;
 - (f) any other regulatory body (whether or not in the United Kingdom);
 - (g) any organ of the United Nations;
 - (h) the Council of the European Union, the European Commission or the European External Action Service;
 - (i) the Government of any country;
 - (j) any other person where the Secretary of State or the Commissioners (as the case may be) consider that it is appropriate to disclose the information.

(4) Information referred to in paragraph (1) may be disclosed to any person with the consent of a person who, in their own right, is entitled to the information.

(5) In paragraph (4) “in their own right” means not merely in the capacity as a servant or agent of another person.

(6) In paragraph (1)(b) the reference to information includes information obtained at a time when any provision of these Regulations is not in force.

Part 4: supplementary

19.—(1) A disclosure of information under regulation 18 (disclosure of information) does not breach any restriction on such disclosure imposed by statute or otherwise.

(2) But nothing in that regulation authorises a disclosure that—

(a) Section 1(8) of the Sanctions and Anti-Money Laundering Act 2018 defines an “international obligation” as an obligation of the United Kingdom created or arising by or under any international agreement.

- (a) contravenes the data protection legislation, or
- (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016(a).

(3) Nothing in this Part is to be read as requiring a person who has acted or is acting as counsel or solicitor for any person to disclose any privileged information in their possession in that capacity.

(4) Regulation 18 does not limit the circumstances in which information may be disclosed apart from that regulation.

(5) In this regulation—

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act)(b);

“privileged information” means information with respect to which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

PART 5

Enforcement

Penalties for offences

20.—(1) A person who commits an offence under any provision of Part 2 (Trade) is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months 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).

(2) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003(c) comes into force, the reference in paragraph (1)(a) to 12 months is to be read as a reference to 6 months.

Liability of officers of bodies corporate etc.

21.—(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.

(a) 2016 c.25. Amendments have been made by the Policing and Crime Act 2017, Schedule 9, paragraph 74; the Data Protection Act 2018 (c.12), Schedule 19, paragraphs 198-203; the Counter-Terrorism and Border Security Act 2019 (c. 3) Schedule 4, paragraph 33; the Sanctions and Anti-Money Laundering Act 2018, section 59(4), Schedule 3, paragraph 7; the Crime (Overseas Production Orders) Act 2019 (c. 5) section 16; S.I. 2018/378; S.I. 2018/652; S.I. 2018/905; S.I. 2018/1123; S.I. 2019/419; S.I. 2019/742; S.I. 2019/939; S.I. 2020/661. Saving provisions are made by S.I. 2017/859.

(b) 2018 c.12. There are amendments to this Act but none are relevant to these Regulations.

(c) 2003 c.44. Amendments have been made to section 154(1), but none are relevant to these Regulations.

(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.

Procedure for offences by unincorporated bodies

22.—(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(a) and Schedule 3 to the Magistrates’ Courts Act 1980(b);
 - (ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945(c) and Article 166 of, and Schedule 4 to, the Magistrates’ Courts (Northern Ireland) Order 1981(d).

(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.

Time limit for proceedings for summary offences

23.—(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) 1925 c.86. Section 33 was amended by the Statute Law (Repeals) Act 2004 (c.14), section 1(1) and Schedule 1, Part 17. Other amendments have been made to section 33 that are not relevant to these Regulations.
(b) 1980 c.43. Amendments have been made to Schedule 3 that are not relevant to these Regulations.
(c) 1945 c.15 (N.I.).
(d) S.I. 1981/1675 (N.I. 26).

- (a) section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date of commencement of summary proceedings)(a) 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.

Trade enforcement: application of CEMA

24.—(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(b).

(3) In this regulation a “relevant offence” means an offence under Part 2 (Trade).

(4) Section 138 of CEMA(c) (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(d), 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 in Part 2;
- (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 in Part 2, 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.

(6) The provisions of CEMA are sections 145, 146, 147, 148(1), 150, 151, 152, 154 and 155(e) (legal proceedings).

(a) 1995 c.46.

(b) 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); and the Wales Act 2014 (c.29), section 7(1).

(c) Section 138 of CEMA was amended by the Police and Criminal Evidence Act 1984 (c. 60), section 114(1), Schedule 6, paragraph 37 and Schedule 7, Part 1; the Finance Act 1988 (c.39), section 11; the Serious Organised Crime and Police Act 2005 (c.15), Schedule 7, paragraph 54; S.I 1989/1341 (N.I. 12); and S.I. 2007/288.

(d) “the customs and excise Acts” is defined in section 1 of CEMA.

(e) 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 (c. 11), Schedule 4, paragraph 23(a); and S.I. 2014/834. Section 147 was amended by the Magistrates Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 176; the Criminal Justice Act 1982 (c. 48), section 77, Schedule 14, paragraph 42; the Finance Act 1989 (c. 26), section 16(2); and the Criminal Justice Act 2003 (c.

Trade offences in CEMA: modification of penalty

25.—(1) Paragraph (2) applies where a person is guilty of an offence under section 50(2) of CEMA in connection with the prohibition in regulation 7(2) (import of illegally removed Syrian cultural property).

(2) Where this paragraph applies, the reference to 7 years in section 50(4)(b)(a) of CEMA 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 the prohibition in regulation 7(1) (export of illegally removed Syrian cultural property).

(4) Where this paragraph applies, the reference to 7 years in section 68(3)(b) of CEMA(b) 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 7 (exports or imports).

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

Monetary penalties

26. The following provisions are to be regarded as not being financial sanctions legislation for the purposes of Part 8 of the Policing and Crime Act 2017(d)—

- (a) regulation 10(1) (financial services and funds relating to illegally removed Syrian cultural property);
- (b) regulation 11(1) (brokering services: non-UK activity relating to illegally removed Syrian cultural property).

PART 6

Maritime enforcement

Exercise of maritime enforcement powers

27.—(1) A maritime enforcement officer may, for a purpose mentioned in paragraph (2) or (3), exercise any of the maritime enforcement powers in relation to—

- (a) a British ship in foreign waters or international waters,
- (b) a ship without nationality in international waters, or
- (c) a foreign ship in international waters,

and a ship within sub-paragraph (a), (b) or (c) is referred to in this Part as “a relevant ship”.

(2) The maritime enforcement powers may be exercised for the purpose of enforcing a prohibition in any of regulations 7 to 9 (trade prohibitions relating to illegally removed Syrian cultural property).

(3) The maritime enforcement powers may also be exercised in relation to a relevant ship for the purpose of—

- (a) investigating the suspected carriage of relevant goods on the ship, or

44), section 41, Schedule 3, paragraph 50. Section 152 was amended by the Commissioners for Revenue and Customs Act 2005, section 50, Schedule 4, paragraph 26, and section 52, Schedule 5. Section 155 was amended by the Commissioners for Revenue and Customs Act 2005, section 50, Schedule 4, paragraph 27, and section 52, Schedule 5.

(a) The words “7 years” were inserted into section 50(4)(b) of CEMA by the Finance Act 1988, section 12.

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

(c) The words “7 years” were inserted in section 170(3)(b) of CEMA by the Finance Act 1988, section 12.

(d) See section 143(4)(f) and (4A), as inserted by the Sanctions and Anti-Money Laundering Act 2018, Schedule 3, paragraph 8(1) and (3).

(b) preventing the continued carriage on the ship of goods suspected to be relevant goods.

(4) In this Part, “the maritime enforcement powers” are the powers conferred by regulations 29 (power to stop, board, search etc.) and 30 (seizure power).

(5) This regulation is subject to regulation 31 (restrictions on exercise of maritime enforcement powers).

Maritime enforcement officers

28.—(1) The following persons are “maritime enforcement officers” for the purposes of this Part—

- (a) a commissioned officer of any of Her Majesty’s ships;
- (b) a member of the Ministry of Defence Police (within the meaning of section 1 of the Ministry of Defence Police Act 1987^(a));
- (c) a constable—
 - (i) who is a member of a police force in England and Wales,
 - (ii) within the meaning of section 99 of the Police and Fire Reform (Scotland) Act 2012^(b), or
 - (iii) who is a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;
- (d) a special constable—
 - (i) appointed under section 27 of the Police Act 1996^(c),
 - (ii) appointed under section 9 of the Police and Fire Reform (Scotland) Act 2012, or
 - (iii) in Northern Ireland, appointed by virtue of provision incorporating section 79 of the Harbours, Docks, and Piers Clauses Act 1847^(d);
- (e) a constable who is a member of the British Transport Police Force;
- (f) a port constable, within the meaning of section 7 of the Marine Navigation Act 2013^(e), or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964^(f);
- (g) a designated customs official within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009 (see section 14(6) of that Act)^(g);
- (h) a designated NCA officer who is authorised by the Director General of the National Crime Agency (whether generally or specifically) to exercise the powers of a maritime enforcement officer under this Part.

(2) In this regulation, “a designated NCA officer” means a National Crime Agency officer who is either or both of the following—

- (a) an officer designated under section 10 of the Crime and Courts Act 2013^(h) as having the powers and privileges of a constable;
- (b) an officer designated under that section as having the powers of a general customs official.

(a) 1987 c.4. Section 1 was amended by the Police Act 1996 (c.16), Schedule 7, paragraph 41; the Police (Northern Ireland) Act 1998 (c.32), Schedule 4, paragraph 16; the Police Reform Act 2002 (c.30), section 79(3); and S.I. 2013/602.

(b) 2012 asp.8.

(c) 1996 c.16. Section 27 was amended by the Police and Justice Act 2006 (c.48), Schedule 2, paragraph 23; the Policing and Crime Act 2009 (c.26), Schedule 7, paragraphs 1 and 6; and the Police Reform and Social Responsibility Act 2011 (c.13), Schedule 16, paragraph 26.

(d) 1847 c.27. Section 79 was amended by S.I. 2006/2167.

(e) 2013 c.23.

(f) 1964 c.40. Section 16 was amended by section 29(2) of the Wales Act 2017 (c.4); S.I. 1970/1681; and S.I. 1999/672. Other amendments have been made to section 16 that are not relevant to these Regulations.

(g) 2009 c.11. Designated customs officials are designated, as either a general customs official or a customs revenue official, under sections 3 and 11 of this Act respectively.

(h) 2013 c.22.

Power to stop, board, search etc.

29.—(1) This regulation applies if a maritime enforcement officer has reasonable grounds to suspect that a relevant ship is carrying prohibited goods or relevant goods.

(2) The officer may—

- (a) stop the ship;
- (b) board the ship;
- (c) for the purpose of exercising a power conferred by paragraph (3) or regulation 30 (seizure power), require the ship to be taken to, and remain in, a port or anchorage in the United Kingdom or any other country willing to receive it.

(3) Where the officer boards a ship by virtue of this regulation, the officer may—

- (a) stop any person found on the ship and search that person for—
 - (i) prohibited goods or relevant goods, or
 - (ii) any thing that might be used to cause physical injury or damage to property or to endanger the safety of any ship;
- (b) search the ship, or any thing found on the ship (including cargo) for prohibited goods or relevant goods.

(4) The officer may—

- (a) require a person found on a ship boarded by virtue of this regulation to provide information or produce documents;
- (b) inspect and copy such information or documents.

(5) The officer may exercise a power conferred by paragraph (3)(a)(i) or (b) only to the extent reasonably required for the purpose of discovering prohibited goods or relevant goods.

(6) The officer may exercise the power conferred by paragraph (3)(a)(ii) in relation to a person only where the officer has reasonable grounds to believe that the person might use a thing to cause physical injury or damage to property or to endanger the safety of any ship.

(7) The officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

Seizure power

30.—(1) This regulation applies if a maritime enforcement officer is lawfully on a relevant ship (whether in exercise of the powers conferred by regulation 29 (power to stop, board, search etc.) or otherwise).

(2) The officer may seize any of the following which are found on the ship, in any thing found on the ship, or on any person found on the ship—

- (a) goods which the officer has reasonable grounds to suspect are prohibited goods or relevant goods, or
- (b) things within regulation 29(3)(a)(ii).

(3) The officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

Restrictions on exercise of maritime enforcement powers

31.—(1) The authority of the Secretary of State is required before any maritime enforcement power is exercised in reliance on regulation 27 (exercise of maritime enforcement powers) in relation to—

- (a) a British ship in foreign waters, or
- (b) a foreign ship in international waters.

(2) In relation to a British ship in foreign waters other than the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant British possession, the Secretary of State may give authority under paragraph (1) only if the State in whose waters the power would be exercised consents to the exercise of the power.

(3) In relation to a foreign ship in international waters, the Secretary of State may give authority under paragraph (1) only if—

- (a) the home state has requested the assistance of the United Kingdom for a purpose mentioned in regulation 27(2) or (3),
- (b) the home state has authorised the United Kingdom to act for such a purpose, or
- (c) the United Nations Convention on the Law of the Sea 1982(a) or a UN Security Council Resolution otherwise permits the exercise of the power in relation to the ship.

Interpretation of Part 6

32.—(1) Subject to paragraph (2), any expression used in this Part and in section 19 or 20 of the Act has the same meaning in this Part as it has in section 19 or (as the case may be) section 20 of the Act.

(2) For the purpose of interpreting any reference to “prohibited goods” or “relevant goods” in this Part, any reference in section 19 or 20 of the Act to a “relevant prohibition or requirement” is to be read as a reference to any prohibition specified in regulation 27(2) (exercise of maritime enforcement powers).

PART 7

Supplementary and final provision

Revocations

33.—(1) Council Regulation (EU) No 36/2012 of 18 January 2012, concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011(b) is revoked.

(2) The Export Control (Syria Sanctions) Order 2013(c) is revoked.

(3) The Export Control (Syria Sanctions) (Amendment) Order 2014(d) is revoked.

Ahmad

Minister of State

5th November 2020

Foreign, Commonwealth and Development Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Sanctions and Anti-Money Laundering Act 2018 (c.13) to establish a sanctions regime in relation to the trade in Syrian cultural property for the purposes of compliance with the United Kingdom’s United Nations obligations in Security Council resolution 2199 adopted by the Security Council on 12 February 2015.

(a) Command 8941.

(b) As prospectively amended by S.I. 2019/380; and S.I. 2019/792.

(c) S.I. 2013/2012, as amended by S.I. 2013/3182; S.I. 2014/1896; S.I. 2015/97; S.I. 2015/1546; S.I. 2017/83; S.I. 2017/1311; and as prospectively amended by S.I. 2019/792.

(d) S.I. 2014/1896.

Following the United Kingdom's withdrawal from the European Union, these Regulations also replace the measures relating to Syrian cultural property in the European Union sanctions regime in relation to Syria, implemented via an EU Council Decision and Regulation.

The Regulations impose trade restrictions on the trade in Syrian cultural property or any other item of archaeological, historical, cultural, rare scientific or religious importance, illegally removed from Syria on or after 15 March 2011.

The Regulations provide for exceptions to this sanctions regime for acts done for the purpose of national security or the prevention of serious crime, and for the return to Syria of illegally removed Syrian cultural property as provided for in UN Security Council resolution 2199.

The Regulations make it a criminal offence to contravene, or circumvent, any of the prohibitions in these Regulations and prescribe the mode of trial and penalties that apply to such offences. They also provide for the application of similar types of provision in the Customs and Excise Management Act 1979 to the offences relating to trade in illegally removed Syrian cultural property.

The Regulations also confer powers on specified maritime enforcement officers to stop and search ships in international and foreign waters for the purpose of enforcing specified trade sanctions and to seize goods found on board ships which are being, or have been, dealt with in contravention, or deemed contravention, of those prohibitions. The Regulations prescribe powers for the provision and sharing of information to enable the effective implementation and enforcement of the sanctions regime.

Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011 is revoked by these Regulations. The Export Control (Syria Sanctions) Order 2013 and the Export Control (Syria Sanctions) (Amendment) Order 2014 are also revoked.

An Impact Assessment has not been produced for these Regulations, as they are intended to ensure existing sanctions remain in place following the United Kingdom's withdrawal from the European Union. These Regulations are intended to deliver substantially the same policy effects as the existing European Union sanctions. An Impact Assessment was, however, produced for the Sanctions and Anti-Money Laundering Act 2018 and can be found at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/653271/Sanctions_and_Anti-Money_Laundering_Bill_Impact_Assessment_18102017.pdf.

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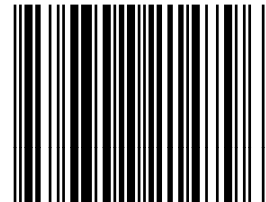
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