
STATUTORY INSTRUMENTS

2014 No. 2054

CRIMINAL LAW

The Ukraine (European Union Financial Sanctions) (No.3) Regulations 2014

<i>Made</i>	- - - -	<i>at 10.30 a.m. on 1st August 2014</i>
<i>Laid before Parliament</i>		<i>at 2.00 p.m. on 1st August 2014</i>
<i>Coming into force</i>	- -	<i>at 3.00 p.m. on 1st August 2014</i>

The Treasury are designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to restrictive measures against persons or bodies listed by an international organisation.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Treasury that it is expedient for any reference to an Annex to Council Regulation (EU) No. 833/2014 of 31 July 2014⁽³⁾ concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine to be construed as a reference to that Annex as amended from time to time.

The Treasury, in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972, make the following Regulations.

PART 1

General

Citation, commencement and application

1. (1) These Regulations may be cited as the Ukraine (European Union Financial Sanctions) (No.3) Regulations 2014 and shall come into force at 3.00 p.m. on 1st August 2014.

(2) An offence under these Regulations may be committed by conduct wholly or partly outside the United Kingdom by—

(1) [S.I. 2010/1834](#).

(2) [1972 c.68](#). Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 ([c.51](#)), section 27(1)(a) and the European Union (Amendment) Act 2008 ([c.7](#)), Schedule, Part 1. Paragraph 1A of Schedule 2 was inserted by the Legislative and Regulatory Reform Act 2006, section 28 and amended by [S.I. 2007/1388](#) and the European Union (Amendment) Act 2008, Schedule, Part 1.

(3) OJ L 229, 31.7.2014, p.1.

- (a) a UK national, or
 - (b) a body incorporated or constituted under the law of any part of the United Kingdom.
- (3) In paragraph (2)—
- “conduct” includes acts and omissions;
- “UK national” means—
- (a) a British citizen,
 - (b) a British overseas territories citizen who acquired their citizenship from a connection with Gibraltar, or
 - (c) a British subject under Part 4 of the British Nationality Act 1981 (British subjects)(4) with the right of abode in the United Kingdom.

Interpretation

2. (1) In these Regulations—
- “the 2000 Act” means the Financial Services and Markets Act 2000(5);
- “the Council Regulation” means Council Regulation (EU) No. 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine, and a reference to an Annex to that Regulation is to be construed as a reference to that Annex as amended from time to time;
- “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;
- “relevant institution” means—
- (a) a person who has permission under Part 4A of the 2000 Act (permission to carry on regulated activities)(6),
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the 2000 Act (EEA passport rights)(7) which has permission under paragraph 15 of that Schedule(8) (as a result of qualifying for authorisation under paragraph 12 of that Schedule(9)) to accept deposits, or
 - (c) an undertaking which by way of business operates a currency exchange office, transmits money (or any representations of monetary value) by any means or cashes cheques which are made payable to customers.
- (2) The definition of “relevant institution” in paragraph (1) must be read with—
- (a) section 22(10) of the 2000 Act (regulated activities);
 - (b) any relevant order under that section(11); and
 - (c) Schedule 2(12) to that Act (regulated activities).

(4) 1981 c.61. Part 4 was amended by the British Overseas Territories Act 2002 (c.8), section 1(1)(b) and the Nationality, Immigration and Asylum Act 2002 (c.41), sections 15 and 161, Schedule 2, paragraph 1(i) and Schedule 9.

(5) 2000 c.8.

(6) Part 4A was inserted by the Financial Services Act 2012 (c.21), section 11(2) and amended most recently by S.I. 2013/3115.

(7) As amended by S.I. 2006/3221 and S.I. 2013/3115.

(8) As amended by the Enterprise Act 2002 (c.40), section 278(1), Schedule 25, paragraph 40(1) and (19)(a), the Consumer Credit Act 2006 (c.14), section 33(9) and by S.I. 2003/2066 and S.I. 2007/3253 and S.I. 2012/1906 and S.I. 2013/1881.

(9) As amended by S.I. 2007/126, S.I. 2007/3253 and S.I. 2012/1906.

(10) Section 22 was amended by the Financial Services Act 2012, section 7(1).

(11) S.I. 2001/544 as amended, most recently by S.I. 2014/1448.

(12) Schedule 2 was amended by the Dormant Bank and Building Society Accounts Act 2008 (c.31), section 15, Schedule 2, paragraph 1, the Regulation of Financial Services (Land Transactions) Act 2005 (c.24), section 1, the Financial Services Act 2012, section 7(2) to (5) and section 8 and by S.I. 2013/1881.

(3) Any expression used both in these Regulations and in the Council Regulation has the meaning that it bears in the Council Regulation.

PART 2

Restrictions on Financial Services

Dealing with transferable securities and money-market instruments

3. (1) A person (“P”) must not directly or indirectly purchase, sell, provide brokering or assistance in the issuance of, or otherwise deal with transferable securities or money-market instruments with a maturity exceeding 90 days, issued after 1 August 2014 by a person, entity or body falling within paragraph (2).

(2) The following persons, entities or bodies fall within this paragraph—

- (a) a major credit institution or other major institution listed in Annex III to the Council Regulation,
- (b) a legal person, entity or body established outside the European Union, more than 50% of the proprietary rights of which are owned by a legal person, entity or body falling within sub-paragraph (a),
- (c) a legal person, entity or body acting on behalf of, or at the direction of, a legal person, entity or body falling within sub-paragraphs (a) or (b).

PART 3

Offences

Contravention and circumvention of prohibitions

4. (1) A person (“P”) who contravenes any of the prohibitions in regulation 3 commits an offence unless P did not know, or had no reasonable cause to suspect that P’s actions would contravene regulation 3.

(2) A person commits an offence who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in regulation 3; or
- (b) to enable or facilitate the contravention of any such prohibition.

Officers of a body corporate etc.

5. (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 with 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.

Penalties

6. (1) A person guilty of an offence under regulation 4 is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both.

(2) A person guilty of an offence under paragraph 1(3) or 4(1) of the Schedule is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.

Proceedings

7. (1) Proceedings against any person for an offence under these Regulations may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(2) In England and Wales an information relating to an offence that is triable by a magistrates' court may be so tried if it is laid—

- (a) at any time within three years after the commission of the offence; and
- (b) within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

(3) In Scotland—

- (a) summary proceedings for an offence may be commenced—
 - (i) before the end of twelve months from the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to the Lord Advocate's knowledge, and
 - (ii) not later than three years after the commission of the offence; and
- (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995(13) (time limit for certain offences) applies for the purpose of this paragraph as it applies for the purpose of that section.

(4) In Northern Ireland summary proceedings for an offence may be instituted—

- (a) at any time within three years after the commission of the offence; and
- (b) within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

(5) For the purposes of this regulation a certificate of the prosecutor (or, in Scotland, the Lord Advocate) as to the date on which such evidence as is referred to above came to their notice is conclusive evidence.

(13) 1995 c.46.

Consent to prosecution

8. (1) Proceedings for an offence under these Regulations (other than for a summary offence) may not be instituted—

- (a) in England and Wales, except by or with the consent of the Attorney General;
- (b) in Northern Ireland—
 - (i) where the offence is committed wholly or partly outside Northern Ireland, except by or with the consent of the Advocate General for Northern Ireland,
 - (ii) for all other offences, except by or with the consent of the Director for Public Prosecutions for Northern Ireland.

(2) Nothing in paragraph (1) prevents—

- (a) the arrest of a person in respect of an offence under these Regulations; or
- (b) the remand in custody or on bail of any person charged with such an offence.

PART 4

Miscellaneous

Information provisions

9. The Schedule (which contains provisions concerning information gathering and disclosure) has effect.

The Crown

10. (1) These Regulations bind the Crown.

(2) No contravention by the Crown of a provision of these Regulations makes the Crown criminally liable.

(3) The High Court or, in Scotland, the Court of Session may, on the application of a person appearing to the court to have an interest, declare unlawful any act or omission of the Crown that constitutes a contravention of a provision of these Regulations.

(4) Nothing in this regulation affects Her Majesty in Her private capacity.

(5) Paragraph (4) is to be read as if section 38(3) of the Crown Proceedings Act 1947(14) (meaning of Her Majesty in Her private capacity) were contained in these Regulations.

Stephen Crabb

Mark Lancaster

Two of the Lords Commissioners of Her
Majesty's Treasury

at 10.30 a.m. on 1st August 2014

SCHEDULE

Regulation 9

Information Provisions

Reporting obligations of relevant institutions

1. (1) A relevant institution must inform the Treasury as soon as practicable if—
 - (a) it knows, or has reasonable cause to suspect, that a person has committed an offence under regulation 4; and
 - (b) the information or other matter on which the knowledge or suspicion is based came to it in the course of carrying on its business.
- (2) Where a relevant institution informs the Treasury under sub-paragraph (1), it must state—
 - (a) the information or other matter on which the knowledge or suspicion is based; and
 - (b) any information it holds about the person by which the person can be identified.
- (3) A relevant institution that fails to comply with any requirement of sub-paragraph (1) or (2) commits an offence.

Powers to request information

2. (1) The Treasury may request any person in or resident in the United Kingdom to provide such information as the Treasury may reasonably require for the purpose of—
 - (a) monitoring compliance with or detecting evasion of these Regulations; or
 - (b) obtaining evidence of the commission of an offence under these Regulations.
- (2) The Treasury may specify the manner in which, and the period within which, information is to be provided.
- (3) If no such period is specified, the information which has been requested must be provided within a reasonable time.
- (4) A request may include a continuing obligation to keep the Treasury informed as circumstances change, or on such regular basis as the Treasury may specify.
- (5) Information requested under this paragraph may relate to any period of time.

Production of documents

3. (1) A request under paragraph 2 may include a request to produce specified documents or documents of a specified description.
- (2) Where the Treasury request that documents be produced, they may—
 - (a) take copies of or extracts from any document so produced;
 - (b) request any person producing a document to give an explanation of it; and
 - (c) where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is—
 - (i) in the case of a partnership, a present or past partner or employee of the partnership,
 - (ii) in any other case, a present or past officer or employee of the body concerned;to give such an explanation.
- (3) A person receiving a request from the Treasury that documents be produced must—
 - (a) take reasonable steps to obtain the documents (if not already in the person's possession or control);

- (b) keep the documents under the person's possession or control (except for the purpose of providing them to the Treasury or as the Treasury may otherwise permit).

Failure to comply with request for information

- 4. (1) A person commits an offence who—
 - (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule;
 - (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;
 - (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, conceals or removes any document; or
 - (d) otherwise intentionally obstructs the Treasury in the exercise of their powers under this Schedule.

(2) Where a person is convicted of an offence under this paragraph, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

General powers to disclose information

5. (1) The Treasury may disclose any information obtained by them pursuant to these Regulations to any person for the purpose of facilitating or ensuring compliance with the Council Regulation.

(2) The power in sub-paragraph (1) includes but is not limited to disclosing information 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 Administration, the Northern Ireland Administration or the Welsh Assembly 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 Legal Services Commission, the Scottish Legal Aid Board or the Northern Ireland Legal Services Commission;
- (e) the Financial Conduct Authority, the Prudential Regulation Authority, the Bank of England, the Jersey Financial Services Commission, the Guernsey Financial Services Commission, the Isle of Man Insurance and Pensions Authority or the Isle of Man Financial Supervision Commission;
- (f) any other regulatory body, including those of other Member States; or
- (g) the Council of the European Union, the European Commission or the Government of a Member State.

(3) The purpose of facilitating or ensuring compliance with the Council Regulation referred to in sub-paragraph (1) includes but is not limited to the following—

- (a) monitoring compliance with, or detecting evasion of, this Regulation or the Council Regulation;

- (b) giving assistance or co-operation, pursuant to the Council Regulation; or
 - (c) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings—
 - (i) in the United Kingdom, for an offence under these Regulations, or
 - (ii) in any of the Channel Islands, the Isle of Man or any British overseas territory, for an offence under a similar provision in any such jurisdiction.
- (4) The Treasury may disclose any information obtained by them pursuant to these Regulations to any person with the consent of a person who, in their own right, is entitled to the information or to possession of the document, copy or extract.
- (5) In sub-paragraph (4) “in their own right” means not merely in the capacity as a servant or agent of another person.

Application of provisions

6. (1) Nothing done under this Schedule is to be treated as a breach of any restriction imposed by statute or otherwise.
- (2) But nothing in this Schedule authorises a disclosure that—
- (a) contravenes the Data Protection Act 1998⁽¹⁵⁾; or
 - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000⁽¹⁶⁾.
- (3) Nothing in this Schedule is to be read as requiring a person who has acted as counsel or solicitor for any person to disclose any privileged information in their possession in that capacity.
- (4) This Schedule does not limit the circumstances in which information may be disclosed apart from this Schedule.
- (5) In this paragraph “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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the enforcement of Council Regulation (EU) No. No. 833/2014 dated 31 July 2014 (OJ L 229, 31.7.2014, p.1) concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine (“the Council Regulation”).

Regulation 3 provides for prohibitions against dealing with transferable securities and money-market instruments for, or on behalf of major credit institutions or other major institutions having an explicit mandate to promote competitiveness of the Russian economy, its diversification and encouragement of investment, established in Russia with over 50 % public ownership or control issued after 1 August 2014, as listed in Annex III to the Council Regulation. The prohibitions include buying, selling,

⁽¹⁵⁾ 1998 c.29.

⁽¹⁶⁾ 2000 c.23.

providing brokering or assistance in the issuance of, or otherwise dealing in transferable securities and money-market instruments.

Regulation 4 makes it an offence to breach any of the prohibitions in regulation 3, or to seek to circumvent those provisions. Regulations 5 to 8 contain provisions about penalties, proceedings and who, in relation to bodies corporate and other bodies, may be prosecuted for an offence under the Regulations.

The Schedule makes provision for information gathering and information disclosure. It also creates offences relating to the withholding of information and the obstruction of the exercise by the Treasury of its powers under the Schedule.

A list of major credit institutions or other major institutions listed in Annex III to the Council Regulation is available on the internet via: (<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>) or can be obtained from Financial Sanctions, H.M. Treasury, 1 Horse Guards Road, London, SW1A 2HQ.

Further information is available from Financial Sanctions, HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ and on the H.M. Treasury website (www.gov.uk/government/organisations/hm-treasury).