

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

SANCTIONS (EU EXIT) (MISCELLANEOUS
AMENDMENTS) (NO. 2) REGULATIONS 2022

Tuesday 11 October 2022

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The Committee consisted of the following Members:

Chair: STEWART HOSIE

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| † Allan, Lucy (<i>Telford</i>) (Con) | † Hall, Luke (<i>Thornbury and Yate</i>) (Con) |
| † Britcliffe, Sara (<i>Hyndburn</i>) (Con) | † Mackrory, Cherilyn (<i>Truro and Falmouth</i>) (Con) |
| † Creasy, Stella (<i>Walthamstow</i>) (Lab/Co-op) | † Mumby-Croft, Holly (<i>Scunthorpe</i>) (Con) |
| † Davies, Dr James (<i>Vale of Clwyd</i>) (Con) | † O'Hara, Brendan (<i>Argyll and Bute</i>) (SNP) |
| † Docherty, Leo (<i>Minister of State, Foreign, Commonwealth and Development Office</i>) | Osamor, Kate (<i>Edmonton</i>) (Lab/Co-op) |
| † Doughty, Stephen (<i>Cardiff South and Penarth</i>) (Lab/Co-op) | † Smith, Nick (<i>Blaenau Gwent</i>) (Lab) |
| † Fabricant, Michael (<i>Lichfield</i>) (Con) | † Winter, Beth (<i>Cynon Valley</i>) (Lab) |
| † Firth, Anna (<i>Southend West</i>) (Con) | † Young, Jacob (<i>Redcar</i>) (Con) |
| † Greenwood, Lilian (<i>Nottingham South</i>) (Lab) | Sarah Rees, George James, <i>Committee Clerks</i> |
| | † attended the Committee |

Second Delegated Legislation Committee

Tuesday 11 October 2022

[STEWART HOSIE *in the Chair*]

Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2022

4.30 pm

The Minister of State, Foreign, Commonwealth and Development Office (Leo Docherty):

I beg to move,

That the Committee has considered the Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2022 (SI. 2022, No. 818).

The statutory instrument before us was laid before the House on Tuesday 19 July 2022 under the powers provided by the Sanctions and Anti-Money Laundering Act 2018, also known as the sanctions Act. Sanctions are of course a key pillar of our foreign policy. It is essential that our sanctions regimes are maintained and updated appropriately so that we can respond at pace to the activities of malign actors around the world. We have recently shown the strength and utility of our sanctions in our response to Vladimir Putin's outrageous invasion of Ukraine and Russia's crimes against the Ukrainian people.

The legislative instrument that we are debating today updates all our sanctions regimes, including those we are required to implement due to our United Nations obligations, as well as our own autonomous UK regimes. The regulations ensure that cryptoasset businesses fall within the scope of financial sanctions reporting requirements, strengthening our ability to respond to emerging threats and evolving global standards. Specifically, the regulations require cryptoasset exchanges and custodian wallet providers to report to the Treasury in the event that they encounter any designated persons in the course of their business or if they are holding any frozen assets on behalf of customers who are designated.

Cryptoasset businesses are also required to report any suspected breaches of financial sanctions. The regulations include new powers for public authorities to share financial sanctions information with the Treasury. The change ensures that a wide range of persons and organisations, from regulators to local authorities, have a dedicated information-sharing gateway.

Michael Fabricant (Lichfield) (Con): I am delighted that my hon. Friend has given way. On cryptoassets, will he assure me that he or his Department will work closely with GCHQ on this? Without its help we will not know precisely what cryptoassets are being transferred by whom and to whom.

Leo Docherty: I am grateful to my hon. Friend for that question. We do of course have an intelligence-led approach to sanctions. The good thing about the regulations is that they will expedite the way we work in lockstep with Government agencies and the private sector.

Organisations will no longer have to rely on non-sanction specific gateways or on the Treasury's powers to compel the release of information from partners. We expect that that will give organisations confidence to share information so that Government can better pursue breaches and uphold the integrity of UK sanctions. Those changes are possible thanks to the Economic Crime (Transparency and Enforcement) Act 2022, which amended the sanctions Act in March this year.

The regulations also make changes to our various sanctions regimes in order to update definitions and clarify intentions. Those amendments ensure that the definition of "designated person" is consistent across regulations. They include a correction of the reporting obligations relating to the transfer of funds to a ringfenced account. They clarify that within the Libya sanctions regime it is not a breach of sanctions to credit a frozen account with interest, and they specify that Treasury licences would be available for the purpose of satisfying prior obligations.

Nick Smith (Blaenau Gwent) (Lab): I have just been going through the explanatory memorandum. On page 4 it states:

"No consultation has been carried out on this instrument",

but it goes on to say that there was an earlier consultation, as regards the memoranda to the amended regulations. Can the Minister tell us how wide that consultation was and what the response was?

Leo Docherty: That is a very good question. I will gladly write to the hon. Member with the granular breakdown of the scale and depth of the response to that earlier consultation.

Michael Fabricant: It was pretty extensive.

Leo Docherty: I feel confident—my expectation is—that it was extensive to the degree that we did not need to do a second one. I look forward to writing to the hon. Member for Blaenau Gwent on that.

These measures also correct acronyms that were entered incorrectly into the initial regulations or were missing. The name of the African Union peacekeeping force in Somalia is also updated. The regulations will ensure that our sanctions continue to hold to account corrupt officials, abusers of human rights and malign actors across the world, and that our UN sanction regimes remain accurate.

To conclude, the amendments mean that our sanction regimes take account of the most modern financial services and prevent loopholes being exploited in the future. I commend the regulations to the Committee.

4.35 pm

Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Hosie. I would like to thank the Minister for his comments on the measures we are debating. I want to apologise, because in a previous debate I suggested that they were not in effect. They are, of course, because of the affirmative procedure, but we are only just debating them today. Obviously, it has taken a number of months, which is a concern to me, but we will not seek to divide

the Committee today. We support the steps the Government are taking to enhance our sanction regimes, in relation not just to the terrible acts of Russia in Ukraine, but to a number of the other countries that are listed in the regulations.

On the subject of Ukraine, we have all been shocked by the scenes yesterday of attacks on civilian infrastructure. I saw locations that I drove past just three and a half weeks ago that had been hit by Russian missiles. They were clearly civilian areas; these are clearly war crimes. It is utterly horrific for the people of Ukraine, and this is a serious escalation. I draw attention to my declaration of interest on that visit, which I took part in a few weeks ago with other Members from across the House.

I am pleased we are debating these measures, which will apply across the board in relation to human rights abuses and destabilising situations across the world, from Belarus to Syria, Venezuela and the western Balkans—an area I visited recently. I have seen and heard about the activities of those who seek to undermine peace, human rights, stability and democracy in that region.

Specifically on Ukraine, this is no time for complacency. In his desperation, Putin will become more erratic. Our resolve will be tested. We will continue to work constructively with the Government on all the measures we are taking against Russia, but where we think they should go further and broaden the UK sanctions regime, we will say so.

As we know, using cryptocurrencies to evade sanctions and move money around the world was already illegal under UK law. However, the changes outlined today are necessary for those evading sanctions, because users of cryptocurrencies and related services do not have to rely on regulated entities to make transactions. Although ostensibly they are treated no differently to any other type of asset for the purposes of an asset freeze, the nature of virtual currencies could make it more difficult to detect that a sanctioned party is involved in a prompt enough fashion for anything to be done about it. As I have said previously, it is crucial that we do not look just at the wording in the sanctions, because it is their implementation and application that will make the real difference in dealing with all those who are sanctioned under a range of regimes.

It is clear that the Kremlin's tendrils of influence are far-reaching, and we must recognise that the use of digital currency is not just a means of expanding the wealth of a sanctioned oligarch or indeed a member of the state Duma who is voting through the illegal attempted annexation of Ukrainian territory. It is also a way for the Kremlin to impose its will beyond Russia's borders and expand its malign influence into the fabric of economies, politics and societies around the world.

Through the use of crypto and other digital currencies, hostile regimes can inject capital into the democracies of the world for the purposes of swaying elections, emboldening political forces who continue to spout the lines of dictators like Putin. The US State Department recently revealed that Russia has covertly given at least \$300 million to political parties, officials and politicians in more than two dozen countries since 2014 and plans to transfer hundreds of millions more, with the goal of exerting political influence and swaying elections. The document from the State Department details that Russia is paying for those in cash, cryptocurrency, electronic fund transfers and lavish gifts. They move the money

through a wide range of institutions to shield the origins of the finances, through foundations, think-tanks, organised crime groups, political consultancies, shell companies and, of course, Russian state-owned enterprises.

After being asked if blockchain-based currencies could be used effectively to evade sanctions, Elizabeth Rosenberg, the US Assistant Secretary for Terrorist Financing and Financial Crimes, was very clear. She said,

“Yes, Senator, that is possible.”

Senator Elizabeth Warren, who is a real authority in this area, said she had been worried about Russian elites leveraging cryptocurrencies ever since Putin's regime invaded Ukraine in February. She said,

“We already knew that countries like North Korea had used crypto to skirt sanctions and launder...hundreds of millions of dollars. And Russia could easily be part of that.”

I come to a critical issue on which I would like to hear some answers from the Minister. That is the issue of so-called mixers or tumblers. Those terms refer to mechanisms that are used to jumble cryptocurrencies, holdings and transactions, making them even more undetectable.

An example is the group Tornado Cash, which is a mixing service that lets users make their Ethereum transactions untraceable, by obfuscating the origin of the transactions. The United States sanctioned that service in August, along with the Bitcoin mixer called Blender. The US Treasury is clear that those mixers had repeatedly failed to impose effective controls designed to stop criminals from laundering funds. It did something clearly and urgently about that.

I reviewed our sanctions list and currently neither Tornado nor Blender appears. I may have missed something. I would like to understand from the Minister whether those mixers and blenders are currently sanctioned, and if not, why not? Because the US Treasury has been very clear. It said on 8 August:

“Tornado Cash...has been used to launder more than \$7 billion worth of virtual currency since its creation in 2019.”

It specifically referred to links to North Korea and the Lazarus Group, a state-sponsored hacking group, and to the use of Blender for similar transactions involving hundreds of millions of dollars. I fear that those mixers and blenders may have the ability to allow the cronies of Putin, who support his regime, to circumvent the sanctions we are debating today. I am concerned that it does not appear that we are taking action against those mechanisms.

I appreciate that the technology is evolving and emerging all the time but, if our closest ally has taken these measures, it seems odd that we do not appear to have done so. I am happy to be corrected if that is not the case. I hope the Minister can answer questions on that. What discussions are we having with our allies to ensure that we are at the cutting edge of methods to deal with those being sanctioned under all of these regimes, but particularly in relation to Russia and Ukraine, given the situation today, so that they are not able to evade them? I have raised the issue of evasion of sanctions a number of times in debates. I am concerned that these are wily characters and regimes who are attempting to find every single way around our measures and protections. We have got to ensure that we stand clearly against them.

Secondly, what discussions are the Minister and his colleagues having with the Treasury about conversations with the International Monetary Fund to ensure better

[Stephen Doughty]

regulation of cryptocurrencies, so that the risks around them are mitigated? We will debate the Economic Crime and Corporate Transparency Bill again shortly. I know that these matters will be of great interest to Members across the House, who want to see a toughening up of our regulation in this space. I put these proposals forward in a constructive spirit, and I hope the Minister will see it that way.

Thirdly, what further consideration has been given by the Government fully to implement the recommendations of the Intelligence and Security Committee's Russia report, particularly on conversations with that Committee about the issue of illicit finance and cryptocurrencies? It made many recommendations but, unfortunately, the Government have dragged their heels on that. There is no reason to do that. The actions of Russia and other regimes are absolutely clear.

I have a few final remarks. We welcome the measures today that enable Government Departments and other agencies to share information and assist the Treasury and the office of financial sanctions implementation to discharge their functions, widening the definition of a relevant firm, including cryptoasset exchange providers. Those are prudent and necessary steps to take.

I thank the Minister and his colleague—the Minister of State, Foreign, Commonwealth and Development Office, the right hon. Member for Hereford and South Herefordshire (Jesse Norman), who also covers sanctions—for their replies and detailed letters to me in answer to previous questions. I come back to the question of implementation. The Ministers have answered some very clear questions about the staffing and resourcing of both the sanctions unit in the Foreign, Commonwealth and Development Office and the office of financial sanctions implementation. However, we hear from other parts of Government about further efficiency savings. Will the Minister confirm that the new roles in both of those bodies are safe and will not be quietly depleted? In fact, we need more of them, not less, at this critical time. I hope that he can reassure me on that point. We have to ensure that they, and other bodies, such as the National Crime Agency, have the resources to follow through on the implementation of the regulations.

Because we regularly debate the sanctions regime in this place, particularly in relation to Russia, I also wonder whether the Minister has anything further to say on proposals to designate United Russia as a terrorist entity, given the actions of those in that party and the actions of recent days. That proposal has certainly been put to us. Does he have any further thoughts on it?

In a letter sent to me after our last debate, the Minister's colleague, the right hon. Member for Hereford and South Herefordshire, said in response to my questions about the sequestration and repurposing of assets that the Government were looking at

“what options there may be to do so and are working closely with HM Treasury to make progress.”

He also wrote:

“we are looking at what we can do in the long term to raise money for the reconstruction of Ukraine using Russian assets.”

That is a welcome statement, but we are keen to see that happen sooner rather than later. The issue was raised with me regularly on my recent visit to Kyiv, and was

raised with me again by Ukrainian counterparts when I attended the Warsaw Security Forum in the past few days. I will make a declaration about that in due course.

Those issues are being raised by our Ukrainian friends and allies—and by many of our other allies. There will be huge costs associated both with supporting Ukraine in the way that we are—absolutely rightly—and with reconstruction. We must ensure that those we sanction in relation to the conflict pay the price, and ensure that our sanctions regime as it relates to all the other countries involved—we mentioned Belarus and other situations—is as robust as possible.

4.47 pm

Stella Creasy (Walthamstow) (Lab/Co-op): It is a pleasure to serve under your chairmanship this afternoon, Mr Hosie. I fully associate myself with the comments of Labour's Front-Bench spokesman, my hon. Friend the Member for Cardiff South and Penarth, on the importance of taking action on the sanctions regime.

I have a few simple questions for the Minister about the implementation of these sanctions. He will be aware that many of us have a massive interest in how, now that we have left the European Union, new regimes and forms of collaboration are enacted. As my Front-Bench colleague said, we want to see the regime work, and I hope that the Minister takes my questions in that spirit. However, there are questions, and I can see that Conservative Members also have concerns about how the measures will work.

Clearly, we previously relied on working across Europe on sanctions issues. We have talked before in this House about how assets are transferred across Europe, and how people whom we want to sanction work across different countries. Having left the EU provisions that enabled such sanctions to be enacted, it is right to introduce the regulations: they deal with a gap in our proposals on how to enact sanctions. However, the regulations are a unilateral piece of legislation. My first, very simple question for the Minister is whether he can confirm and reassure us that we will continue to get the information that we need from the European Union about those individuals to make sure that sanctions are effective? We can obviously make that commitment to information sharing ourselves. It would be helpful to hear about his conversations with the European Union and our European counterparts on this issue. It is obviously a very apposite issue at the moment when it comes to Russia and Belarus, particularly when there might not be as much of a united front as we may wish.

Secondly, and more prosaically, the regulations, as the Minister said, bring in a new power for public authorities to participate in the process. Will the Minister tell us a little more about that? In particular, the power is provisional. The regulations state that public authorities “may” disclose information. The number of public bodies that could disclose information is quite high: for example, any police officer could. Would he clarify whether that means, say, a police constable? Have police constables been given information about how they might be expected to operate under this piece of legislation? The regulations refer to

“any other person exercising functions of a public nature”.

Might we, as Members of Parliament, be required or expected to provide information under the legislation? Of course, most critically for all of us who want the

sanctions to be effective—obviously colleagues on both sides of the House might have concerns about what information people might know—what happens if Members of Parliament, police constables or indeed any of these bodies do not co-operate?

As I said, the regulations say that they “may disclose information”, but they are not required to do so. Will he clarify what would happen if somebody did not disclose information? Within that environment, what monitoring will there will be of those who disclose information and, perhaps, those who refuse to do so, so that we can review how the sanctions are working? Again, it is one thing for us unilaterally to decide that we must have an operative sanction regime, but it is another thing if we do not actually know who is taking part in it and where there might be further blockages to it being effective.

The Minister talks about it being important to introduce the regulations because they would correct acronyms, for example, in legislation; there had been drafting errors—although I am pleased to see that they are not of the type that we saw in the Belgium legislation, where an entire duck soup recipe was added into legislation. But it does rather bring up one of the wider challenges, does it not, when it comes to translating EU legislation into UK law? There is so much that we were so dependent on to make our regimes effective that we have to be sure that it is done well.

Will the Minister update us on what has been happening in the three years since the legislation came in, in terms of the sanctions and the information gathering activity, when we have not had these powers? Given that we have a major piece of legislation being introduced to this House that will dispense with all forms of retained EU legislation, can he be confident that it will not affect our ability either to do that information sharing or to be able to effect these sanctions? Would he recognise that, if we are making drafting errors that require a statutory instrument to be introduced, there is a concern that any future legislation that covers translating into UK legislation does not also miss items?

A big bang approach, which is what we are going to see with this Brexit retained law legislation, may well bring up some of the problems that the sanctions legislation and this SI are trying to correct. Is he confident that there is not anything we will miss out once we have dealt with this SI? I very much hope this SI is will be effective, but I hope he will explain, in the spirit of understanding, how it will operate in person and what it might mean, not just for us as Members of Parliament, but for the police, local authority officers and maybe traffic wardens who might be asked to disclose information? It is helpful for Parliament to set out its intent now, whether it is misspelt or not.

4.52 pm

Leo Docherty: I am grateful for colleagues for their constructive comments and their perfectly valid questions. I will attempt to cover off some of them as I conclude.

I agree entirely with the hon. Member for Cardiff South and Penarth’s characterisation of the appalling ballistic strikes from Russia on Ukraine yesterday. It is important that we put on record our absolute horror at the scale and nature of that activity, and we are as one in our condemnation of the continued barbaric impact of this illegal war on the people of Ukraine. I acknowledge his personal interest in that country.

The hon. Gentleman made the perfectly sensible point that these kinds of transactions—the sort of illicit activity that these instruments are seeking to tackle—are already illegal. What the legislation is doing is tightening up our approach to it. He asked about application. We should acknowledge the context: in our sanctions response so far this year to the outrageous Russian invasion of Ukraine, we have put in place a very robust sanctions package that includes more than 1,200 individual sanctions, more than 120 entities and 126 oligarchs, who have a total net worth in excess of £130 billion. We can feel pleased that we have been active and quite aggressive in terms of our sanctions, but there is always more to do because we are aware of the extent to which Putin and his cronies will find ways around this globally and cryptocurrencies might be one of those elements. That is why we are seeking to tighten up this particular area, but I agree with him that we must be cognisant of the extent to which Russian wealth around the world is being weaponised. The west needs to be urgently aware of that.

The hon. Gentleman used that as a good springboard to go into a discussion about so-called mixers and tumblers. I note that Tornado Cash was sanctioned recently in the US. I am confident that Tornado Cash and Blender are entities that the Minister of State, Foreign, Commonwealth and Development Office, my right hon. Friend the Member for Hereford and South Herefordshire, will be looking at, but I commit to him writing to the hon. Gentleman to confirm that those two entities are under consideration.

The hon. Gentleman also asked about the extent to which we are discussing with allies the mechanisms being used for sanctions evasion, and for an update on the discussions between His Majesty’s Treasury and the IMF. I will ask my right hon. Friend to include that in his letter when he has an opportunity to write.

Stephen Doughty: I thank the Minister for those comments. However, he will understand my concerns that those entities were sanctioned by the US, our closest ally, in August. It is now October; that is three months where evasion could have been going on. I appreciate his willingness to look at both those issues with his colleague. Will he commit to a wider review of all types of mixers and tumblers—I named two—that might be used in that way?

Leo Docherty: We are in complete agreement. I agree that this is urgent and it should be a broad consideration of the tumbler facility. I commit to an urgent update from my right hon. Friend the Member for Hereford and South Herefordshire on that. He might also usefully cover the finance element of the Russia report, as the hon. Gentleman rightly mentioned. He then asked a perfectly valid question about staffing levels at Departments and public agencies with regard to sanctions. Having met members of the legal team earlier today, I am confident that we have some of our best people on it. It is an urgent priority and I think we have the required staffing levels.

The hon. Gentleman mentioned United Russia. I will not be drawn into giving an answer to that now, but I commit to formally replying to that question. He also asked about sequestration. That is a live topic as we consider the remarkable financial challenge of the

[*Leo Docherty*]

reconstruction of Ukraine. Clearly, there is a legal context, but that is actively under consideration in the Department. We have already embarked on a great body of work in advance of us hosting the Ukraine reconstruction conference next year. Of course, it is more urgent than that, and it is something we are considering.

Stephen Doughty: The Minister is generous. I have mentioned the importance of keeping at the cutting edge of this. There is an important group established by Ambassador McFaul, the former US ambassador, in which a number of UK experts are involved. However, I am not clear whether there is UK Government representation in that. Will the Minister assure me that we are keeping in close contact with such groups that are trying to be at the cutting edge, to ensure we have the toughest regime possible implemented in the quickest way?

Leo Docherty: I commit to keeping that on our radar. That sounds like a useful proposition, so I am happy to commit to it.

I was pleased to hear questions from the hon. Member for Walthamstow. She asked some good questions about implementation, because this is all about implementation. If we cannot implement it, it will not make a difference and there is no point in doing it. I can give her absolute reassurance that we are in lockstep with our EU and US allies. This is a global effort that is intelligence-led. We each use our domestic law, but this issue is very much joined up because it is a global threat and the response that it demands is global. All our agencies are involved on a daily basis in prosecuting and pursuing this kind of threat.

The hon. Lady asked about public authorities, the balance of compulsion and them volunteering information. Our expectation is that this involves bodies such as the Financial Conduct Authority, for example. It is designed to ensure that they have a road map to being helpful, rather than requiring them to do something they do not want to do. Most people will want to be doing this; it is designed to lay out a clear pathway to information being shared urgently with the Treasury. That is our expectation, but we will measure the response and use that as a mechanism for holding to account and judging success.

Stella Creasy: That is helpful to hear. Will the Minister clarify something? New section 49A, for example, mentions “any police officer”, “any local authority” and “any other person exercising functions of a public nature”.

Will he clarify what level, and will there be training provided? It is quite a big request to make of a police constable to share information. Equally, this will clearly be tested because it comes across other disclosure rules. For example, there are clear guidelines about supervising officers, which do not seem to be in this legislation. What protection will there be for a police constable, for example, maybe from prosecution or censure under general data protection regulation, without clarity as to who makes the decision on what information can be disclosed, and if it is a permissive, rather than mandatory, requirement?

Leo Docherty: I think it is the other way around and that this will actually afford greater protection because it will make things clearer and ensure that there is no risk of GDPR being used so that a certain individual finds themselves in a regrettable circumstance. I think it will clarify. Under this legislation, the public authorities that are exposed to these sorts of issues will be required to conduct that sort of training, and they will be responsible, as we would expect.

The hon. Lady then went on to a mischievous digression, because she sought to use the unfortunate inclusion of inaccurate acronyms as a means of shaking our confidence in not just this legislation but other new legislation as we tidy up our statute following our exit from the EU. I can say that there is no duck soup in this legislation or any other. Clearly drafting errors happen in legislation; it is the way that the world works, unfortunately, but we are, as parliamentarians, amenable and available to redraft and improve, as we are doing this afternoon. Therefore, in answer to the hon. Lady’s question, yes, I am confident not only that this piece of legislation is correct and in good order, but that the vast body of legislation that will flow from our leaving the EU will also be similarly effective and accurate. On that note, I again commend the instrument to the Committee.

Question put and agreed to.

Resolved,

That the Committee has considered the Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2022 (SI. 2022, No. 818).

5.1 pm

Committee rose.