

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT SANCTIONS (DAMAGES CAP)  
REGULATIONS 2022

*Tuesday 18 October 2022*

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**The Committee consisted of the following Members:**

*Chair:* †GRAHAM STRINGER

- |   |  |
|---|--|
| † Bacon, Gareth ( <i>Orpington</i> ) (Con)                                  | † Merriman, Huw ( <i>Bexhill and Battle</i> ) (Con)  |
| † Doughty, Stephen ( <i>Cardiff South and Penarth</i> )<br>(Lab/Co-op)      | † Morris, James ( <i>Halesowen and Rowley Regis</i> ) (Con)                                    |
| Grant, Mrs Helen ( <i>Maidstone and The Weald</i> ) (Con)                   | † Murray, Mrs Sheryll ( <i>South East Cornwall</i> ) (Con)                                     |
| † Hamilton, Mrs Paulette ( <i>Birmingham, Erdington</i> )<br>(Lab)          | † Norman, Jesse ( <i>Minister of State, Foreign,<br/>Commonwealth and Development Office</i> ) |
| † Holloway, Adam ( <i>Lord Commissioner of His<br/>Majesty's Treasury</i> ) | † O'Hara, Brendan ( <i>Argyll and Bute</i> ) (SNP)   |
| † Jones, Gerald ( <i>Merthyr Tydfil and Rhymney</i> ) (Lab)                 | † Penrose, John ( <i>Weston-super-Mare</i> ) (Con)   |
| Leadbeater, Kim ( <i>Batley and Spen</i> ) (Lab)                            | † Wild, James ( <i>North West Norfolk</i> ) (Con)  |
| Lewis, Clive ( <i>Norwich South</i> ) (Lab)                                 | † Yasin, Mohammad ( <i>Bedford</i> ) (Lab)   |
| † Maynard, Paul ( <i>Blackpool North and Cleveleys</i> )<br>(Con)           | Guy Mathers, Ailish McAllister-Fisher, <i>Committee<br/>Clerks</i>                             |
|   | † <b>attended the Committee</b>  |

# Third Delegated Legislation Committee

Tuesday 18 October 2022

[GRAHAM STRINGER *in the Chair*]

## Draft Sanctions (Damages Cap) Regulations 2022

9.25 am

**The Minister of State, Foreign, Commonwealth and Development Office (Jesse Norman):** I beg to move,

That the Committee has considered the draft Sanctions (Damages Cap) Regulations 2022.

What a delight it is to see you in the Chair, Mr Stringer; a sagacious and calming presence on a late autumn morning.

The instrument, which is subject to the affirmative procedure, was laid before Parliament in draft on 20 July 2022 under section 55(5) of the Sanctions and Anti-Money Laundering Act 2018, otherwise known as the Sanctions Act. It will be made once it is approved by both Houses.

The instrument represents further action to strengthen the UK's sanctions regime in response to President Putin's illegal and abhorrent war against the people of Ukraine. Since the invasion, the UK has worked with international partners to deliver an unprecedented package of sanctions against Putin's regime and his allies who are complicit in its brutality.

As the Committee will be aware, the Economic Crime (Transparency and Enforcement) Act 2022 proceeded quickly through Parliament following Russia's invasion and received Royal Assent on 15 March. That Act amended the Sanctions Act to reform how sanctions are imposed and reviewed, and how challenges to them are dealt with. Those amendments received cross-party support, including across the Benches in the House. The Act created a power for the Government to set a limit on the amount of damages a court can award for designations made in bad faith. In exercise of that power, the instrument before us now introduces a cap of £10,000. That cap will apply to any proceedings challenging the Government's use of designation powers under the Sanctions Act, issued on or after 4 March 2022.

The instrument is designed to minimise the risks to His Majesty's Government of spurious or vexatious litigation from deep-pocketed oligarchs and others, in particular as the UK continues to ratchet up the pressure on President Putin. It is right and proper that the Government protect public funds in that way. To be clear, it will not affect the right of a designated person to challenge their designation in a court, nor, if appropriate, to have that designation lifted. Furthermore, the courts will have the power to disapply the damages cap to avoid any potential breaches of human rights where necessary in individual cases. But the cap is designed to send a strong signal that Putin's oligarchs and kleptocrats cannot draw on the public purse in this country to boost their coffers, that the UK will not be distracted from the task in hand by endless litigation and that this Government will not be knocked off course by the risk of damages claims.

Let there be no mistake: this is not about protecting the Government from acting in bad faith; it is about sending a clear message to friends of Putin who are tempted to bring claims without merit.

The Government will not hesitate in bringing forward further sanctions to target those who participate in or facilitate Putin's illegal war of choice. On 26 September, the UK announced further sanctions targeting those responsible for Putin's sham referenda. They included four Russian Government officials, four further oligarchs, 55 state oil executives and 29 individuals and organisations working for illegitimate proxy groups in Donetsk, Luhansk and Zaporizhzhia. On 30 September, the Foreign Secretary announced a new set of sanctions that further limited Russia's access to the foreign services on which it depends. Taken alongside previous action, the UK is now preventing Russian access to UK advertising, architectural, auditing, engineering and IT consultancy services, as well as to various commercial legal services. The announcement included a new ban on the export of nearly 700 goods deemed to be crucial to Russia's industrial and technological capabilities. It also included new sanctions on Elvira Nabiullina, the Governor of the Central Bank of the Russian Federation, who has been instrumental in managing the Russian economy throughout the war and instrumental in the rouble being imposed on Ukrainian territories that have been seized by Russia.

I trust the Committee will support the instrument. It strengthens the UK's ability to sanction those responsible for this illegal and brutal war. I commend the regulations to the Committee.

9.30 am

**Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op):** It is a pleasure to serve under your chairmanship, Mr Stringer, and to hear from the Minister on these important matters.

As has been the case with the other sanctions and measures that we have debated over many weeks and months, the official Opposition will not oppose the measure. We welcome the steps taken to expand our sanctions regime, to make it more robust and to remedy any cracks in it. The focus today is obviously on Russia, but I assume that the regulations will apply to the range of UK sanctions, because individuals who seek protracted legal means to disrupt attempts to sanction them come from a number of countries. I hope that that is the case. I am sure that the Committee would agree that the evidence against Putin and his regime, and his supporters, remains incontrovertible. We have seen the recent actions with unmanned drones, allegedly from Iran, wreaking further destruction in Kyiv, where a young family expecting their first child in a matter of months were among those killed in the senseless barbarity of Putin's war. We must do everything possible to take action against the Russian regime, all those who facilitate and support it, and indeed, put in place measures in our own legal, financial and regulatory systems to ensure that those supporters cannot continue to support Putin as they have done.

Before I consider the specifics of the measure, I thank the Minister for his letter on crypto currencies following our previous debate. I asked whether certain entities would be sanctioned, and although I know that the Government do not like to comment on such matters, I re-emphasise the importance of cracking down on how oligarchs hide their money and attempt to frustrate

Government efforts against them. Some of those efforts are through legal means, for example the measure before us, or through the use of untransparent financial mechanisms. I hope that the two mechanisms I mentioned, Tornado and Blender, are under active consideration by the Government. I hope to hear from the Minister about that in due course, and about a wider review of the use of crypto currencies and evasion.

On the regulations before us, it is absolutely right that we should be able to designate and act against all persons and entities, irrespective of their financial power or the extent of their influence. It is right to disincentivise oligarchs and other designated persons from maliciously pursuing the Government through the courts by capping the damages they could receive. It is a prudent and welcome step. We know that many oligarchs have attempted to use not only the UK legal system but others across Europe to frustrate attempts to constrain their activities. Last month, according to findings at the European Court of Justice, it was revealed that 21 Russian business people were engaged in legal proceedings across the EU in attempts to overturn sanctions on them. Even when designated, those oligarchs hold awesome financial power to take matters into their hands and to continue to act as though the law does not apply to them. To specify the damages cap, as the Government have done, is a welcome step in constraining their ability to tie up designations in legal showdowns. What has been done today is absolutely right.

I hope that the Minister will also look at the wider ways in which oligarchs attempt to use our legal systems to evade measures against them, or to intimidate those who challenge them. We have all seen the rise in strategic lawsuits against public participation—the so-called SLAPP suits—which put huge pressure on those who seek to expose the activities of those individuals. The UK remains the most frequent country of origin for SLAPPs, with 31% of cases originating in the UK, according to the UK Anti-SLAPP Coalition. I hope that not only secondary legislation such as the regulations before us, but the Economic Crime and Corporate Transparency Bill, which is going through the House at the moment, and other legislation will look at ways in which we can limit the ability of those engaged in nefarious activities or in attempting to support the Putin regime or other regimes around the world using our legal system either to tie up the Government and frustrate the sanctions that are being implemented or to intimidate others who would seek to take proceedings against them.

That hugely important matter reflects broader concerns that have been expressed over many years, well before this phase of the invasion of Ukraine by Russia. Indeed, the issue has been raised previously by the Foreign Affairs Committee and in the Russia report from the Intelligence and Security Committee. We have frequently said that we must look at how our legal architecture, company formation agents, accountancy firms and other agents in particular are used by oligarchs to hide their wealth and their activities. We must ask about how those services are used to facilitate, support and encourage oligarchs to continue to attempt to evade Government sanctions and individuals seeking to expose them. We must question how those UK services are used to frustrate designations and regulation that might prevent those oligarchs from undertaking their activities. I hope that

the Minister can comment on the use of the UK's wider legal architecture and the Government's plans to address that.

I also hope that the Minister can add to what he wrote to me about, namely the seizure, sequestering and repurposing of the assets of those sanctioned towards supporting Ukraine's reconstruction and defence efforts. I understand the complex legal framework involved and why that has not yet happened, but, if I read between the lines in those letters, I have had encouraging words from the Government. I hope they come forward with the necessary measures sooner rather than later, because the needs of Ukraine are huge and we need to ensure that those responsible for this war and for the horrific atrocities of recent days pay the price and that those assets are repurposed towards Ukraine.

We welcome the regulations, and I hope to hear from the Minister about the other issues I have raised.

9.37 am

**Brendan O'Hara** (Argyll and Bute) (SNP): Like the Opposition, we, too, welcome the measures with a feeling of "not before time". This should have happened a long time ago and it is unfortunate that it took Putin's appalling war in Ukraine to get the Government finally to act on the vast Russian finances that have been flooding into London over decades. I agree with the hon. Member for Cardiff South and Penarth that the scope of the measures need to be extended much further than Russia to include all aggressors and human rights abusers, both individuals and regimes. There is so much more that we have to do and must do.

We could start by looking at Companies House. It has been in a mess for years, which has allowed London to become a haven for criminal money. So-called respectable people across this city have grown fabulously wealthy by facilitating that kleptocracy. The Panama papers and others have shown the scale of the problem and I encourage the Government to go much further in closing the loopholes that encourage such widescale criminality. The current system, with the anonymity of shell companies, is an invitation to commit fraud and I urge the Government to look again urgently at the financial system and the regulations that surround it.

We welcome the regulations before the Committee, and will support the Government, but only as a first step to tackling the issues seriously.

9.38 am

**Jesse Norman:** I am very grateful to both hon. Gentlemen who have spoken. Let us be clear that there has been a very broad sense of unanimity across the House on the issue. We very much welcome that support and the scrutiny offered by the Opposition parties, which can only make the legislation better and keep Government properly on our toes.

Let me start by thanking the hon. Member for Argyll and Bute who pointed out the importance of closing loopholes—he is absolutely right about that. As the hon. Member for Cardiff South and Penarth said on behalf of the official Opposition, there has been a constant process of introducing measures and then infilling, in response to a dynamic and evolving situation, precisely to address those loopholes. The regulations we are talking about in relation to Russia and Belarus apply to conduct by UK persons including not just

[*Jesse Norman*]

anyone in the UK but UK nationals outside the UK and businesses incorporated or constituted under the law of any part of the UK. Of course, it is Government policy for those measures also to be given effect in overseas territories and Crown dependencies. As the hon. Member for Argyll and Bute will be aware, a lot of work has been done in relation to Companies House to track asset movements and give the enforcement authorities extra powers and speed to crack down on some of the loopholes he mentioned.

The hon. Gentleman said that the regulations are not before time, but if I may say so, I think that is incorrect. The Government brought forward this legislation before the summer recess, and the present cap that we are discussing will apply to all proceedings brought from 4 March. There has been a staggering level of sanctions introduction over the past few months, and I could show him four or five pages of specific measures that we have introduced. Those are targeted at a large number of individuals.

The hon. Member for Cardiff South and Penarth was absolutely right to ask about the question whether this was just about Russia. Of course not; he is absolutely right—it applies across the board. But even in relation to Russia we are talking about sanctioning more than 1,200 individuals and more than 120 entities. As my remarks about Elvira Nabiullina made clear, we are continuing to push down on designations in order to pick up people who have emerged as significant actors, or who are otherwise culpable and complicit in this dreadful invasion.

I am very grateful to the hon. Gentleman for his comments on behalf of the official Opposition. He is absolutely right that the recent use of unmanned drones is abhorrent and he will know that the Government and their allies are doing everything they can to support Ukraine militarily and in the field. I thank him for the questions he raised to which I responded in respect of the previous debate conducted by my colleague, the Minister for Europe. Of course, as the hon. Gentleman understands, I cannot comment, however one would like to, on specific entities, but the points he raised are

absolutely well taken. His energy in pressing them is a constant source of active encouragement and support for the work we are doing and that which we have in hand.

The hon. Gentleman asked whether the Government will look at wider measures in relation to SLAPP suits. He is absolutely right to target that question, and of course we are reviewing the matter very closely. He also asked about the question of legal architecture. He will understand that the measures we have brought in are moving towards quite a calibrated restraint on the use of legal services for commercial purposes by oligarchs and other designated persons. But it is important to preserve access to rights legal advice, because however individuals might dislike the fact, it has always been our way in this country for hundreds of years that people are allowed to have, subject to law, their day in court, and proper representation. The cap seeks to limit the effects of that, but the principle is clear.

**Stephen Doughty:** I spoke about the scope of individuals to take legal action across the EU against their designation. Can he tell me, or write to me, about the numbers involved who have attempted to take action against the UK Government for being sanctioned? That would give us an idea of the scale of attempts to undermine the sanctions regime.

**Jesse Norman:** If I may, I will discuss and consider with officials whether we can properly respond, or whether, for reasons he will understand, that information has to be retained for present purposes. I can assure him that we are not seeing a large amount of litigation at the moment, but there obviously is the potential, and that is why it is prudent to introduce a cap. As I have said, that cap is backdated. I take the point that he has raised, and let me consider it with my officials.

Unless there are any other questions, I commend the regulations to the Committee.

*Question put and agreed to.*

9.45 am

*Committee rose.*



