

SANCTIONS AND ANTI-MONEY LAUNDERING BILL [HL]

EXPLANATORY NOTES ON COMMONS AMENDMENTS

What these notes do

- 1 These Explanatory Notes relate to the Commons Amendments to the Sanctions and Anti-Money Laundering Bill [HL] as brought from the House of Commons on 2 May 2018.
- 2 They have been prepared by the Foreign and Commonwealth Office in order to assist the reader of the Bill and the Commons Amendments, and to help inform debate on the Commons Amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- 3 These Explanatory Notes, like the Commons Amendments themselves, refer to the Bill as first printed for the Commons.
- 4 They need to be read in conjunction with the Commons Amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the Commons Amendments.
- 5 All the Commons Amendments referred to in these Explanatory Notes were tabled in the name of the Minister, with the exception of Commons Amendments 22 and 27.

Commentary on Commons Amendments

Part 1: Sanctions Regulations

Commons Amendment to Clause 1: Power to make sanctions regulations

Commons Amendments 1-7

- 6 Seven amendments have been made to Clause 1. Amendments 1 and 5 make clear that sanctions regulations can be made for the purpose of preventing, or in response to, a gross human rights abuse or violation. The remaining amendments to Clause 1 are consequential on other amendments, in particular Amendments 1-5 and Amendments 11 and 12.

Commons Amendment to Clause 2: Additional requirements for regulations for a purpose within section 1(2)

Commons Amendment 8

- 7 This makes a further consequential amendment on the amendments to Clause 1.

Commons Amendments to Clause 17: Enforcement

Commons Amendment 9

- 8 This amendment enables sanctions imposed by regulations under Clause 1 to be enforced by the creation of criminal offences, and limits the terms of imprisonment for a breach of the sanctions regulations.

Commons Amendments to insert a new Clause after Clause 17: Report in respect of offences in regulations

Commons Amendment 10

- 9 This new clause requires that where regulations under Clause 1 are made which include offences, a report specifying the offences, and giving reasons for them and for any terms of imprisonment that apply to them, must be laid before Parliament.

Commons Amendments to insert a new Clause after Clause 17: Enforcement: goods etc on ships

Commons Amendment 11

10 This new clause allows regulations made under Clause 1 to provide for powers to stop and search a ship outside the UK, and to seize goods (including technology) found on the ship. The powers are exercisable for the purpose of enforcing prohibitions in sanctions regulations relating to the goods or technology.

Commons Amendment to insert a new Clause after Clause 17: Goods etc on ships: non-UK conduct

Commons Amendment 12

11 This new clause allows regulations under Clause 1 to provide for powers to stop and search a ship outside the UK and to seize goods or technology found on the ship. The powers are exercisable for the purpose of seizing goods (as defined by reference to Commons Amendment 11) where there has been conduct (or suspected conduct) which would be a contravention of a prohibition in sanctions regulations relating to the goods or technology, but for the fact that the conduct falls outside the territorial scope defined in Clause 18.

Commons Amendment to Clause 18: Extra-territorial application

Commons Amendment 13

12 This amendment makes it clear that Clause 18, which deals with the extra-territorial application of the bill, does not limit the application of the new clauses which would be inserted by Commons Amendments 11 and 12 (which provide for powers to be exercisable in relation to ships outside the United Kingdom).

Commons amendment to Clause 27: Review by appropriate Minister of regulations under section 1

Commons Amendments 14 & 15

13 These amendments are consequential on amendments to Clause 1.

Commons Amendment to insert a new Clause after Clause 27: Independent review of regulations with counter-terrorism purpose

Commons Amendment 16

14 The new clause requires the appointment of an independent reviewer to conduct reviews of sanctions regulations which impose asset-freezes or similar financial sanctions where the regulations are made for purposes relating to the prevention of terrorism and they have been referred to the independent reviewer by the Secretary of State or the Treasury for review.

Commons Amendment to insert a new Clause after Clause 27: Periodic reports on exercise of power to make regulations under section 1

Commons Amendment 17

15 This new clause requires periodic reports to be made about the use of the power to make sanctions regulations. A report under this Clause must identify regulations relating to gross human rights violations. It must also specify any recommendations made by a Parliamentary Committee for the use of that power in relation to such violations, and include any government response.

Commons Amendment to insert a new Clause before Clause 36: Procedure for dealing with goods etc seized from ships

Commons Amendment 18

16 This new clause provides a power for the Secretary of State to make regulations setting out how goods seized from ships under the new clauses inserted by Commons Amendments 11 and 12 are to be dealt with.

Commons Amendments to Clause 39: Revocation and amendments of regulations under section 1

Commons Amendments 19 & 20

17 These amendments are consequential on amendments to Clause 1.

Commons Amendments to Clause 43: Money laundering and terrorist financing etc

Commons Amendment 21

18 This amendment removes a provision that prevented contraventions of regulations under clause 43 (money laundering and terrorist financing etc) from being enforceable by the creation of new criminal offences.

Commons Amendment to insert a new Clause after Clause 44: Public registers of beneficial ownership of companies registered in British Overseas Territories

Commons Amendment 22

19 This new clause requires the Secretary of State to provide all reasonable assistance to the governments of British Overseas Territories to enable them to establish publicly accessible registers of beneficial ownership of companies, and, no later than 31 December 2020, prepare a draft Order in Council requiring the government of any such Territory that has not introduced such a register to do so.

Commons Amendment to Clause 46: Saving for prerogative powers

Commons Amendment 23

20 This amendment ensures that powers under the Bill which may be exercised in relation to ships, including those inserted by Commons Amendments 11 and 12, would not limit powers which may be exercised in relation to ships by virtue of the royal prerogative.

Commons Amendment to Clause 47: Regulations: general

Commons Amendment 24

21 This amendment provides that regulations under Clause 1 may amend the definition of “terrorist financing” in the Bill to add a reference to an offence only where the purpose of the regulations containing the offence is compliance with a UN or other international obligation or a purpose related to the prevention of terrorism.

Commons Amendment to insert a new Clause after Clause 49: Duties to lay certain reports before Parliament: further provision

Commons Amendment 25

22 This new clause enables certain reports relating to the regulations to be combined in one document, requires a written statement to be made by the Minister if reporting requirements are not complied with, and clarifies how those requirements will apply.

Commons amendment to insert a new Clause after Clause 49: Retained EU rights

Commons Amendment 26

23 This new clause is consequential on government amendments to the European Union (Withdrawal) Bill. It makes clear that any restrictions in that Bill on the modification of retained EU law do not prevent powers under this bill (for example, powers to impose an asset-freeze or immigration sanction) from being exercised in cases where their exercise would interfere with a retained right that a person would otherwise have under Clause 4 of the European Union (Withdrawal) Bill.

Commons Amendment to Clause 54: Extent

Commons Amendment 27

24 This amendment is consequential on Commons Amendment 22.

Commons Amendment to Clause 55: Commencement

Commons Amendment 28

25 The amendment has the effect that the commencement date of the new clause inserted by Commons Amendment 17 (*Periodic reports on exercise of power to make regulations under section 1*) is the day on which the Act is passed.

Commons Amendment to Clause 56: Short title

Commons Amendment 29

26 This amendment removes the privilege amendment inserted by the House of Lords.

Schedule 1: Trade sanctions

Commons Amendment 30

27 The amendment provides a power for regulations to modify provisions of the Customs and Excise Management Act 1979 that apply in relation to prohibitions contained in sanctions regulations.

Schedule 2: Money Laundering and Terrorist Financing etc

Commons Amendment 31

28 The amendment, read with Amendment 34, makes clear that any offences included in regulations under Clause 43 must be for the purposes of enforcing requirements imposed by or under regulations under Clause 43 or (while they remain in force) the Money Laundering Regulations 2017.

Commons Amendment 32

29 The amendment requires that where regulations under Clause 43 are made which include offences, a report specifying the offences and giving reasons for them, and for any terms of imprisonment that apply to them, must be laid before Parliament.

Commons Amendment 33

30 This amendment enables money-laundering regulations under the Bill to make provision corresponding to, or to amend or revoke, specified retained direct EU legislation relating to money laundering. It is consequential on government amendments to the European Union (Withdrawal) Bill which might otherwise prevent the regulations from modifying that retained legislation.

Commons Amendment 34

31 This amendment has the effect that, while the Money Laundering Regulations 2017 remain in force, offences may be created by regulations under Clause 43 for the purposes of enforcing requirements in the 2017 Regulations.

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