

Alert | Export Controls & Economic Sanctions



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UK Government Announces Fresh Sanctions on Russia Accessing UK Legal Expertise

On 29 June 2023, the UK Government announced new legislation that prohibits the provision of legal advisory services to non-UK persons in relation to certain financial or trade activity which would be prohibited under the UK Russian sanctions regime. The new legislation comes into force 30 June 2023.

According to the government, the new legislation will restrict wealthy individuals and big businesses linked to the Russian regime from accessing UK legal expertise to carry out deals that could bolster the nation's war chest, thereby *"thwarting the nation from benefitting economically from the UK's world-leading legal expertise"*.

The announcement builds on existing sanctions in place against Russia over the past year, which saw "persons connected with Russia" (including companies incorporated in Russia) restricted from accessing a range of legal advice and expertise from UK lawyers. In particular, it is prohibited for UK persons (anywhere in the world) or for non-UK persons within the territory of the UK to intentionally provide legal advisory services where: (i) the object or effect of the legal advisory services directly or indirectly circumvents the sanctions prohibitions imposed by the Russia (Sanctions) (EU Exit) Regulations 2019/855 (2019 Regulations); or (ii) enables or facilitates the contravention of those prohibitions. However, as a result of the territorial application of the 2019 Regulations – to acts done in the UK or by UK persons anywhere in the world - prior to the latest announcement, it would potentially have been lawful for a UK legal services provider to support commercial activity which advances the interests of

Russia, where that activity was not undertaken on UK soil or by a UK person. The latest announcement is designed to address this loophole. As a result, from 30 June 2023, no UK person or person in the UK can provide legal advisory services in relation to certain financial or trade activity which would be prohibited under the UK sanctions regime if the activity were done by a UK person or were taking place in the UK.

The restriction is limited to legal advisory services in non-contentious matters (including acting on behalf of a client, or providing advice on or in connection with, a commercial transaction, negotiation or any other dealing with a third party) and does not cover legal representation services connected with proceedings before administrative agencies, courts, official tribunals or arbitral or mediation proceedings. It is still possible, therefore, for Russian nationals or companies to obtain legal representation for the purposes of court and other proceedings, thereby upholding the principle that access to legal representation remains a core aspect of the rule of law across the UK. In addition, the new legislation introduces an exception that enables service providers to offer expert evidence in connection with legal proceedings, even where the services activity would otherwise be prohibited. Other exceptions to the restriction include the provision of legal advice related to compliance with the UK Russian sanctions regime itself and legal advisory services provided in relation to the discharge of or compliance with UK statutory or regulatory obligations.

Comment

According to the Government's announcement, the UK previously exported £56 million in legal services to Russian businesses every year.

The latest restrictions, as with other sanctions imposed upon Russia, are targeted at holding Russia to account for the war in Ukraine and to increase the economic pressure on Russia. The UK Government has also recently announced that UK sanctions will remain in place until Moscow has paid compensation to Ukraine. On any assessment, that day is some years down the line. As sanctions continue to be announced and pressure upon the UK's finances mounts, we can expect the effectiveness of the UK's Russian sanctions regime to come under increasing scrutiny and for more pressure to be placed on OFSI to be seen to be enforcing breaches of the regime.

It is expected that guidance clarifying the full extent of the proposed prohibition on the provision of certain legal services will be provided in due course.

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