STATUTORY INSTRUMENTS.

S.I. No. 89 of 2019

EUROPEAN UNION (RESTRICTIVE MEASURES CONCERNING AFGHANISTAN) REGULATIONS 2019

S.I. No. 89 of 2019

European Union (Restrictive Measures concerning Afghanistan) Regulations 2019

I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Council Regulation (EU) No. 753/2011 of 1 August 2011[1], as amended, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Restrictive Measures concerning Afghanistan) Regulations 2019.

2. (1) In these Regulations -

"Council Regulation" means Council Regulation (EU) No. 753/2011 of 1 August 2011[1] as amended by the European acts specified in Schedule 1;

"European act" means an act adopted by an institution of the European Union or an institution of the European Communities.

(2) A word or expression which is used in these Regulations and which is also used in the Council Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Council Regulation.

3. (1) A person who contravenes a provision of the Council Regulation specified in Part 1 of Schedule 2 shall be guilty of an offence.

(2) A person who contravenes a condition of an authorisation granted under a provision of the Council Regulation specified in Part 2 of Schedule 2 shall be guilty of an offence.

4. A person who is guilty of an offence under Regulation 3 shall be liable -

(*a*) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months or both, or

(*b*) on conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 3 years or both.

5. A competent authority in the State, following such consultation as it considers necessary with other competent authorities, for the purposes of the administration and enforcement of the Council Regulation or these Regulations, may give in writing such directions to a person as it sees fit.

6. A person who fails to comply with a direction given under Regulation 5 within the time specified in the direction shall be guilty of an offence and shall

[1] OJ No. L 199, 2.8.2011, p. 1

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" 15*th of March*, 2019.

be liable on summary conviction to a class A fine or to imprisonment for a term not exceeding 6 months or both.

7. Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

8. (1) Proceedings for an offence under these Regulations in relation to an act committed outside the State may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.

(2) Where a person is charged with an offence referred to in paragraph (1), no further proceedings in the matter (other than any remand in custody or on bail) may be taken except by or with the consent of the Director of Public Prosecutions.

(3) In proceedings for an offence referred to in paragraph (1),

(*a*) a certificate purporting to be signed by an officer of the Department of Foreign Affairs and Trade and stating that a passport was issued by that Department to a person on a specified date, and

(*b*) a certificate that is signed by an officer of the Minister for Justice and Equality and stating that, to the best of the officer's knowledge and belief, the person has not ceased to be an Irish citizen,

is evidence that the person was an Irish citizen on the date on which the offence is alleged to have been committed, and is taken to have been signed by the person purporting to have signed it, unless the contrary is shown.

(4) A person who has been acquitted or convicted of an offence in a place outside the State shall not be proceeded against for an offence under these Regulations in relation to an act committed outside the State consisting of the conduct, or substantially the same conduct, that constituted the offence of which the person has been acquitted or convicted.

9. The European Union (Restrictive Measures concerning Afghanistan) Regulations 2018 (S.I. No. 202 of 2018) are revoked.

Schedule 1

Council Regulation

1. Council Implementing Regulation (EU) No. 968/2011 of 29 September 2011[2]
2. Council Implementing Regulation (EU) No. 1049/2011 of 20 October 2011[3]
3. Council Implementing Regulation (EU) No. 263/2012 of 23 March 2012[4]
4. Council Implementing Regulation (EU) No. 543/2012 of 25 June 2012[5]
5. Council Implementing Regulation (EU) No. 643/2012 of 16 July 2012[6]
6. Council Implementing Regulation (EU) No. 705/2012 of 1 August 2012[7]
7. Council Implementing Regulation (EU) No. 1139/2012 of 3 December 2012[8]
8. Council Implementing Regulation (EU) No. 1244/2012 of 20 December 2012[9]
9. Council Implementing Regulation (EU) No. 86/2013 of 31 January 2013[10]
10. Council Implementing Regulation (EU) No. 261/2013 of 21 March 2013[11]
11. Council Implementing Regulation (EU) No. 451/2013 of 16 May 2013[12]
12. Council Regulation (EU) No. 517/2013 of 13 May 2013[13]
13. Council Implementing Regulation (EU) No. 261/2014 of 14 March 2014[14]
14. Council Implementing Regulation (EU) No. 263/2014 of 14 March 2014[15]
15. Council Implementing Regulation (EU) No. 1057/2014 of 8 October 2014[16]
16. Council Implementing Regulation (EU) 2015/1322 of 31 July 2015[17]

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[2] OJ No. L 257, 1.10.2011, p. 1
[3] OJ No. L 276, 21.10.2011, p. 2
[4] OJ No. L 87, 24.3.2012, p. 1
[5] OJ No. L 165, 26.6.2012, p. 15
[6] OJ No. L 187, 17.7.2012, p. 13
[7] OJ No. L 206, 2.8.2012, p. 5
[8] OJ No. L 332, 4.12.2012, p. 1
[9] OJ No. L 352, 21.12.2012, p. 13
[10] OJ No. L 32, 1.2.2013, p. 5
[11] OJ No. L 82, 22.3.2013, p. 18
[12] OJ No. L 133, 17.5.2013, p. 1
[13] OJ No. L 158, 10.6.2013, p. 1
[14] OJ No. L 76, 15.3.2014, p. 6
[15] OJ No. L 76, 15.3.2014, p. 11
[16] OJ No. L 293, 9.10.2014, p. 1
[17] OJ No. L 206, 1.8.2015, p. 1

17. Council Implementing Regulation (EU) 2015/2043 of 16 November 2015[18]
18. Council Implementing Regulation (EU) 2016/1736 of 29 September 2016[19]
19. Council Implementing Regulation (EU) 2017/404 of 7 March 2017[20]
20. Council Implementing Regulation (EU) 2018/648 of 26 April 2018[21]
21. Council Implementing Regulation (EU) 2019/279 of 18 February 2019[22]

[18] OJ No. L 300, 17.11.2015, p. 1
[19] OJ No. L 264, 30.9.2016, p. 8
[20] OJ No. L 63, 9.3.2017, p. 20
[21] OJ No. L 108, 27.4.2018, p. 12
[22] OJ No. L 47, 19.2.2019, p. 4

Schedule 2

Part 1

Contravention of Provision of Council Regulation

Article 2
Article 3
Article 8(1)

Part 2

Authorisation under Provision of Council Regulation

Article 5(1)
Article 5(2)

L.S.

GIVEN under my Official Seal,
8 March, 2019.

Paschal Donohoe,
Minister for Finance.

EXPLANATORY NOTE

(*This note is not part of the Instrument and does not purport to be a legal interpretation*.)

These Regulations provide for the enforcement of restrictive measures contained in Council Regulation (EU) No. 753/2011 as amended, regarding restrictive measures concerning Afghanistan.

The Regulations provide that competent authorities of the State may issue directions for the purpose of giving full effect to the sanctions.

The Regulations create offences for breach of the Council Regulations or for failure to comply with the directions of competent authorities of the State with regard to implementation of the sanctions and provides for appropriate penalties.

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