

Navigating the waters of compliance: Understanding the Trade, Aircraft, and Shipping Sanctions (Civil Enforcement) Regulations 2024

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As global trade, aviation, and maritime activities are under increasing scrutiny, the UK has taken a further step forward with the introduction of the Trade, Aircraft, and Shipping Sanctions (Civil Enforcement) Regulations 2024 (the 'Regulations') that come into force on 10 October 2024.

This framework has been designed to reinforce the UK's commitment to international peace, security, and governance.

The essence of the Regulations

At the centre of the Regulations is the UK's duty to fulfil its United Nations obligations, advancing foreign policy objectives, and promoting democratic values, the rule of law, and good governance. The Regulations empower the Secretary of State to enforce trade, aircraft, and shipping sanctions, ensuring that prohibitions or requirements are adhered to. This responsibility falls to the Department for Business and Trade ('DBT') and the Department for Transport ('DfT'), each taking the lead in civil enforcement for trade sanctions and civil enforcement for aircraft and shipping sanctions respectively.

Key features and enforcement powers

The Regulations introduce robust civil enforcement powers, including the imposition of monetary penalties for non-compliance with sanctions, and the power to publish reports where a breach of sanction has occurred. These enforcement powers are in addition to those enforced by HMRC. Notably, they establish a 'strict liability' approach for breaches, meaning ignorance of the law is no defence. This mirrors the position of the Office of Financial Sanctions Implementation, which has had the authority to enforce against breaches of financial sanctions since June 2022, regardless of whether a person knew or had reasonable cause to suspect they would be in breach of sanctions.

All British nationals and UK entities, including companies and branches operating overseas, are bound by the Regulations, giving the regime a global reach. Legal professional privilege is respected, although DBT and DfT retain the right to challenge assertions of privilege.

Enforcement and penalties

The Secretary of State holds the authority to impose monetary penalties for breaches, with the potential for criminal charges in cases of non-compliance with reporting obligations or information requests. Penalties can be significant, reaching up to £1 million or 50% of the estimated value of the breach.

Reporting obligations and voluntary disclosure

Entities (or 'relevant persons') operating within the regulated sector are required to report suspected breaches, with specific provisions for financial, legal, and money service businesses, as well as those in the aviation and maritime industries. The Secretary of State is also able to request a person to provide information or specified documents. Failure to report or furnish information is a criminal offence.

As in other regimes, voluntary disclosure outside the regulated sector is encouraged and is likely to influence the outcome of enforcement.

What you should be doing next

If the Regulations apply to you, consider:

1. Operational review

Conduct a thorough review of current operations, contracts, and partnerships to identify potential areas of risk.

2. Implement a compliance program

Develop a comprehensive compliance program tailored to the Regulations.

Include regular training sessions for employees on the importance of adherence and the consequences of non-compliance.

3. Internal reporting mechanism

Establish a clear and efficient process for internal reporting of suspected breaches.

Ensure all employees are aware of and understand how to use this mechanism.

4. Voluntary disclosure process

Consider the scenarios in which voluntary disclosures would be made and set up a process to effectively manage the process to ensure maximum mitigation.

5. Stay informed

Keep informed of any updates or guidance to the Regulations to ensure ongoing compliance.

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