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NOTICE

**THE DEMOCRATIC REPUBLIC OF THE CONGO (SANCTIONS)
(OVERSEAS TERRITORIES) ORDER 2020**

SI 2020 NO. 1281

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NOTICE is hereby given that the Democratic Republic of the Congo (Sanctions) (Overseas Territories) Order 2020 SI 2020 No. 1281, was made on 11th November, 2020, was laid before Parliament on 18th November, 2020 and comes into force in accordance with article 1(1) of the Order.

The full text of the Order can be viewed via the following link:

https://www.legislation.gov.uk/ukSI/2020/1281/pdfs/ukSI_20201281_en.pdf

The Explanatory Note of the Democratic Republic of the Congo (Sanctions) (Overseas Territories) Order 2020 SI 2020 No. 1281 is as follows:

“EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends with modifications the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/433) (“the DRC Regulations”) as amended from time to time to all British overseas territories except Bermuda and Gibraltar (which implement sanctions under their own legislative arrangements). It also implements in those territories the travel ban in respect 22 of UN designated persons required by paragraph 9 of resolution 1807 (2008) adopted by the Security Council on 31 March 2008 (which in the United Kingdom is implemented by way of the Immigration Act 1971 (c.77) rather than the DRC Regulations).

Section 63(3)(c) of the Sanctions and Anti-Money Laundering Act 2018 (c.13) (“the Sanctions Act”) provides that Her Majesty may by Order in Council provide for any provision of Part 1 of that Act, or any regulations under Part 1 of that Act, to extend with or without modifications to any of the British overseas territories. Section 63(4) provides that this includes the power to extend any regulations as amended from time to time.

Section 1 of the United Nations Act 1946 (c.45) provides that Her Majesty may by Order in Council make such provision as appears to Her necessary or expedient for enabling the effective application of certain measures where, under Article 41 of the Charter of the United Nations, the Security Council has called upon Her Majesty’s Government in the United Kingdom to apply such measures to give effect to any decision of that Council. In accordance with subsection (2)

of that section, such Orders in Council may extend to the British overseas territories.

The DRC Regulations were made under Part 1 of the Sanctions Act to establish a sanctions regime in relation to the Democratic Republic of the Congo for the purpose of promoting resolution of the conflict, respect for human rights, compliance with international humanitarian law, and respect for democracy, the rule of law and good governance. Following the United Kingdom's withdrawal from the European Union, the DRC Regulations also implement the UN sanctions regime in respect of the Democratic Republic of the Congo and replaces the EU sanctions regime which imposed certain restrictive measures directly against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, implemented via an EU Council Decision and Regulation.

The DRC Regulations, as modified and extended to the British overseas territories listed in Schedule 1 by this Order ("the modified Regulations"), provide that a person named by the UN or designated by the Secretary of State for being, or having been, involved in certain activities, is a designated person for the purposes of the modified Regulations. Designated persons may be excluded from the territory and may be made subject to financial sanctions, including having their funds or economic resources frozen. The modified Regulations also impose trade restrictions on military goods and technology for non-governmental entities and individuals operating in the Democratic Republic of the Congo.

The modified Regulations provide for certain exceptions to this sanctions regime (for example to allow for frozen accounts to be credited with interest or other earnings and to allow acts done for the purpose of national security or the prevention of serious crime). The Governor of a British overseas territory to which the modified Regulations extend may, with the consent of the Secretary of State, issue a licence in respect of activities that would otherwise be prohibited under the modified Regulations. Schedule 2 sets out the purposes for which the Governor may issue a financial sanctions licence. The modified Regulations also require the Governor of the territory to publish an up-to-date list of designated persons.

The modified Regulations prescribe powers for the provision and sharing of information to enable the effective implementation and enforcement of the sanctions regime. The modified Regulations also prescribe enforcement powers in relation to suspected ships, aircraft or vehicles, or for the issue of a search warrant. The modified Regulations make it a criminal offence to contravene, or circumvent, any of the prohibitions in the modified Regulations and prescribe the penalties that apply to such offences.

This Order also extends to the territories for the purposes of the modified Regulations specific provisions of Part 1 of the Sanctions Act, namely provisions relating to protection for acts done for purposes of compliance, Crown application and saving for prerogative powers.

This Order also provides that, subject to certain exceptions, UN designated persons must not enter, transit or remain in the territories.

The modifications set out in Schedule 2 to this Order include modifications to provisions in the DRC Regulations which are prospectively amended by the Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591) and the Sanctions (EU Exit) (Miscellaneous Amendments) (No. 3) Regulations 2020 (S.I. 2020/950) (“the amending regulations”). Therefore, article 1(1) provides that this Order comes into force immediately after both the amending regulations have come into force in the United Kingdom. The amending regulations will be brought into force on a day yet to be appointed by the Secretary of State in regulations under section 56 of the Sanctions Act.

An Impact Assessment has not been prepared for this instrument: the territorial extent of the instrument and the modified Regulations is the British overseas territories listed in Schedule 1, and no, or no significant, impact is foreseen on the private, voluntary or public sectors in the United Kingdom.”.