



NEW ZEALAND
FOREIGN AFFAIRS & TRADE
Manatū Aorere

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RUSSIA SANCTIONS: GUIDANCE NOTE

Permitted activities

This note provides guidance about what activities are permitted under the Russia Sanctions Act 2022 and Russia Sanctions Regulations 2022, and should be read in conjunction with them. It also details how to apply for an exemption from the regulations, or an amendment to or revocation of the regulations.

NOTES

- This guidance does not constitute legal advice.
- It is not intended to provide guidance in relation to United Nations sanctions or autonomous sanctions regimes by other countries relating to Russia or otherwise.
- Examples are provided to assist duty holders to meet their obligations under the Act and Regulations, but are not intended to be definitive or exhaustive.
- This guidance will be updated over time. Please continue to check the [MFAT website](#) to ensure you are using the most recent version of this guidance.



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1. Introduction

New Zealand has imposed sanctions on Russia in response to their illegal invasion of Ukraine. This is a way for New Zealand to express serious concern about a violation of international law. Sanctions are a tool that seek to influence foreign governments, entities and individuals to change their behaviour without using armed force.

Sanctions are designed to exert pressure on Russia to change its course of behaviour, including by interrupting economic relations and trade. Sanctions are most effective when they complement or reinforce sanctions taken by other countries.

New Zealand's Russia Sanctions Act 2022 and Russia Sanctions Regulations 2022 place a range of obligations on all New Zealanders by prohibiting or restricting specific activities as part of this global effort.

Sanctions can have an impact on New Zealanders and their businesses. Recognising this, there are a number of exceptions to allow some activities that would otherwise be prohibited. The exceptions and exemption process are one way to make sure that the sanctions are tailored to maximise their impact on Russia and its ability to wage war in Ukraine, while minimising impacts on New Zealanders as far as possible.

You do not need to apply for an exception if your activity falls within it. If your activity does not fall within one of the exceptions, and is prohibited under the Regulations, it is possible to apply under section 13 of the Act for an exemption.

An applicant seeking an exemption is required to provide details including an explanation of the applicant's situation, and the reason why granting an exemption would be justified in the circumstances, for example, any harm that might result if an exemption is not granted. You can also apply for an amendment or revocation of a regulation or designation notice.

Before applying for an exemption, it is important that you first check if any of the exceptions might apply to your circumstance.

2. Exceptions

There are some exceptions to the financial sanctions (e.g. asset and service prohibitions) and trade measures that allow activities with sanctioned persons, assets or services to go ahead as usual.

If an activity falls within an exception, the activity is permitted and may proceed as normal. However, if you are a duty holder (reporting entities for Anti-Money Laundering and Countering Financing of Terrorism Act purposes and high value dealers) you must still report dealings with a restricted asset, restricted service, or sanctioned persons, to the Commissioner of Police, even where an exception applies (see guidance on duty to report).

If any of the exceptions apply to your situation, you **do not need to seek an exemption**.

If you are unsure whether these exceptions apply to your circumstances and would like some additional guidance, please get in touch with the New Zealand Sanctions Unit at: RussiaSanctions@mfat.govt.nz.

Exceptions for dealing with sanctioned people, entities or assets (Regulation 12)

There are some circumstances where dealing with sanctioned persons, assets or services is allowed. These permitted activities are summarised in the box below. **Also permitted**, are any services or incidental dealings that are necessary to enable the listed exceptions below to go ahead.

Permitted activities (exceptions)

- A New Zealand person may hold and use a bank account (or similar) with a sanctioned person if they held the account immediately before the relevant date.
- A New Zealand person may receive money that is a restricted asset if, immediately before the relevant date, the person from whom it is received had a legal obligation to pay (whether at that time or in the future) the money to the New Zealand person.
- A New Zealand person may hold (but not otherwise deal with) a restricted asset if they held the asset immediately before the relevant date.
- A New Zealand person may use premises that are a restricted asset as the person's principal place of residence (including making payments in relation to that use) if the premises were the person's principal place of residence immediately before the relevant date.
- A New Zealand person may deal with an estate or interest in land that is a restricted asset (including paying or receiving money in relation to it) if, immediately before the relevant date, the New Zealand person had a legal obligation to do so.
- A New Zealand person may deal with a restricted asset or a restricted service:
 - if the sanctioned person is an individual, for the purpose of providing the sanctioned person or their dependants with an asset or service that is reasonably necessary for personal or household purposes (such as food and clothing)
 - if the New Zealand person is a lawyer, for the purpose of providing legal services in connection with the Act or these regulations
 - for the purpose of preserving, or maintaining the value of, a restricted asset

- for the purpose of, or in connection with, the enforcement or intended enforcement of the Act
- for the purpose of facilitating the normal performance of the functions of a diplomatic mission or a consular post
- for the purpose of providing the New Zealand person or their dependants, while in a specified country, with an asset or a service that is reasonably necessary for personal or household purposes (such as utility services).

Definitions

- **New Zealand person** means:
 - An individual in New Zealand, a New Zealand citizen, or an ordinary New Zealand resident
 - An entity incorporated or registered under New Zealand law (e.g. a company)
 - An entity carrying on business in New Zealand
- A **restricted asset** is an asset that has prohibitions applied to it. This includes:
 - An asset owned or controlled by a sanctioned person
 - An asset that a sanctioned person would own or control because of New Zealand person's actions
 - An asset that would otherwise benefit a sanctioned person because of a New Zealand person's actions
- A **restricted service** is a service that has prohibitions applied to it. This includes:
 - A service provided by a sanctioned person
 - A service provided to a sanctioned person
 - A service provided for the benefit of a sanctioned person

EXAMPLE: PAYMENT FOR AN EXISTING CONTRACT

Sarah has a previous contract with a company in Russia for the sale and purchase of goods. The Russian company is now sanctioned. Sarah is allowed to receive payment for the goods she has already sold and supplied to the Russian company because there is a pre-existing contract. A New Zealand bank is also allowed to facilitate Sarah receiving the payment.

EXAMPLE: LEGAL SERVICES RELATING TO SANCTIONS

Michael has the full suite of sanctions applied to him and owns a property in New Zealand. Under the Regulations, his property is now a restricted asset. Michael is allowed to retain legal advice from a New Zealand lawyer in relation to the sanctions affecting him and his asset. A New Zealand bank is allowed to facilitate any payments he makes to his lawyer for this service.

Import and export exceptions (Regulation 14 and 14B)

New Zealand has prohibited the export and import of certain items that originate from Russia, including: gold, specified luxury goods, oil and strategically valuable goods. There are some exceptions which provide for circumstances when prohibited exports or imports are allowed. In these circumstances you still need to do appropriate levels of due diligence to be confident that the goods will not end up in the possession of sanctioned persons or entities.

Importing luxury goods of Russian origin to New Zealand is allowed if they are personal effects. This does not include couriered or posted parcels even if they are personal items. “Personal effects” is limited to:

- Things accompanying you when travelling, on your person or in your luggage (e.g. clothing).
- Household goods as part of a household consignment if you are relocating countries (e.g. moving to New Zealand).

Certain luxury goods imports (such as clothing and shoes) are only prohibited for import if their value exceeds \$1000 per item.

Exporting luxury goods to Russia is allowed if they are personal effects, in line with the above circumstances for importing luxury goods.

You can find a list of prohibited luxury goods for import and export including their Harmonised System (HS) codes¹ and a description of each in the [sanctions register](#). You can also find more information about the import and export prohibitions in the [guidance note](#) on trade measures.

Exporting prohibited items to Russia or Belarus in good faith for a **humanitarian purpose** may also be allowed. Examples of humanitarian goods that can be exported for humanitarian purposes includes medicines and medical equipment, in certain circumstances. If you think your exports might fall within his exception, please get in touch with us at: RussiaSanctions@mfat.govt.nz.

Humanitarian organisations exception (Regulation 18)

Separate from the humanitarian exception for exporting goods, there is also an exception for humanitarian organisations carrying out humanitarian activities. “Humanitarian organisation” is fully defined in regulation 18(2). This exception applies to all sanctions under the Russia sanctions legislation.

EXAMPLES OF HUMANITARIAN ORGANISATIONS

- International Red Cross and Red Crescent Movement
- Oxfam
- World Vision
- UNICEF
- For other Humanitarian Organisations covered see [here](#).

¹ An HS code is a number that classifies an item into a category of goods. Rules relating to the import and export of that item are applied according to the item’s HS code.

3. Exemptions

If none of the above exceptions apply to you or your situation, you can apply for an exemption from a sanction for a specified situation in relation to persons, assets, or services. Exemptions can also be granted for the import and export prohibitions, and the 35% import tariff for goods of Russian origin.

What is an exemption?

Having an exemption means that the relevant sanction would not apply to you for a specified situation. Exemptions are not granted automatically and the relevant decision maker will determine whether one is granted a case-by-case basis and only if it is justified.

Exemptions for trade related sanctions

If you want to import or export a prohibited good, you should seek an exemption **BEFORE** you order or pay for a prohibited import, or **BEFORE** you send a prohibited export. Prohibited imports and exports will be stopped at the New Zealand border by Customs.

If you are granted an exemption for a trade related sanction, the relevant process will be outlined to you in the decision letter.

4. Applying for an exemption

Before you start

To apply for an exemption, you'll need to fill out the [application form](#).

If you provide incomplete or insufficient information we may need to request further information. This will increase processing time, so try to ensure you provide all the necessary information the first time.

Applications are considered by either the Minister of Foreign Affairs, or the Secretary of Foreign Affairs and Trade, depending on the nature of your request.

Depending on the nature of your request, you may wish to seek independent legal advice before applying. This is not a requirement to submit an application.

What will be considered in assessing your application for an exemption?

Exemptions are not granted automatically. Applicants need to make a strong case that an exemption if granted, would not undermine the purpose of the Act.

We encourage anyone applying for an exemption to provide sufficient detail and justification. This will assist the decision-maker in coming to a decision.

The following criteria will be considered when assessing your application:

- The purpose of the Russia Sanctions Act 2022 and Russia Sanctions Regulations 2022
- Risk of an exemption benefitting a sanctioned person or entity
- Any harm if an exemption is not granted
- The accuracy of facts and law
- Other factors material to the application
- Principles of natural justice or procedural fairness

What information should you include in an application?

Every application must include at least the following information.

Who is applying?

Give your full name, address and contact details so we can get in touch about your application, including if we need more details. Include if you are a sanctioned person.

What do you want an exemption from?

Describe what activity is impacted by the regulation(s) (i.e. the sanctions).

If known provide the relevant regulation(s), and if the application relates to an import or export prohibition the relevant HS Code(s).

Why are you seeking this exemption?

You must explain why you want an exemption and why you think it is justified in your situation. For example, an explanation of any harm that is likely to arise if an exemption is not granted.

If your application is urgent, please provide the reason for urgency and any relevant timeframes.

Are you applying for a one-off or ongoing exemption?

Is the exemption sought for a one-off situation, a specified timeframe, or in perpetuity?

Supporting documents

Make sure you provide relevant supporting material, including evidence to support your statements.

Supporting evidence may include invoices or receipts, import or export paperwork, evidence of contractual obligations, or communication with another party. Any evidence provided is held in full confidence by the Ministry and decision makers.

How to apply for an exemption

To apply for an exemption, please fill in all the relevant details in the [application form](#) and submit it to Sanctions-Exemptions@mfat.govt.nz.

5. Revocations and amendments

You can also apply for an amendment or revocation of a regulation or a designation notice.

What is a revocation?

A revocation request is when you want to request that an entire regulation or designation notice is revoked. For example, this process can be used to request to remove a regulation that prohibits a class of imports/exports; or to request a designation notice is repealed because it is incorrect.

What is an amendment?

An amendment request is when you want to request any changes to any of the regulations or to a designation notice. Examples of this include: requesting a sanctioned person is de-listed; removing a specific sanction applied to a sanctioned person; removing an item on a prohibited goods list; amending details of a designation notice.

What information should you include in an application?

This is a similar process to applying for an exemption, and you will need to describe the circumstances relied on to justify a revocation or amendment including:

- Why the revocation or amendment sought?
- What harm, if any, is likely to come if a revocation or amendment is not granted?

The criteria for exemption applications outlined above will be considered when assessing an application for revocation or amendment.

How to apply for a revocation or amendment

To apply for a revocation or amendment, please fill in all the relevant details in the application form and submit it to Sanctions-Exemptions@mfat.govt.nz.

6. For all applications

How to submit your application

Email your application to: Sanctions-Exemptions@mfat.govt.nz

Timeframes

We aim to process applications as quickly as possible and endeavour to have a decision within 20 working days, but this will be dependent on the complexity and nature of your application. For example, some applications will require consultation with multiple government agencies involved in the Russia sanctions system.

You can help ensure the process is as efficient as possible by providing all the relevant information in your application.

All applications are considered by either the Minister of Foreign Affairs, or the Secretary of Foreign Affairs and Trade, depending on the nature of your request.

Where the request relates to legislative amendment (e.g. revocation or amendment), and if the application is successful, additional time will then be required to amend the legislation.

You must comply with the Russia Sanctions Act and Regulations until an exemption, revocation or amendment is granted.

No compensation

Compensation is not available for costs that may arise during an exemption, amendment or revocation process that is conducted reasonably and in good faith. This is outlined in section 19 of the Act.