

Proactive Release

Published on or before: 29/10/2024

The following Cabinet papers and related Cabinet minutes have been proactively released by the Minister of Foreign Affairs

| Title | Reference |
|---|------------------|
| <i>Report of the Cabinet Legislation Committee: Period Ended 13 September 2023</i> | CAB-24-MIN-0352 |
| <i>Russia Sanctions Amendment Regulations (No 4) 2024</i> | |

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the OIA). Where this is the case, the relevant sections of the OIA that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to OIA redaction codes:

- 6(a): to avoid prejudicing the security or defence of New Zealand or the international relations of the New Zealand Government;
- 9(2)(g)(i): to protect the free and frank expression of opinions by departments;
- 9(2)(h): to maintain legal professional privilege.

Please note, the draft amendment regulations by PCO is withheld in its entirety to maintain legal professional privilege (section 9(2)(h) of the OIA).

The final amendment regulations is publicly available via: <https://www.legislation.govt.nz/regulation/public/2022/0074/latest/LMS659581.html>



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet Legislation Committee: Period Ended 13 September 2024

On 16 September 2024, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 13 September 2024:

LEG-24-MIN-0176 **Russia Sanctions Amendment Regulations (No 4) 2024** CONFIRMED
Portfolio: Foreign Affairs

Proactively Released by the Minister of Foreign Affairs

Rachel Hayward
Secretary of the Cabinet

Proactively Released by the Minister of Foreign Affairs

Office of the Minister for Foreign Affairs
Chair, Cabinet Legislation Committee

Russia Sanctions Amendment Regulations (No 4) 2024

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Russia Sanctions Regulations (No 4) 2024 (the Regulations).

Policy

- 2 The Minister of Foreign Affairs is the Responsible Minister under the Russia Sanctions Act 2022 (the Act), and therefore has discretion to decide whether to recommend that sanctions regulations be made under the Act.
- 3 s6(a)
- 4 The regulations will implement sanctions measures under the Russia Sanctions Act 2022, designating individuals and entities providing material and/or strategic support for Russia's illegal invasion of Ukraine.
- 5 The regulations will also prescribe the information to be included in a formal warning under section 20(2)(a) of the Act and the manner in which that warning must be issued by the Attorney-General.

Timing and 28-day rule

- 6 s6(a), s9(2)(g)(i)

Compliance

- 7 The regulations are in line with the intent and purpose of the Act, and comply with each of the following:
 - 7.1 the principles of the Treaty of Waitangi;
 - 7.2 advice from the Treaty Provisions Officials Group on any Treaty of Waitangi provisions;
 - 7.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 7.4 the principles and guidelines set out in the Privacy Act 2020;
 - 7.5 relevant international standards and obligations;

- 7.6 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 8 Section 8 of the Act sets out a threshold which the responsible Minister must be satisfied has been met before recommending that an Order in Council be made with regard to sanctions under section 9 of the Act. The Section 8 threshold is that: (i) the regulations are appropriate to respond to threats to the sovereignty or territorial integrity of Ukraine or another country; and (ii) the United Nations Security Council is unlikely to act or has acted insufficiently.
- 9 The Minister is satisfied that the threshold in section 8 has been met for the sanctions measures in the recommended regulations, including with regard to the designation of each individual and entity as identified in Annex 1 of the submission to the Minister of 24 April 2024, entitled *Russia Sanctions – Tranche 28*.
- 10 Section 32 of the Act lists additional types of regulations that may be made on the recommendation of the Minister. This includes prescribing the information to be included in a formal warning issued under section 20(2)(a) and the manner in which that warning must be issued.

Regulations Review Committee

- 11 There are no grounds for the Regulations Review Committee to draw the regulations to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

- 12 The draft regulations were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

- 13 s6(a)

Publicity

- 14 The regulations will be publicised through a press release and an update to the New Zealand Sanctions Register (as required by section 14 of the Act). The Ministry will also email information to those who subscribe to its Russia Sanctions Updates service.

Proactive release

- 15 This paper will be released proactively with appropriate redactions within 30 business days of the decisions being confirmed by Cabinet. It is expected that the announcement will have been made within this period.

Consultation

- 16 The Ministry of Foreign Affairs and Trade has consulted the following agencies in the developing the draft regulations: Parliamentary Counsel Office, Crown Law Office, Customs New Zealand, Department of Internal Affairs, Financial Markets Authority, Immigration New Zealand, New Zealand Police, Ministry of Transport, Reserve Bank, and Ministry for Regulation.

Recommendations

The Minister of Foreign Affairs recommend that the Cabinet Legislation Committee:

- 1 s6(a)
- 2 note that the Russia Sanctions Regulations (No 4) 2024 will give effect to the decision referred to in paragraph 1 above;
- 3 note that, before recommending that regulations be made under the Act, the responsible Minister must be satisfied that: (i) the regulations are appropriate to respond to threats to the sovereignty or territorial integrity of Ukraine or another country; and (ii) the United Nations Security Council is unlikely to act or has acted insufficiently;
- 4 note that, section 32 of the Act lists additional types of regulations that may be made on the recommendation of the Minister including prescribing the information to be included in a formal warning issued under section 20(2)(a) and the manner in which that warning is to be issued;
- 5 note the advice of the Minister for Foreign Affairs that this requirement has been met;
- 6 s6(a)
- 7 note that regulation 4 on the formal warnings will come into force on 17 October 2024, 28-days after gazettal to allow public notice of the change;
- 8 authorise the submission to the Executive Council of the Russia Sanctions Regulations (No 4) 2024.

Authorised for lodgement

Rt Hon Winston Peters

Minister for Foreign Affairs