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STATUTORY INSTRUMENTS

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**2020 No. 590**

**The Sanctions (EU Exit) (Miscellaneous  
Amendments) (No. 2) Regulations 2020**

**PART 1**

**Amendments of sanctions regulations**

**Amendment of the Burma (Sanctions) (EU Exit) Regulations 2019**

- 4.—(1) The Burma (Sanctions) (EU Exit) Regulations 2019<sup>(1)</sup> are amended as follows.
- (2) In regulation 3—
- (a) in paragraph (3), for “In paragraphs (1) and (2)” substitute “In this regulation”;
  - (b) in paragraph (6), for “In paragraphs (4) and (5)” substitute “In this regulation”.
- (3) In regulation 5(2), for “the provisions mentioned in each of the sub-paragraphs of” substitute “different provisions mentioned in”.
- (4) In regulation 6—
- (a) for paragraph 2(a) substitute—
    - “(a) is or has been involved in—
    - (i) the commission of a serious human rights violation or abuse in Burma,
    - (ii) the obstruction of a humanitarian assistance activity in Burma, or
    - (iii) the obstruction of an independent investigation into a serious human rights violation or abuse in Burma,”;
  - (b) in paragraph (3)—
    - (i) for “the commission of a “relevant activity” in Burma” substitute “an activity set out in paragraph 2(a) above”;
    - (ii) in sub-paragraph (a)—
      - (aa) after “promoting”, for “—” substitute “any such activity”;
      - (bb) omit paragraphs (i), (ii) and (iii);
    - (iii) in sub-paragraph (b), for “serious human rights violation or abuse” substitute “such activity”;
    - (iv) after sub-paragraph (c) insert—
      - “(ca) being involved in the supply to Burma of dual-use goods or dual-use technology for military use or the use of the Burma security forces, or of material related to such goods or technology, or in providing financial services relating to such supply”;

- (v) in sub-paragraph (d), for “serious human rights violation or abuse” substitute “such activity”;
- (c) in paragraph (4)—
  - (i) in sub-paragraph (a), after “provision of” insert “Part 3 (Finance) or”;
  - (ii) in sub-paragraph (b), after “provision of”, in the second place that it occurs, insert “Part 3 (Finance) or”;
- (d) in paragraph (6), after “In this regulation,” insert “‘dual-use goods’, ‘dual-use technology’,”.
- (5) In regulation 7(4), after “and” omit “,”.
- (6) In regulation 18—
  - (a) in the definition of “restricted goods” omit paragraph (b);
  - (b) in the definition of “restricted technology” omit paragraph (b).
- (7) In regulation 19(1), omit the definitions of “dual-use goods” and “dual-use technology”.
- (8) In regulation 21—
  - (a) in paragraph (3), at the appropriate place insert—
    - “‘dual-use goods’ means—
      - (a) any thing for the time being specified in Annex # of the Dual-Use Regulation other than any thing which is dual-use technology, and
      - (b) any tangible storage medium on which dual-use technology is recorded or from which it can be derived;
    - “dual-use technology” means any thing for the time being specified in Annex # of the Dual-Use Regulation which is described as software or technology;”;
  - (b) in paragraph (4), omit “except for regulation 29 (provision of interception and monitoring services),”;
  - (c) omit paragraph (5).
- (9) After regulation 28, insert the following chapter—

**“CHAPTER 2A**

**Dual-use goods and dual-use technology**

**Interpretation of this Chapter**

**28A.** For the purposes of this Chapter—

- (a) goods are “for military use” if they are—
  - (i) for use by the Tatmadaw or any other military end-user, or
  - (ii) for any military use;
- (b) technology is “for military use” if it—
  - (i) relates to military activities carried on or proposed to be carried on by the Tatmadaw or any other military end-user, or
  - (ii) is for any military use.

**Export of dual-use goods**

**28B.**—(1) The export to Burma of dual-use goods for military use is prohibited.

- (2) The export of dual-use goods for military use in Burma is prohibited.
- (3) The export of dual-use goods to or for use by the Burma security forces is prohibited.
- (4) Paragraphs (1), (2) and (3) are subject to Part 6 (Exceptions and licences).

### **Supply and delivery of dual-use goods**

**28C.**—(1) A person must not—

- (a) directly or indirectly supply or deliver dual-use goods for military use from a third country to a place in Burma;
- (b) directly or indirectly supply or deliver dual-use goods from a third country to, or for use by, the Burma security forces.

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

- (a) it is a defence for a person charged with the offence of contravening paragraph (1) (a) (“P”) to show that P did not know and had no reasonable cause to suspect that—
  - (i) the goods were destined (or ultimately destined) for Burma, or
  - (ii) the goods were for military use;
- (b) it is a defence for a person charged with the offence of contravening paragraph (1) (b) (“P”) to show that P did not know and had no reasonable cause to suspect that the goods were supplied or delivered to or for the use of the Burma security forces.

(4) In this regulation “third country” means a country that is not the United Kingdom, the Isle of Man or Burma.

### **Making dual-use goods and dual-use technology available**

**28D.**—(1) A person must not—

- (a) directly or indirectly make available, to a person connected with Burma, dual-use goods for military use or dual-use technology for military use;
- (b) directly or indirectly make available dual-use goods for military use in Burma or dual-use technology for military use in Burma;
- (c) directly or indirectly make dual-use goods available to, or for use by, the Burma security forces.

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

- (a) it is a defence for a person charged with an offence of contravening paragraph (1)(a) (“P”) to show that P did not know and had no reasonable cause to suspect that—
  - (i) the person was connected with Burma, or
  - (ii) the goods or technology were for military use;
- (b) it is a defence for a person charged with an offence of contravening paragraph (1) (b) (“P”) to show that P did not know and had no reasonable cause to suspect that the goods or technology were for military use in Burma;
- (c) it is a defence for a person charged with an offence of contravening paragraph (1)(c) (“P”) to show that P did not know and had no reasonable cause to suspect that the goods were made available to or for the use of the Burma security forces.

**Transfer of dual-use technology**

**28E.**—(1) A person must not—

- (a) transfer dual-use technology for military use to a place in Burma;
- (b) transfer dual-use technology for military use to a person connected with Burma;
- (c) transfer dual-use technology to the Burma security forces.

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

- (a) it is a defence for a person charged with the offence of contravening paragraph (1)
  - (a) (“P”) to show that P did not know and had no reasonable cause to suspect that—
    - (i) the transfer was to a place in Burma, or
    - (ii) the technology was for military use;
  - (b) it is a defence for a person charged with the offence of contravening paragraph (1)
    - (b) (“P”) to show that P did not know and had no reasonable cause to suspect that—
      - (i) the person was connected with Burma, or
      - (ii) the technology was for military use;
  - (c) it is a defence for a person charged with an offence of contravening paragraph (1)(c) (“P”) to show that P did not know and had no reasonable cause to suspect that the technology was transferred to the Burma security forces.

**Technical assistance relating to dual-use goods and dual-use technology**

**28F.**—(1) A person must not directly or indirectly—

- (a) provide technical assistance relating to dual-use goods for military use or dual-use technology for military use to a person connected with Burma;
- (b) provide technical assistance relating to dual-use goods for military use in Burma or dual-use technology for military use in Burma;
- (c) provide technical assistance relating to dual-use goods or dual-use technology to the Burma security forces;
- (d) provide technical assistance relating to dual-use goods or dual-use technology for use by the Burma security forces.

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

- (a) it is a defence for a person charged with the offence of contravening paragraph (1)
  - (a) (“P”) to show that P did not know and had no reasonable cause to suspect that—
    - (i) the person was connected with Burma, or
    - (ii) the goods or technology were for military use;
  - (b) it is a defence for a person charged with the offence of contravening paragraph (1)
    - (b) (“P”) to show that P did not know and had no reasonable cause to suspect that the goods or technology were for military use in Burma;
  - (c) it is a defence for a person charged with the offence of contravening paragraph (1)
    - (c) (“P”) to show that P did not know and had no reasonable cause to suspect that the technical assistance was provided to the Burma security forces;

- (d) it is a defence for a person charged with the offence of contravening paragraph (1) (d) (“P”) to show that P did not know and had no reasonable cause to suspect that the goods or technology were for use by the Burma security forces.

### **Financial services and funds relating to dual-use goods and dual-use technology**

**28G.**—(1) A person must not directly or indirectly provide, to a person connected with Burma, financial services in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export of dual-use goods for military use,
- (b) the direct or indirect supply or delivery of dual-use goods for military use,
- (c) directly or indirectly making dual-use goods for military use or dual-use technology for military use available to a person,
- (d) the transfer of dual-use technology for military use, or
- (e) the direct or indirect provision of technical assistance relating to dual-use goods for military use or dual-use technology for military use.

(2) A person must not directly or indirectly make funds available to a person connected with Burma in pursuance of or in connection with an arrangement mentioned in paragraph (1).

(3) A person must not directly or indirectly provide, to the Burma security forces, financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export of dual-use goods,
- (b) the direct or indirect supply or delivery of dual-use goods,
- (c) directly or indirectly making dual-use goods or technology available to a person,
- (d) the transfer of dual-use technology, or
- (e) the direct or indirect provision of technical assistance relating to dual-use goods or dual-use technology.

(4) A person must not directly or indirectly provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export to Burma of dual-use goods for military use;
- (b) the export of dual-use goods for military use in Burma;
- (c) the export of dual-use goods to or for use by the Burma security forces;
- (d) the direct or indirect supply or delivery of dual-use goods for military use to a place in Burma;
- (e) the direct or indirect supply or delivery of dual-use goods to or for use by the Burma security forces;
- (f) directly or indirectly making available, to a person connected with Burma, dual-use goods for military use or dual-use technology for military use;
- (g) directly or indirectly making available dual-use goods for military use in Burma or dual-use technology for military use in Burma;
- (h) directly or indirectly making dual-use goods or dual-use technology available to or for use by the Burma security forces;
- (i) the transfer of dual-use technology for military use—
  - (i) to a person connected with Burma, or
  - (ii) to a place in Burma;

- (j) the transfer of dual-use technology to the Burma security forces;
  - (k) the direct or indirect provision of technical assistance relating to dual-use goods for military use or dual-use technology for military use to a person connected with Burma;
  - (l) the direct or indirect provision of technical assistance relating to dual-use goods for military use in Burma or dual-use technology for military use in Burma;
  - (m) the direct or indirect provision of technical assistance relating to dual-use goods or dual-use technology to the Burma security forces;
  - (n) the direct or indirect provision of technical assistance relating to dual-use goods or dual-use technology for use by the Burma security forces.
- (5) Paragraphs (1) to (4) are subject to Part 6 (Exceptions and licences).
- (6) A person who contravenes a prohibition in any of paragraphs (1) to (4) commits an offence, but—
- (a) it is a defence for a person charged with an offence of contravening a prohibition in paragraph (1) or (2) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Burma;
  - (b) it is a defence for a person charged with an offence of contravening a prohibition in paragraph (3) (“P”) to show that P did not know and had no reasonable cause to suspect that the financial services or funds (as the case may be) were provided to the Burma security forces;
  - (c) it is a defence for a person charged with an offence of contravening a prohibition in paragraph (4) (“P”) to show that P did not know and had no reasonable cause to suspect that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in that paragraph.

**Brokering services: non-UK activity relating to dual-use goods and dual-use technology**

**28H.**—(1) A person (“P”) must not directly or indirectly provide brokering services in relation to an arrangement (“arrangement A”) whose object or effect is—

- (a) the direct or indirect supply or delivery of dual-use goods for military use from a third country to a place in Burma;
- (b) the direct or indirect supply or delivery of dual-use goods to or for use by the Burma security forces;
- (c) directly or indirectly making dual-use goods for military use available in a third country for direct or indirect supply or delivery—
  - (i) to a person connected with Burma, or
  - (ii) to a place in Burma;
- (d) directly or indirectly making dual-use technology for military use available in a third country for transfer—
  - (i) to a person connected with Burma, or
  - (ii) to a place in Burma;
- (e) directly or indirectly making dual-use goods or dual-use technology available to or for use by the Burma security forces;
- (f) the transfer of dual-use technology for military use from a place in a third country—
  - (i) to a person connected with Burma, or
  - (ii) to a place in Burma;

- (g) the transfer of dual-use technology from a place in a third country to the Burma security forces;
  - (h) the direct or indirect provision, in a non-UK country, of technical assistance relating to dual-use goods for military use or dual-use technology for military use—
    - (i) to a person connected with Burma, or
    - (ii) for use in Burma;
  - (i) the direct or indirect provision, in a non-UK country, of technical assistance relating to dual-use goods or dual-use technology to the Burma security forces.
  - (j) the direct or indirect provision, in a non-UK country, of financial services—
    - (i) to a person connected with Burma, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28G(1), or
    - (ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28G(3);
  - (k) directly or indirectly making funds available, in a non-UK country, to a person connected with Burma, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28G(1); or
  - (l) the direct or indirect provision of funds from a non-UK country, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28G(3).
- (2) Paragraph (1) is subject to Part 6 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence (“P”) to show that P did not know and had no reasonable cause to suspect that the brokering services were provided in relation to an arrangement mentioned in that paragraph.
- (4) In this regulation—
- “non-UK country” means a country that is not the United Kingdom;
  - “third country” means—
    - (a) for the purposes of paragraph (1)(a) and (c), a country that is not the United Kingdom, the Isle of Man or Burma,
    - (b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom or Burma.”
- (10) In regulation 29—
- (a) in paragraph (1), for “a person connected with Burma” substitute “the Government of Burma”;
  - (b) in paragraph (3), for the words from “person to whom” to “with Burma” substitute “services were provided to, or for the benefit of, the Government of Burma”.
- (11) For Chapter 4 of Part 5 substitute—

“CHAPTER 4

Military activities etc.

**Military activities or otherwise enabling or facilitating the conduct of armed hostilities**

**30.**—(1) A person must not directly or indirectly provide anything falling within paragraph (2) to or for the benefit of the Tatmadaw, or to any person acting on its behalf or under its direction, where such provision—

- (a) relates to the military activities of the recipient in Burma, or
- (b) otherwise enables or facilitates the conduct of armed hostilities in Burma.

(2) The following fall within this paragraph—

- (a) technical assistance,
- (b) armed personnel,
- (c) financial services or funds, or
- (d) brokering services in relation to an arrangement whose object or effect is to provide, in a non-UK country, anything mentioned in sub-paragraphs (a) to (c).

(3) Paragraph (1) is subject to Part 6 (Exceptions and licences).

(4) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence (“P”) to show that P did not know and had no reasonable cause to suspect that the provision as mentioned in paragraph (1)—

- (a) was to or for the benefit of the Tatmadaw, or to any person acting on its behalf or under its direction, or
- (b) related to the military activities of the recipient in Burma or would otherwise enable or facilitate the conduct of armed hostilities in Burma.

(5) In this regulation—

“non-UK country” means a country that is not the United Kingdom;

“technical assistance” means the provision of technical support or any other technical service.

(6) Nothing in this regulation is to be taken to limit the meaning of any of the prohibitions contained in Chapter 2, 2A or 3.”

(12) In regulation 32(1), after “Chapter 2,” insert “2A,”.

(13) In regulation 43—

- (a) in paragraph (1)(a), after “controlled by” insert “, or on behalf of,”;
- (b) in paragraph (7)(a)(i), after “controlled by” insert “, or on behalf of,”.

(14) In regulation 46(2)(a)—

- (a) after “Chapter 2,” insert “2A,”;
- (b) for “the prohibition in regulation 23(1)” substitute “any prohibitions in regulation 22(1) or regulation 28B(1) to (3)”.

(15) In regulation 49(2)(d)(ii), after “(export of restricted goods)” insert “or regulation 28B(1) to (3) (export of dual-use goods)”.

(16) In regulation 53(2), for the words before sub-paragraph (a) substitute “Where an offence under these Regulations is committed outside the United Kingdom—”.

(17) In regulation 57, after “regulation 22(1)”, in each place that it occurs, insert “or regulation 28B(1) to (3)”.



- (18) In regulation 58, for “and regulation 38” substitute “or regulation 38”.
- (19) For regulation 59, substitute—
- “59. Each provision in Part 5 (Trade) which contains a prohibition imposed for a purpose mentioned in section 3(1) or (2) of the Act is to be regarded as not being financial sanctions legislation for the purposes of Part 8 of the Policing and Crime Act 2017(2).”
- (20) In regulation 60(2)—
- (a) in sub-paragraphs (c) and (d), for “and (b)”, in both places it occurs, substitute “or (b)”;
- (b) after sub-paragraph (d)—
- (i) for “.” substitute “;”, and
- (ii) insert—
- “(e) a prohibition in regulation 28B(1) to (3) (export of dual-use goods);
- (f) a prohibition in regulation 28C(1)(a) or (b) (supply and delivery of dual-use goods);
- (g) a prohibition in regulation 28D(1)(a) to (c) (making dual-use goods and dual-use technology available);
- (h) a prohibition in regulation 28E(1)(a) to (c) (transfer of dual-use technology);
- (i) a prohibition imposed by a condition of a trade licence in relation to any prohibition mentioned in sub-paragraphs (a) to (h).”
- (21) In regulation 65(2), for “regulation 60(2)(a) to (d)” substitute “regulation 60(2)(a) to (i)”.
- (22) In regulation 68(a)—
- (a) after “article” insert “34,”;
- (b) omit “36, 36A.”.
- (23) In regulation 71(2), after “existing financial sanctions licence” insert “which authorises an act which would otherwise be prohibited”.
- (24) In Schedule 2—
- (a) in paragraph 4(2), for “sub-paragraphs (a) to (e)” substitute “sub-paragraph (1)(a) to (e)”;
- (b) in paragraph 8—
- (i) in sub-paragraph (1), after “protection of” insert “a”;
- (ii) in sub-paragraph (2)(b), for “sub-paragraph (a) or (b)” substitute “sub-paragraph (1) (a) or (b)”;
- (c) in paragraph 16, for “to develop, produce or use” substitute “for the development, production or use of”;
- (d) for paragraph 17 substitute—
- “17.—(1) In this Schedule, “firearm” means any portable barrelled weapon that expels, is designed to expel or may be converted to expel, a shot, bullet or projectile by the action of a combustible propellant.
- (2) For the purposes of this Schedule, the following terms have the meaning given to them in the Dual-Use Regulation—
- “development”;
- “production”;

“software”;  
“technology”;  
“use”.”

(25) In Schedule 3—

- (a) in paragraph 3, for “to develop, produce or use” substitute “for the development, production or use of”;
- (b) for paragraph 4 substitute—

“4. For the purposes of this Schedule, the following terms have the meaning given to them in the Dual-Use Regulation—

“development”;  
“production”;  
“software”;  
“technology”;  
“use”.”

(26) In Schedule 4—

- (a) in paragraph 1, for the definition of “diplomatic mission” substitute—  
““diplomatic mission”, and any reference to the functions of a diplomatic mission, are to be read in accordance with the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961;”;
- (b) in paragraphs 2(2)(b)(ii) and (iii), for “payments”, in both places it occurs, substitute “payment”.