
STATUTORY INSTRUMENTS

2021 No. 1146

The Republic of Belarus (Sanctions) (EU
Exit) (Amendment) (No. 2) Regulations 2021

PART 4

Trade

Definition of “restricted goods” and “restricted technology”

10. In regulation 18—

- (a) in the definition of “restricted goods”, after “military goods”, omit “and” and insert—
 - “(aa) interception and monitoring goods, and”;
- (b) in the definition of “restricted technology”, after “military technology”, omit “and” and insert—
 - “(aa) interception and monitoring technology, and”.

Further definitions

11. For regulation 19, substitute—

“Definitions relating to “restricted goods” and “restricted technology”

19.—(1) For the purposes of regulation 18—

“interception and monitoring goods” means any item mentioned in sub-paragraph (a) or (b), provided that it may be used for interception and monitoring services—

- (a) a relevant Schedule 2A item;
- (b) any tangible storage medium on which interception and monitoring technology is recorded or from which it can be derived;

“interception and monitoring technology” means any thing—

- (a) which is described as software in paragraph 2 of Schedule 2A, provided that it may be used for interception and monitoring services, and
- (b) which is described as software or other technology in paragraph 3 of Schedule 2A,

(but see paragraph (3));

“internal repression goods” means—

- (a) any thing specified in Schedule 2, other than—
 - (i) any thing which is internal repression technology, or
 - (ii) any thing for the time being specified in—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (aa) Schedule 2 to the Export Control Order 2008⁽¹⁾, or
 - (bb) Annex # of the Dual-Use Regulation, and
 - (b) any tangible storage medium on which internal repression technology is recorded or from which it can be derived;
- “internal repression technology” means any thing which is described in Schedule 2 as software or technology, within the meaning of that Schedule;
- “military goods” means—
- (a) any thing for the time being specified in Schedule 2 to the Export Control Order 2008, other than any thing which is military technology, and
 - (b) any tangible storage medium on which military technology is recorded or from which it can be derived;
- “military technology” means any thing for the time being specified in Schedule 2 to the Export Control Order 2008 which is described as software or technology.
- (2) For the purpose of paragraph (1), “a relevant Schedule 2A item” means any thing described in Schedule 2A, other than—
- (a) any thing which is interception and monitoring technology, or
 - (b) any thing for the time being specified in—
 - (i) Schedule 2 to the Export Control Order 2008, or
 - (ii) Annex I of the Dual-Use Regulation.
- (3) The definition of “interception and monitoring technology” does not apply to software which is—
- (a) generally available to the public, or
 - (b) in the public domain.
- (4) For the purpose of paragraph (3)—
- (a) software is “generally available to the public” if—
 - (i) the software is sold from stock at retail selling points without restriction, by means of—
 - (aa) over the counter transactions,
 - (bb) mail order transactions,
 - (cc) electronic transactions, or
 - (dd) telephone order transactions, and
 - (ii) the software is designed for installation by the user without further substantial support by the supplier;
 - (b) software is “in the public domain” if the software has been made available without restrictions upon its further dissemination (and for this purpose copyright restrictions do not constitute a restriction upon its further dissemination).”

Definition of “interception and monitoring services”

12. After regulation 19, insert—

(1) [S.I. 2008/3231](#). Schedule 2 was substituted by [S.I. 2017/85](#) and subsequently amended by [S.I. 2017/697](#); [S.I. 2018/165](#); [S.I. 2018/939](#); [S.I. 2019/137](#); [S.I. 2019/989](#); and [S.I. 2021/586](#). There are other instruments which amend other parts of the Order, which are not relevant to these Regulations.

“Definition of “interception and monitoring services”

19A.—(1) For the purposes of this Part, “interception and monitoring services” means any service that has as its object or effect the interception of a communication in the course of its transmission by means of a telecommunication system.

(2) A person intercepts a communication in the course of its transmission by means of a telecommunication system if, and only if—

- (a) the person does a relevant act in relation to the system, and
- (b) the effect of the relevant act is to make any content of the communication available, at a relevant time, to a person who is not the sender or intended recipient of the communication.

(3) In paragraph (2) a “relevant act”, in relation to a telecommunication system, means—

- (a) modifying, or interfering with, the system or its operation;
- (b) monitoring transmissions made by means of the system;
- (c) monitoring transmissions made by wireless telegraphy to or from apparatus that is part of the system.

(4) In paragraph (2), a “relevant time”, in relation to a communication transmitted by means of a telecommunication system, means—

- (a) any time while the communication is being transmitted, and
- (b) any time when the communication is stored in or by the system (whether before or after its transmission).

(5) For the purpose of paragraph (2), the cases in which any content of a communication is to be taken to be made available to a person at a relevant time include any case in which any of the communication is diverted or recorded at a relevant time so as to make the content of the communication available to a person after that time.

(6) In paragraph (3), references to modifying a telecommunication system include references to attaching any apparatus to, or otherwise modifying or interfering with—

- (a) any part of the system, or
- (b) any wireless telegraphy apparatus used for making transmissions to or from apparatus that is part of the system.

(7) For the purposes of this regulation, the following definitions also apply—

“apparatus” includes any equipment, machinery or device (whether physical or logical) and any wire or cable;

“communication”, for the purpose of a telecommunication system, includes—

- (a) anything comprising speech, music, sounds, visual images or data of any description, and
- (b) signals serving for the impartation of anything between persons, between a person and a thing or between things, for the actuation or control of any apparatus;

“content”, in relation to a communication and a telecommunication system, means any element of the communication, or any data attached to or logically associated with the communication, which reveals anything of what might reasonably be considered to be the meaning (if any) of the communication, but—

- (a) any meaning arising from the fact of the communication or from any data relating to the transmission of the communication is to be disregarded, and
- (b) anything which is systems data is not content;

“systems data” means any data that enables or facilitates, or identifies or describes anything connected with enabling or facilitating, the functioning of a telecommunication system (including any apparatus forming part of the system);

“a telecommunication system” means a system (including the apparatus comprised in it) that exists for the purpose of facilitating the transmission of communications by any means involving the use of electrical or electromagnetic energy;

“wireless telegraphy” and “wireless telegraphy apparatus” have the same meaning as in sections 116 and 117 of the Wireless Telegraphy Act 2006(2).”

Interpretation of other expressions used in Part 5

13. In regulation 20 (interpretation of other expressions used in this Part)—

(a) in paragraph (3)—

(i) after the definition of “brokering service”, insert—

““dual-use goods” means—

- (a) any thing for the time being specified in Annex I 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 I of the Dual-Use Regulation which is described as software or technology;

“potash” has the meaning given to it in Schedule 2B;

“petroleum products” has the meaning given to it in Schedule 2B;”;

(ii) after the definition of “technical assistance”, insert—

““tobacco industry goods” has the meaning given to it in Schedule 2B;”;

(b) omit paragraph (4).

Export of restricted goods and tobacco industry goods

14. In the title of Chapter 2 of Part 5 (Trade), after “Restricted goods”, insert “, tobacco industry goods”.

15.—(1) In the heading to regulation 21, after “restricted goods”, insert “and tobacco industry goods”.

(2) In regulation 21, for paragraph (1) substitute—

“(1) The export of the following goods to or for use in Belarus is prohibited—

- (a) restricted goods;
- (b) tobacco industry goods.”

16.—(1) In the heading to regulation 22, after “restricted goods”, insert “and tobacco industry goods”.

(2) In regulation 22, for paragraph (1) substitute—

“(1) A person must not directly or indirectly supply or deliver the following goods from a third country to a place in Belarus—

- (a) restricted goods;

(b) tobacco industry goods.”

17.—(1) In the heading to regulation 23, after “restricted goods”, insert “, tobacco industry goods”.

(2) In regulation 23, for paragraph (1) substitute—

“(1) A person must not—

- (a) directly or indirectly make goods or technology to which this paragraph applies available to a person connected with Belarus;
- (b) directly or indirectly make goods or technology to which this paragraph applies available for use in Belarus.

(1A) Paragraph (1) applies to—

- (a) restricted goods;
- (b) restricted technology;
- (c) tobacco industry goods.”

Interception and monitoring services

18. After regulation 24, insert—

“Provision of interception and monitoring services

24A.—(1) A person must not directly or indirectly provide interception and monitoring services to, or for the benefit of, the Government of Belarus.

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

(3) 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 services were provided to or for the benefit of the Government of Belarus.”

Dual-use goods and technology

19. After Chapter 2 (restricted goods, tobacco industry goods and restricted technology) of Part 5 (Trade), insert—

“CHAPTER 2A

Dual-use goods, dual-use technology and related activities

Interpretation of this Chapter

27A. For the purposes of this Chapter—

- (a) goods are “for military use” if they are—
 - (i) for use by the Belarusian military 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 Belarusian military or any other military end-user, or
 - (ii) is for any military use.

Export of dual-use goods

- 27B.**—(1) The export to Belarus of dual-use goods for military use is prohibited.
- (2) The export of dual-use goods for military use in Belarus is prohibited.
- (3) Paragraphs (1) and (2) are subject to Part 6 (Exceptions and licences).

Supply and delivery of dual-use goods

- 27C.**—(1) A person must not directly or indirectly supply or deliver dual-use goods for military use from a third country to a place in Belarus.
- (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 to show that the person did not know and had no reasonable cause to suspect that—
- (a) the goods were destined (or ultimately destined) for Belarus, or
- (b) the goods were for military use.
- (4) In this regulation “third country” means a country that is not the United Kingdom, the Isle of Man or Belarus.

Making dual-use goods and dual-use technology available

- 27D.**—(1) A person must not—
- (a) directly or indirectly make available, to a person connected with Belarus, 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 Belarus or dual-use technology for military use in Belarus.
- (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 Belarus, 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) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for military use in Belarus.

Transfer of dual-use technology

- 27E.**—(1) A person must not—
- (a) transfer dual-use technology for military use to a place in Belarus;
- (b) transfer dual-use technology for military use to a person connected with Belarus.
- (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) to show that the person did not know and had no reasonable cause to suspect that—

- (i) the transfer was to a place in Belarus, 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 Belarus, or
 - (ii) the technology was for military use.

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

- 27F.**—(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 Belarus;
 - (b) provide technical assistance relating to dual-use goods for military use in Belarus or dual-use technology for military use in Belarus.
- (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 Belarus, 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) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for military use in Belarus.

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

- 27G.**—(1) A person must not directly or indirectly provide, to a person connected with Belarus, 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 Belarus in pursuance of or in connection with an arrangement mentioned in paragraph (1).
- (3) 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 Belarus of dual-use goods for military use;
 - (b) the export of dual-use goods for military use in Belarus;

- (c) the direct or indirect supply or delivery of dual-use goods for military use to a place in Belarus;
 - (d) directly or indirectly making available, to a person connected with Belarus, dual-use goods for military use or dual-use technology for military use;
 - (e) directly or indirectly making available dual-use goods for military use in Belarus or dual-use technology for military use in Belarus;
 - (f) the transfer of dual-use technology for military use—
 - (i) to a person connected with Belarus, or
 - (ii) to a place in Belarus;
 - (g) 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 Belarus;
 - (h) the direct or indirect provision of technical assistance relating to dual-use goods for military use in Belarus or dual-use technology for military use in Belarus.
- (4) Paragraphs (1) to (3) are subject to Part 6 (Exceptions and licences).
- (5) A person who contravenes a prohibition in any of paragraphs (1) to (3) 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 Belarus;
 - (b) it is a defence for a person charged with an offence of contravening a prohibition in paragraph (3) to show that the person 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

27H.—(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 Belarus;
- (b) 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 Belarus, or
 - (ii) to a place in Belarus;
- (c) directly or indirectly making dual-use technology for military use available in a third country for transfer—
 - (i) to a person connected with Belarus, or
 - (ii) to a place in Belarus;
- (d) the transfer of dual-use technology for military use from a place in a third country—
 - (i) to a person connected with Belarus, or
 - (ii) to a place in Belarus;

- (e) 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 Belarus, or
 - (ii) for use in Belarus;
- (f) the direct or indirect provision, in a non-UK country, of financial services to a person connected with Belarus, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 27G(1); or
- (g) directly or indirectly making funds available, in a non-UK country, to a person connected with Belarus, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 27G(1).

(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 to show that the person 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 (b), a country that is not the United Kingdom, the Isle of Man or Belarus,
- (b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom or Belarus.

CHAPTER 2B

Potash and petroleum products

Import of potash and petroleum products

27I.—(1) The import of goods to which this paragraph applies which originate in Belarus is prohibited.

(2) The import of goods to which this paragraph applies which are consigned from Belarus is prohibited.

(3) Paragraphs (1) and (2) apply to—

- (a) potash;
- (b) petroleum products.

(4) Paragraphs (1) and (2) are subject to Part 6 (Exceptions and licences).

Acquisition of potash and petroleum products

27J.—(1) A person must not directly or indirectly acquire goods to which this paragraph applies—

- (a) which originate in Belarus;
- (b) which are located in Belarus.

(2) Paragraph (1) applies to—

- (a) potash;
 - (b) petroleum products.
- (3) A person must not directly or indirectly acquire potash from a person connected with Belarus.
- (4) Paragraphs (1) and (3) are subject to Part 6 (Exceptions and licences).
- (5) A person who contravenes a prohibition in paragraph (1) or (3) commits an offence, but—
- (a) it is a defence for a person charged with the offence of contravening paragraph (1)
 - (a) to show that the person did not know and had no reasonable cause to suspect that the goods originated in Belarus;
 - (b) it is a defence for a person charged with the offence of contravening paragraph (1)
 - (b) to show that the person did not know and had no reasonable cause to suspect that the goods were located in Belarus;
 - (c) it is a defence for a person charged with the offence of contravening paragraph (3) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Belarus.

Supply and delivery of potash and petroleum products

- 27K.**—(1) A person must not directly or indirectly supply or deliver goods to which this paragraph applies from a place in Belarus to a third country.
- (2) A person must not directly or indirectly supply or deliver goods to which this paragraph applies from a place in a non-UK country to a place in a different non-UK country where those goods originate in Belarus.
- (3) Paragraphs (1) and (2) apply to—
- (a) potash;
 - (b) petroleum products.
- (4) Paragraphs (1) and (2) are subject to Part 6 (Exceptions and licences).
- (5) A person who contravenes a prohibition in paragraph (1) or (2) commits an offence, but—
- (a) it is a defence for a person charged with the offence of contravening paragraph (1) to show that the person did not know and had no reasonable cause to suspect that the supply or delivery was from a place in Belarus, whether directly or indirectly;
 - (b) it is a defence for a person charged with the offence of contravening paragraph (2) to show that the person did not know and had no reasonable cause to suspect that the goods originated in Belarus.
- (6) In this regulation—
- “non-UK country” means a country that is not the United Kingdom or the Isle of Man;
- “third country” means a country that is not the United Kingdom, the Isle of Man or Belarus.

Technical assistance relating to petroleum products

- 27L.**—(1) A person must not directly or indirectly provide technical assistance relating to—
- (a) the import of petroleum products which—

- (i) originate in Belarus, or
 - (ii) are consigned from Belarus;
 - (b) the direct or indirect acquisition of petroleum products—
 - (i) originating in Belarus, or
 - (ii) located in Belarus;
 - (c) the direct or indirect supply or delivery of petroleum products from a place in Belarus to a third country;
 - (d) the direct or indirect supply or delivery of petroleum products from a place in a non-UK country to a place in a different non-UK country where the petroleum products originate in Belarus.
- (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), to show that the person did not know and had no reasonable cause to suspect that the technical assistance related to an import described in that paragraph;
 - (b) it is a defence for a person charged with an offence of contravening paragraph 1(b), to show that the person did not know and had no reasonable cause to suspect that the technical assistance related to an acquisition described in that paragraph;
 - (c) it is a defence for a person charged with an offence of contravening paragraph 1(c) or (d), to show that the person did not know and had no reasonable cause to suspect that the technical assistance related to a supply or delivery described in paragraph (c) or (d), as applicable.
- (4) In this regulation—
- “non-UK country” means a country that is not the United Kingdom or the Isle of Man;
- “third country” means a country that is not the United Kingdom, the Isle of Man or Belarus.

Financial services, funds and brokering services relating to petroleum products

27M.—(1) 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 import of petroleum products which—
 - (i) originate in Belarus, or
 - (ii) are consigned from Belarus;
 - (b) the direct or indirect acquisition of petroleum products—
 - (i) originating in Belarus, or
 - (ii) located in Belarus;
 - (c) the direct or indirect supply or delivery of petroleum products from a place in Belarus to a third country;
 - (d) the direct or indirect supply or delivery of petroleum products from a place in a non-UK country to a place in a different non-UK country where the petroleum products originate in Belarus.
- (2) A person must not directly or indirectly provide brokering services in relation to any arrangements described in paragraph (1).
- (3) Paragraphs (1) and (2) are 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 to show that the person 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.

(5) A person who contravenes a prohibition in paragraph (2) commits an offence, but it is a defence for a person charged with that offence to show that the person 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.

(6) In this regulation—

“non-UK country” means a country that is not the United Kingdom or the Isle of Man;

“third country” means a country that is not the United Kingdom, the Isle of Man or Belarus.

CHAPTER 2C

Aircraft

Technical assistance relating to aircraft

27N.—(1) A person must not directly or indirectly provide technical assistance to, or for the benefit of, any person designated under regulation 5(1)(c), where that technical assistance relates to an aircraft.

(2) Paragraph (1) does not apply to any technical assistance which is prohibited under regulation 25 (technical assistance relating to restricted goods and restricted technology), or regulation 27F (technical assistance relating to dual-use goods and dual-use technology).

(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 technical assistance was provided to or for the benefit of a person designated under regulation 5(1)(c).

(5) In this regulation, “aircraft” includes unmanned aircraft and aircraft capable of spaceflight activities.”

Trade: further provision

20.—(1) In regulation 28(1)(a), for “Chapter 2”, substitute “Chapter 2, 2A, 2B or 2C”.

(2) In regulation 29(1), for “Chapter 2”, substitute “Chapter 2, 2A, 2B or 2C”.