
STATUTORY INSTRUMENTS

2019 No. 136

The Burma (Sanctions) (EU Exit) Regulations 2019

PART 5

Trade

[^{F1}CHAPTER 2A

Dual-use goods and dual-use technology

Textual Amendments

- F1** Pt. 5 Ch. 2A inserted (31.12.2020 immediately after IP completion day) by [The Sanctions \(EU Exit\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2020 \(S.I. 2020/590\)](#), regs. 1(2), **4(9)**; S.I. 2020/1514, reg. 4

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.

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- (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

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- (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

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- (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.]

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