
STATUTORY INSTRUMENTS

2019 No. 438

The South Sudan (Sanctions) (EU Exit) Regulations 2019

PART 5

Trade

CHAPTER 1

Interpretation

Definition of “military goods” and “military technology”

19. In this Part—

“military goods” means—

- (a) any thing for the time being specified in Schedule 2 to the Export Control Order 2008⁽¹⁾, 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.

Interpretation of other expressions used in this Part

20.—(1) Paragraphs 32 and 36 of Schedule 1 to the Act (trade sanctions) apply for the purpose of interpreting expressions in this Part.

(2) In this Part, any reference to the United Kingdom includes a reference to the territorial sea.

(3) In this Part—

“brokering service” means any service to secure, or otherwise in relation to, an arrangement, including (but not limited to)—

- (a) the selection or introduction of persons as parties or potential parties to the arrangement,
- (b) the negotiation of the arrangement,
- (c) the facilitation of anything that enables the arrangement to be entered into, and
- (d) the provision of any assistance that in any way promotes or facilitates the arrangement;

“technical assistance”, in relation to goods or technology, means—

- (a) technical support relating to the repair, development, production, assembly, testing, use or maintenance of the goods or technology, or
- (b) any other technical service relating to the goods or technology;

“transfer” has the meaning given by paragraph 37 of Schedule 1 to the Act.

(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](#); and [S.I. 2018/939](#). There are other instruments which amend other parts of the Order, which are not relevant to these Regulations.

(4) For the purposes of this Part, a person is to be regarded as “connected with” South Sudan if the person is—

- (a) an individual who is, or an association or combination of individuals who are, ordinarily resident in South Sudan,
- (b) an individual who is, or an association or combination of individuals who are, located in South Sudan,
- (c) a person, other than an individual, which is incorporated or constituted under the law of South Sudan, or
- (d) a person, other than an individual, which is domiciled in South Sudan.

CHAPTER 2

Military goods and military technology

Export of military goods

- 21.**—(1) The export of military goods to, or for use in, South Sudan is prohibited.
(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

Supply and delivery of military goods

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

Making military goods and military technology available

- 23.**—(1) A person must not—
(a) directly or indirectly make military goods or military technology available to a person connected with South Sudan;
(b) directly or indirectly make military goods or military technology available for use in South Sudan.
(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 the person was connected with South Sudan;
(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 use in South Sudan.

Transfer of military technology

- 24.**—(1) A person must not—

- (a) transfer military technology to a place in South Sudan;
- (b) transfer military technology to a person connected with South Sudan.
- (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 the transfer was to a place in South Sudan;
 - (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 person was connected with South Sudan.

Technical assistance relating to military goods and military technology

25.—(1) A person must not directly or indirectly provide technical assistance relating to military goods or military technology—

- (a) to a person connected with South Sudan, or
- (b) for use in South Sudan.
- (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 the person was connected with South Sudan;
 - (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 use in South Sudan.

Financial services and funds relating to military goods and military technology

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

- (a) the export of military goods,
- (b) the direct or indirect supply or delivery of military goods,
- (c) directly or indirectly making military goods or military technology available to a person,
- (d) the transfer of military technology, or
- (e) the direct or indirect provision of technical assistance relating to military goods or military technology.
- (2) A person must not directly or indirectly make funds available to a person connected with South Sudan 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 of military goods to, or for use in, South Sudan,
 - (b) the direct or indirect supply or delivery of military goods to a place in South Sudan,
 - (c) directly or indirectly making military goods or military technology available—
 - (i) to a person connected with South Sudan, or

- (ii) for use in South Sudan,
- (d) the transfer of military technology—
 - (i) to a person connected with South Sudan, or
 - (ii) to a place in South Sudan, or
- (e) the direct or indirect provision of technical assistance relating to military goods or military technology—
 - (i) to a person connected with South Sudan, or
 - (ii) for use in South Sudan.
- (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 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 South Sudan;
 - (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 military goods and military technology

- 27.—**(1) A person 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 military goods from a third country to a place in South Sudan,
 - (b) directly or indirectly making military goods available in a third country for direct or indirect supply or delivery—
 - (i) to a person connected with South Sudan, or
 - (ii) to a place in South Sudan,
 - (c) directly or indirectly making military technology available in a third country for transfer—
 - (i) to a person connected with South Sudan, or
 - (ii) to a place in South Sudan,
 - (d) the transfer of military technology from a place in a third country—
 - (i) to a person connected with South Sudan, or
 - (ii) to a place in South Sudan,
 - (e) the direct or indirect provision, in a non-UK country, of technical assistance relating to military goods or military technology—
 - (i) to a person connected with South Sudan, or
 - (ii) for use in South Sudan,
 - (f) the direct or indirect provision, in a non-UK country, of financial services—
 - (i) to a person connected with South Sudan, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(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 26(3),
- (g) directly or indirectly making funds available, in a non-UK country, to a person connected with South Sudan, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(1), or
- (h) 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 26(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 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 South Sudan, and
- (b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom or South Sudan.

CHAPTER 3

Enabling or facilitating the conduct of armed hostilities

Enabling or facilitating the conduct of armed hostilities

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

- (a) technical assistance,
- (b) armed personnel,
- (c) financial services or funds, or
- (d) brokering services provided 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),

where such provision enables or facilitates the conduct of armed hostilities in South Sudan.

(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 to show that the person did not know and had no reasonable cause to suspect that the provision as mentioned in paragraph (1) would enable or facilitate the conduct of armed hostilities in South Sudan.

(4) 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.

(5) Nothing in this regulation is to be taken to limit the meaning of any of the prohibitions contained in Chapter 2.

CHAPTER 4

Further provision

Circumventing etc prohibitions

29.—(1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

- (a) to circumvent any of the prohibitions in Chapter 2 or 3 of this Part, or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person who contravenes a prohibition in paragraph (1) commits an offence.

Defences

30.—(1) Paragraph (2) applies where a person relies on a defence under Chapter 2 or 3 of this Part.

(2) If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.