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STATUTORY INSTRUMENTS

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**2020 No. 948**

**The Afghanistan (Sanctions) (EU Exit) Regulations 2020**

**PART 4**

**Trade**

**Interpretation of expressions used in this Part**

**14.**—(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;

“designated person” means a person who is a designated person by reason of regulation 5 (designations of persons named under UN Security Council Resolutions);

“military goods” means—

- (a) any thing for the time being specified in Schedule 2 to the Export Control Order 2008<sup>(1)</sup>, 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;

except in regulation 22, “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.

**Export of military goods**

**15.**—(1) The export of military goods to, or for the benefit of, a designated person is prohibited.

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<sup>(1)</sup> [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](#); and [S.I. 2019/989](#). There are other instruments which amend other parts of the Order, which are not relevant to these Regulations.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

### **Supply and delivery of military goods**

**16.**—(1) A person must not directly or indirectly supply or deliver military goods from a third country to, or for the benefit of, a designated person.

(2) Paragraph (1) is subject to Part 5 (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 person to whom, or for whose benefit, the goods were supplied or delivered was a designated person.

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

### **Making military goods and military technology available**

**17.**—(1) A person must not directly or indirectly make military goods or military technology available to, or for the benefit of, a designated person.

(2) Paragraph (1) is subject to Part 5 (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 person to whom, or for whose benefit, the goods or technology were made available was a designated person.

### **Transfer of military technology**

**18.**—(1) A person must not transfer military technology to, or for the benefit of, a designated person.

(2) Paragraph (1) is subject to Part 5 (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 person to whom, or for whose benefit, the technology was transferred was a designated person.

### **Technical assistance relating to military goods and military technology**

**19.**—(1) A person must not directly or indirectly provide technical assistance relating to military goods or military technology to, or for the benefit of, a designated person.

(2) Paragraph (1) is subject to Part 5 (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 person to whom, or for whose benefit, the technical assistance was provided was a designated person.

### **Financial services and funds relating to military goods and military technology**

**20.**—(1) A person must not directly or indirectly provide financial services to, or for the benefit of, a designated person 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, or for the benefit of, a designated person 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 the benefit of a designated person,
  - (b) the direct or indirect supply or delivery of military goods to, or for the benefit of, a designated person,
  - (c) directly or indirectly making military goods or military technology available to, or for the benefit of, a designated person,
  - (d) the transfer of military technology to, or for the benefit of, a designated person,
  - (e) the direct or indirect provision of technical assistance relating to military goods or military technology to, or for the benefit of, a designated person.
- (4) Paragraphs (1) to (3) are subject to Part 5 (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 the offence of contravening paragraph (1) (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the financial services were provided was a designated person;
  - (b) it is a defence for a person charged with the offence of contravening paragraph (2) (“P”) to show that P did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the funds were made available was a designated person;
  - (c) it is a defence for a person charged with the offence of contravening 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**

- 21.—**(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 non-UK country to, or for the benefit of, a designated person,
  - (b) directly or indirectly making military goods available in a non-UK country for direct or indirect supply or delivery to, or for the benefit of, a designated person,
  - (c) directly or indirectly making military technology available in a non-UK country for transfer to, or for the benefit of, a designated person,
  - (d) the transfer of military technology from a place in a non-UK country to, or for the benefit of, a designated person,
  - (e) the direct or indirect provision in a non-UK country of technical assistance relating to military goods or military technology to, or for the benefit of, a designated person,
  - (f) the direct or indirect provision in a non-UK country of financial services—

- (i) to, or for the benefit of, a designated person where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 20(1) (financial services and funds relating to military goods and military technology), or
  - (ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 20(3),
  - (g) directly or indirectly making funds available in a non-UK country to, or for the benefit of, a designated person where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 20(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 20(3).
- (2) Paragraph (1) is subject to Part 5 (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) for the purposes of paragraph (1)(a) and (b), a country that is not the United Kingdom or the Isle of Man;
  - (b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom.

### **Enabling or facilitating the conduct of armed hostilities**

- 22.—(1) A person must not directly or indirectly provide to, or for the benefit of, a designated person—
- (a) technical assistance,
  - (b) financial services or funds, or
  - (c) 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),
- where such provision enables or facilitates the conduct of armed hostilities.
- (2) Paragraph (1) is subject to Part 5 (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—
- (a) P did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the technical assistance, financial services or funds or brokering services were provided was a designated person;
  - (b) P 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.
- (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 regulations 15 to 22 (trade etc.).

### **Circumventing etc. prohibitions**

**23.**—(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 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**

**24.**—(1) Paragraph (2) applies where a person relies on a defence under 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.