

STATUTORY INSTRUMENTS

2019 No. 433

The Democratic Republic of the Congo (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^{M1}, 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.

Commencement Information

- I1 Reg. 19 not in force at made date, see [reg. 1\(2\)](#)
- I2 [Reg. 19](#) in force at 25.3.2019 by [S.I. 2019/627](#), [reg. 5\(1\)\(i\)](#)

Marginal Citations

- M1 [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.

Interpretation of other expressions used in this Part

20.—(1) Paragraph 32 of Schedule 1 to the Act (trade sanctions) applies 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.

Commencement Information

- I3** Reg. 20 not in force at made date, see [reg. 1\(2\)](#)
- I4** [Reg. 20](#) in force at 31.12.2020 by [S.I. 2019/627](#), [reg. 5\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

CHAPTER 2

Military goods and military technology

Export of military goods

21.—(1) The export of military goods to a non-governmental person operating in the Democratic Republic of the Congo is prohibited.

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

Commencement Information

- I5** Reg. 21 not in force at made date, see [reg. 1\(2\)](#)
- I6** [Reg. 21](#) in force at 31.12.2020 by [S.I. 2019/627](#), [reg. 5\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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 non-governmental person operating in the Democratic Republic of the Congo.

(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 a non-governmental person operating in the Democratic Republic of the Congo.

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

Commencement Information

- I7** Reg. 22 not in force at made date, see [reg. 1\(2\)](#)
- I8** [Reg. 22](#) in force at 31.12.2020 by [S.I. 2019/627](#), [reg. 5\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Making military goods and military technology available

23.—(1) A person must not directly or indirectly make military goods or military technology available to a non-governmental person operating in the Democratic Republic of the Congo.

(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 the offence of contravening paragraph (1) (“P”) to show that P did not know and had no reasonable cause to suspect that the non-governmental person was operating in the Democratic Republic of the Congo;

Commencement Information

I9 Reg. 23 not in force at made date, see [reg. 1\(2\)](#)

I10 [Reg. 23](#) in force at 31.12.2020 by [S.I. 2019/627](#), [reg. 5\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Transfer of military technology

24.—(1) A person must not transfer military technology to a non-governmental person operating in the Democratic Republic of the Congo.

(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 the offence of contravening paragraph (1) to show that the person did not know and had no reasonable cause to suspect that the transfer was to a non-governmental person operating in the Democratic Republic of the Congo.

Commencement Information

I11 Reg. 24 not in force at made date, see [reg. 1\(2\)](#)

I12 [Reg. 24](#) in force at 31.12.2020 by [S.I. 2019/627](#), [reg. 5\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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 to a non-governmental person operating in the Democratic Republic of the Congo.

(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 the offence of contravening paragraph (1) (“P”) to show that P did not know and had no reasonable cause to suspect that the non-governmental person was operating in the Democratic Republic of the Congo.

Commencement Information

I13 Reg. 25 not in force at made date, see [reg. 1\(2\)](#)

I14 [Reg. 25](#) in force at 31.12.2020 by [S.I. 2019/627](#), [reg. 5\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Financial services and funds relating to military goods and military technology

26.—(1) A person must not directly or indirectly provide financial services to a non-governmental person operating in the Democratic Republic of the Congo 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 non-governmental person operating in the Democratic Republic of the Congo 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 a non-governmental person operating in the Democratic Republic of the Congo,
- (b) the direct or indirect supply or delivery of military goods to a non-governmental person operating in the Democratic Republic of the Congo,
- (c) directly or indirectly making military goods or military technology available to a non-governmental person operating in the Democratic Republic of the Congo,
- (d) the transfer of military technology to a non-governmental person operating in the Democratic Republic of the Congo, or
- (e) the direct or indirect provision of technical assistance relating to military goods or military technology to a non-governmental person operating in the Democratic Republic of the Congo.

(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 non-governmental person was operating in the Democratic Republic of the Congo;
- (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.

Commencement Information

I15 Reg. 26 not in force at made date, see [reg. 1\(2\)](#)

I16 [Reg. 26](#) in force at 31.12.2020 by [S.I. 2019/627](#), [reg. 5\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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 non-governmental person operating in the Democratic Republic of the Congo,
 - (b) directly or indirectly making military goods available in a third country for direct or indirect supply or delivery to a non-governmental person operating in the Democratic Republic of the Congo,
 - (c) directly or indirectly making military technology available in a third country for transfer to a non-governmental person operating in the Democratic Republic of the Congo,
 - (d) the transfer of military technology from a place in a third country to a non-governmental person operating in the Democratic Republic of the Congo,
 - (e) the direct or indirect provision, in a non-UK country, of technical assistance relating to military goods or military technology to a non-governmental person operating in the Democratic Republic of the Congo,
 - (f) the direct or indirect provision, in a non-UK country, of financial services—
 - (i) to a non-governmental person operating in the Democratic Republic of the Congo, 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 non-governmental person operating in the Democratic Republic of the Congo, 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 the Democratic Republic of the Congo, and
 - (b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom or the Democratic Republic of the Congo.

Commencement Information

I17 Reg. 27 not in force at made date, see [reg. 1\(2\)](#)

I18 [Reg. 27](#) in force at 31.12.2020 by [S.I. 2019/627](#), [reg. 5\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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 to a non-governmental person operating in the Democratic Republic of the Congo—

- (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, any of the services mentioned in sub-paragraphs (a) to (c),

where such provision enables or facilitates the conduct of armed hostilities in the Democratic Republic of the Congo.

(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 the Democratic Republic of the Congo.

(4) In paragraph (1) of 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.

Commencement Information

I19 Reg. 28 not in force at made date, see [reg. 1\(2\)](#)

I20 [Reg. 28](#) in force at 31.12.2020 by [S.I. 2019/627](#), [reg. 5\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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.

Commencement Information

I21 Reg. 29 not in force at made date, see [reg. 1\(2\)](#)

I22 [Reg. 29](#) in force at 31.12.2020 by [S.I. 2019/627](#), [reg. 5\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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.

Commencement Information

I23 Reg. 30 not in force at made date, see [reg. 1\(2\)](#)

I24 [Reg. 30](#) in force at 31.12.2020 by [S.I. 2019/627](#), [reg. 5\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019, PART 5.