
STATUTORY INSTRUMENTS

2021 No. 496

The Myanmar (Sanctions) Regulations 2021

PART 5

Trade

CHAPTER 1

Interpretation

Definition of “restricted goods” and “restricted technology”

18. In this Part—

“restricted goods” means—

- (a) military goods,
- (b) internal repression goods, and
- (c) interception and monitoring goods;

“restricted technology” means—

- (a) military technology,
- (b) internal repression technology, and
- (c) interception and monitoring technology.

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

19.—(1) The following definitions apply for the purposes of regulation 18—

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

- (a) a relevant Schedule 3 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 3, 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 3, (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—

- (aa) Schedule 2 to the Export Control Order 2008(1), or
- (bb) Annex I 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 3 item” means any thing described in Schedule 3, 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”

20.—(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.

(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](#); and [S.I. 2019/989](#). There are other instruments which amend other parts of the Order.

(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 this Part

21.—(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;

“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;

“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.

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

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