

2021 No. 529

SANCTIONS

The Myanmar (Sanctions) (Isle of Man) Order 2021

Made - - - - 28th April 2021

Coming into force - - at 5.00 p.m. on 29th April 2021

At the Court at Windsor Castle, the 28th day of April 2021

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 63(3)(b) and (4) of the Sanctions and Anti-Money Laundering Act 2018(a), is pleased, by and with the advice of Her Privy Council, to make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Myanmar (Sanctions) (Isle of Man) Order 2021 and comes into force at 5.00 p.m. on 29th April 2021.

(2) This Order extends to the Isle of Man.

Extension of the Myanmar (Sanctions) Regulations 2021

2. The Myanmar (Sanctions) Regulations 2021(b) as amended from time to time extend to the Isle of Man with the modifications specified in the Schedule.

Extension of the Sanctions and Anti-Money Laundering Act 2018

3.—(1) Subject to the modifications set out in sub-paragraphs (a) and (c), the following provisions of the Sanctions and Anti-Money Laundering Act 2018 extend to the Isle of Man for the purposes of the Myanmar (Sanctions) Regulations 2021 as modified and extended to the Isle of Man by this Order—

- (a) section 43 (guidance about regulations under section 1), except that, in its application to the Isle of Man—
 - (i) the reference in subsection (1) of that section to regulations under section 1 is to be read as a reference to the Myanmar (Sanctions) Regulations 2021 as modified and extended to the Isle of Man by this Order, and
 - (ii) the reference in subsection (1) of that section to the appropriate Minister who made the regulations is to be read as a reference to the Treasury;

(a) 2018 c. 13.
(b) S.I. 2021/496.

““territorial sea of the Isle of Man” means the territorial sea adjacent to the Isle of Man;
”;

““Treasury” has the meaning given in the Interpretation Act 2015 (of Tynwald)(a);”;

(c) after that paragraph insert—

“(2) In these Regulations, all references to Manx legislation (within the meaning of section 9 of the Interpretation Act 2015 (of Tynwald)) are to be construed as references to that legislation as amended from time to time.”

3. In regulation 3 (application of prohibitions and requirements outside the United Kingdom)—

- (a) in the heading, for “United Kingdom” substitute “Isle of Man”;
- (b) in paragraphs (1) and (4), for “A United Kingdom person” substitute “An Island person”;
- (c) in paragraphs (1), (4) and (7), for “United Kingdom” substitute “Isle of Man”;
- (d) in paragraphs (2) and (5), after “in the territorial sea” insert “of the Isle of Man”.

4. Omit regulation 5 (power to designate persons) (including the heading).

5. Omit regulation 6 (designation criteria) (including the heading).

6. For regulation 8 (notification and publicity where designation power used), substitute—

“Requirement to publish a list of designated persons

8.—(1) Subject to paragraph (2), the Treasury must—

- (a) publish a list of designated persons, and
- (b) keep the list up to date.

(2) Where, in accordance with regulation 8 (notification and publicity where designation power used) (as it has effect in the United Kingdom) the Secretary of State is not required to publicise generally a designation, variation or revocation, the Treasury must not include in the list under paragraph (1) any details of that designation, variation or revocation.

(3) The Treasury may publish the list under paragraph (1) in any form the Treasury considers appropriate, including by means of a website.

(4) For the purpose of this regulation, “designated person” means any person for the time being designated by the Secretary of State under regulation 5 (as it has effect in the United Kingdom).”

7. In regulation 9 (confidential information in certain cases where designation power used)—

- (a) in the heading, omit “where designation power used”;
- (b) omit paragraph (1);
- (c) in paragraph (2)(a), for “that is to be treated as confidential in accordance with paragraph (1)” substitute “which the Secretary of State has specified is to be treated as confidential under regulation 9(1) (as it has effect in the United Kingdom)”;
- (d) in paragraph (4)(c), for “enactment” substitute “Manx legislation (within the meaning of section 9 of the Interpretation Act 2015 (of Tynwald))”;
- (e) in paragraph (7)—
 - (i) for “The High Court (in Scotland, the Court of Session)” substitute “The High Court of Justice of the Isle of Man”;
 - (ii) at the end of sub-paragraph (a), omit “or”;
 - (iii) after sub-paragraph (a) insert—

“(aa) the Treasury, or”;

(a) AT 11 of 2015.

(f) omit paragraph (8).

8. In regulation 10 (meaning of “designated person” in Part 3), for “under regulation 5 (power to designate persons) for the purposes of regulations 11 to 15 (asset-freeze etc.)” substitute “from time to time by the Secretary of State under regulation 5 (power to designate persons) (as it has effect in the United Kingdom) for the purposes of regulations 11 to 15 (asset-freeze etc.) (as they have effect in the United Kingdom)”.

9. For regulation 17 (immigration) substitute—

“**17.** A person who is designated from time to time by the Secretary of State under regulation 5 (designation of persons) (as it has effect in the United Kingdom) for the purposes of regulation 17 (immigration) (as it has effect in the United Kingdom) is an excluded person for the purposes of section 8B of the Immigration Act 1971^(a) (as it has effect in the Isle of Man).”

10. In regulation 20 (definition of “interception and monitoring services”), in the definitions of “wireless telegraphy” and “wireless telegraphy apparatus” in paragraph (7), after “Wireless Telegraphy Act 2006” insert “(as it has effect in the Isle of Man)”.

11. In regulation 21 (interpretation of other expressions used in this Part)—

(a) for paragraph (1) substitute—

“(1) For the purposes of this Part—

- (a) “export” means export from the Isle of Man,
- (b) goods removed to the United Kingdom from the Isle of Man are not to be regarded as exported, and
- (c) goods transported out of the Isle of Man by aircraft or ship as stores within the meaning of CEMA (see section 184(1) and (4) of that Act) are to be regarded as exported.

(1A) Paragraph 36 of Schedule 1 to the Act (trade sanctions) applies for the purpose of interpreting expressions in this Part.”

(b) for paragraph (2) substitute—

“(2) In this Part, any reference to the Isle of Man includes a reference to the territorial sea of the Isle of Man.”

12. In regulation 28 (brokering services: non-UK activity relating to restricted goods and restricted technology)—

(a) in the heading, for “non-UK” substitute “non-IOM”;

(b) in paragraph (1), for “non-UK country”, in each place it occurs, substitute “non-IOM country”;

(c) for paragraph (4) substitute—

“(4) In this regulation—

“non-IOM country” means a country that is not the Isle of Man;

“third country” means—

- (a) for the purposes of paragraph (1)(a) and (b), a country that is not the Isle of Man, the United Kingdom or Myanmar, and
- (b) for the purposes of any other provision of paragraph (1), a country that is not the Isle of Man or Myanmar.”

^(a) 1971 c. 77. Section 8B was inserted by the Immigration and Asylum Act 1999 (c. 33), section 8 and amended by the Immigration Act 2016 (c. 19), section 76; and the Sanctions and Anti-Money Laundering Act 2018, section 59 and Schedule 3, Part 1. The Act was extended to the Isle of Man by S.I. 2008/680 (as amended).

13. In regulation 36 (brokering services: non-UK activity relating to dual-use goods and dual-use technology)—

- (a) in the heading, for “non-UK” substitute “non-IOM”;
- (b) in paragraph (1), for “non-UK country”, in each place it occurs, substitute “non-IOM country”;
- (c) for paragraph (4) substitute—
 - “(4) In this regulation—
 - “non-IOM country” means a country that is not the Isle of Man;
 - “third country” means—
 - (a) for the purposes of paragraph (1)(a) and (c), a country that is not the Isle of Man, the United Kingdom or Myanmar, and
 - (b) for the purposes of any other provision of paragraph (1), a country that is not the Isle of Man or Myanmar.”

14. In regulation 38 (military activities or otherwise enabling or facilitating the conduct of armed hostilities)—

- (a) in paragraph (2)(d), for “non-UK country” substitute “non-IOM country”;
- (b) in paragraph (5), for the definition of “non-UK country” substitute—
 - ““non-IOM country” means a country that is not the Isle of Man;”.

15. In regulation 41 (finance: exceptions from prohibitions)—

- (a) omit paragraph (6);
- (b) in paragraph (7), for the definition of “relevant institution” substitute—
 - ““relevant institution” means—
 - (a) a person who is licensed under the Financial Services Act 2008 (of Tynwald)(a) to carry on a regulated activity within the meaning of section 3 of that Act,
 - (b) a person who is authorised or registered under the Insurance Act 2008 (of Tynwald)(b) or who holds a permit under that Act,
 - (c) a person who is registered under the Moneylenders Act 1991 (of Tynwald)(c) to carry on the business of lending money, or
 - (d) a person who is acting as a trustee or an administrator of a retirement benefits scheme within the meaning of the Retirement Benefits Schemes Act 2000 (of Tynwald)(d).”
- (c) omit paragraph (8).

16. For regulation 42 (exception for authorised conduct in a relevant country) substitute—

“Exceptions for authorised conduct outside the Isle of Man

42.—(1) Where a person’s conduct outside the Isle of Man would, in the absence of this paragraph, contravene a prohibition in any of regulations 11 to 15 (asset-freeze etc.) or Chapters 2 to 5 of Part 5 (Trade), the prohibition is not contravened if the conduct is authorised by a licence issued under regulation 44 (Treasury licences) (as it has effect in the United Kingdom) or regulation 45 (trade licences) (as it has effect in the United Kingdom).

(2) Where a person’s conduct in a relevant country would, in the absence of this paragraph, contravene a prohibition in any of regulations 11 to 15 or Chapters 2 to 5 of Part

(a) AT 8 of 2008.
(b) AT 16 of 2008.
(c) AT 6 of 1991.
(d) AT 14 of 2000.

5 (“the relevant prohibition”), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued—

- (a) under the law of the relevant country, and
- (b) for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.

(3) In this regulation—

“relevant country” means—

- (a) any of the Channel Islands, or
- (b) any British overseas territory.”

17. For regulation 43 (exception for acts done for purposes of national security or prevention of serious crime), substitute—

“**43.**—(1) Where an act would, in the absence of this paragraph, be prohibited by the prohibition in regulation 9(2) (confidentiality) or any prohibition in Part 3 (Finance) or Part 5 (Trade), that prohibition does not apply to the act if the act is one which—

- (a) a UK responsible officer has determined would be in the interests of—
 - (i) national security, or
 - (ii) the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (b) an Island responsible officer has determined would be in the interests of the prevention or detection of serious crime in the Isle of Man or elsewhere.

(2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 7 (Information and records) or Part 9 (Maritime enforcement), that requirement does not apply if—

- (a) a UK responsible officer has determined that not doing the thing in question would be in the interests of—
 - (i) national security, or
 - (ii) the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (b) an Island responsible officer has determined that not doing the thing in question would be in the interests of the prevention or detection of serious crime in the Isle of Man or elsewhere.

(3) In this regulation—

“Island responsible officer” means a person—

- (a) in the service of the Crown or holding office under the Crown in the Isle of Man,
- (b) appointed by the Public Services Commission, or
- (c) appointed as a constable by the Department of Home Affairs,
acting in the course of that person’s duty;

“Public Services Commission” means the Public Services Commission established by the Public Services Commission Act 2015 (of Tynwald)(a);

“UK responsible officer” means a person in the service of the Crown or holding office under the Crown in the United Kingdom, acting in the course of that person’s duty.”

18. In regulation 44(2) (Treasury licences), for “consider” substitute “considers”.

19. In regulation 45 (trade licences), for “Secretary of State”, substitute “Treasury”.

(a) AT 1 of 2015.

20. In regulation 46 (licences: general provisions), for paragraphs (5) to (7) substitute—

“(5) The Treasury may vary, revoke or suspend a licence at any time.

(6) Where the Treasury issues, varies, revokes or suspends a licence which authorises acts by a particular person, the Treasury must give written notice to that person of the issue, variation, revocation or suspension of the licence.

(7) Where the Treasury issues, varies, revokes or suspends a licence which is general or which authorises acts by persons of a particular description, the Treasury must take such steps as the Treasury considers appropriate to publicise the issue, variation, revocation or suspension of the licence.”

21. For regulation 49 (section 8B(1) to (3) of the Immigration Act 1971: directions) substitute—

“**49.**—(1) Any direction of the Secretary of State under regulation 49 (as it has effect in the United Kingdom) that section 8B(1) and (2) of the Immigration Act 1971 (as it has effect in the United Kingdom), or section 8B(3) of that Act (as it has effect in the United Kingdom), have effect subject to specified exceptions in relation to any person whose name is specified or who is of a specified description, has the corresponding effect in the Isle of Man and references to section 8B(1), (2) or (3) of the Immigration Act 1971 shall be construed as references to those subsections as they have effect in the Isle of Man^(a).

(2) In this regulation, “specified” means specified in the direction.”

22. In regulation 50 (finance: reporting obligations)—

(a) for paragraph (5) substitute—

“(5) A relevant institution must inform the Treasury without delay if that institution credits a frozen account in accordance with regulation 41(4) (finance: exceptions from prohibitions).”

(b) in paragraph (7), for the definition of “relevant firm” substitute—

““relevant firm” means—

(a) a business in the regulated sector within the meaning of Schedule 4 to the Proceeds of Crime Act 2008 (of Tynwald)^(b) (see in particular paragraph 2 of that Schedule);

(b) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging—

(i) articles made from gold, silver, platinum or palladium, or

(ii) precious stones or pearls;”;

(c) at the end, insert—

“(8) For the purposes of paragraph (a) of the definition of “relevant firm” in paragraph (7), the definition of “estate agent” in Schedule 4 to the Proceeds of Crime Act 2008 (of Tynwald) is to be read as if references to the sale or proposed sale of land in section 15 of the Estate Agents Act 1975 (of Tynwald)^(c) included references to the sale or proposed sale of land outside the Isle of Man.”

23. Omit regulation 51 (“relevant firm”) (including the heading).

24. In regulation 52 (finance: powers to request information), in paragraphs (4) and (6), in each place it occurs, for “believe” substitute “believes”.

25. In regulation 53 (finance: production of documents), in paragraphs (2) and (3), in each place it occurs, for “the Treasury request” substitute “the Treasury requests”.

^(a) The Immigration Act 1971 (c. 77) was extended to the Isle of Man by S.I. 2008/680 (as amended).

^(b) AT 13 of 2008. Schedule 4 was substituted by SD 2019/0204 (of Tynwald).

^(c) AT 6 of 1975.

26. In regulation 54 (finance: information offences), in paragraph (1)(d), for “their” substitute “its”.

27. In regulation 55(1) (trade: application of information powers in CEMA)—

- (a) for “Section 77A” substitute “Section 78A”;
- (b) in sub-paragraph (a), after “for that purpose” substitute “an entry is required by regulation 5 of the Customs Controls on Importation of Goods Regulations 1994 (of Tynwald)(a) or”.

28. In regulation 56(4) (general trade licences: records), for “Secretary of State” substitute “Treasury”.

29. In regulation 57(1) (general trade licences: inspection of records), for “Secretary of State or the Commissioners” substitute “Treasury”.

30. In regulation 58 (disclosure of information)—

- (a) in paragraph (1), for “Secretary of State, the Treasury or the Commissioners” substitute “Treasury”;
- (b) in paragraph (2)—
 - (i) after sub-paragraph (c) insert—

“(ca) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the Isle of Man for an offence under any provision of these Regulations;”;
 - (ii) in sub-paragraph (d)—
 - (aa) in paragraph (i), after “Regulations” insert “(as they have effect in the United Kingdom)”;
 - (bb) for paragraph (ii) substitute—

“(ii) for an offence under the Customs and Excise Management Act 1979(b) in connection with a prohibition mentioned in regulation 22(1) or regulation 30(1) to (3) (export of goods) (as they have effect in the United Kingdom), or”
 - (iii) in sub-paragraph (e), omit “, the Isle of Man,”;
 - (iv) in sub-paragraph (g), for “United Kingdom” substitute “Isle of Man”;
- (c) in paragraph (3)—
 - (i) in sub-paragraph (f), for “United Kingdom” substitute “Isle of Man”;
 - (ii) in sub-paragraph (j), for “Secretary of State, the Treasury or the Commissioners (as the case may be) consider” substitute “Treasury considers”.

31. In regulation 59 (Part 7: supplementary)—

- (a) for paragraph (2) substitute—

“(2) But nothing in that regulation authorises a disclosure—

 - (a) that contravenes the data protection legislation, or
 - (b) of intercepted material that is not otherwise permitted under the safeguards arrangements relating to a warrant issued under the Interception of Communications Act 1988 (of Tynwald)(c).”
- (b) in paragraph (3), for “counsel or solicitor” substitute “advocate or lawyer”;
- (c) in paragraph (6)—

(a) SD 211/94.
(b) 1979 (c. 2).
(c) AT 18 of 1988.

- (i) for the definition of “the data protection legislation” substitute—
 ““the data protection legislation” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018 (of Tynwald)(a);”;
- (ii) in the definition of “privileged information”, omit “(in Scotland, to confidentiality of communications)”.

32. For regulation 60 (penalties for offences) substitute—

“**60.**—(1) A person guilty of an offence under any provision of Part 3 (Finance) or regulation 47 (finance: licensing offences) is liable—

- (a) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on information, to custody for a term not exceeding 7 years or to a fine, or to both.

(2) A person guilty of an offence under any provision of Part 5 (Trade) is liable—

- (a) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on information, to custody for a term not exceeding 10 years or to a fine, or to both.

(3) A person guilty of an offence under regulation 9(6) (confidentiality), 48, 56(6) or 57(5) (offences in connection with trade licences) is liable—

- (a) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both.

(4) A person guilty of an offence under regulation 50(6) or 54 (information offences in connection with Part 3) is liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.

(5) In this regulation, “the standard scale” means the standard scale contained in section 55 of the Interpretation Act 2015 (of Tynwald).”

33. In regulation 61(4) (liability of officers of bodies corporate etc.), for “Section 171(4)” substitute “Section 179(3)”.

34. For regulation 62 (jurisdiction to try offences) substitute—

“**62.** Where an offence under these Regulations is committed outside the Isle of Man—

- (a) proceedings for the offence may be taken in the Isle of Man, and
- (b) the offence may for all incidental purposes be treated as having been committed in the Isle of Man.”

35. In regulation 63 (procedure for offences by unincorporated bodies)—

- (a) in paragraph (2), for “England and Wales or Northern Ireland” substitute “the Isle of Man”;
- (b) for paragraph (3)(b) substitute—

“(b) section 32 of the Summary Jurisdiction Act 1989 (of Tynwald)(b) applies as it applies in relation to a body corporate.”

36. In regulation 64 (time limit for proceedings for summary offences)—

(a) SD 2018/0145 (of Tynwald).
 (b) AT 15 of 1989.

(b) omit paragraph (2);

(c) at the end insert—

“(3) In this Part—

“Manx ship” means a ship which—

(a) is registered under Part I, II, III or IV of the Merchant Shipping Registration Act 1991 (of Tynwald)(a), or

(b) is not registered under the law of a country outside the Isle of Man but is wholly owned by persons each of whom has an Isle of Man connection;

“prohibited goods” means goods which have been or are being dealt with in contravention of a relevant prohibition;

“relevant goods” means goods in relation to which relevant non-IOM conduct is occurring or has occurred;

“relevant non-IOM conduct” means conduct outside the Isle of Man by a person other than an Island person that would constitute a contravention of a relevant prohibition if the conduct had been—

(a) in the Isle of Man, or

(b) by an Island person;

“relevant prohibition” means any prohibition specified in regulation 69(2)(a) to (c) (exercise of maritime enforcement powers).

(4) For the purposes of the definition of “Manx ship” in paragraph (3), a person has an “Isle of Man connection” if the person is—

(a) an Island person, or

(b) an individual who is not an Island person, and who is habitually resident in the Isle of Man.

(5) In the definition of “relevant non-IOM conduct” in paragraph (3), the reference to conduct that would constitute a contravention of a relevant prohibition if the conduct had been in the Isle of Man or by an Island person includes a reference to a case where—

(a) arrangements relating to goods have been entered into that have not been fully implemented, and

(b) if those arrangements were to be fully implemented (and if the conduct had been in the Isle of Man or by an Island person) the goods would be dealt with in contravention of that prohibition.”

46. In regulation 75 (notices)—

(a) in paragraph (5)(b), for “United Kingdom”, in both places it occurs, substitute “Isle of Man”;

(b) in paragraph (6), in the definition of “registered company”, for “in force in the United Kingdom” substitute “in operation in the Isle of Man”.

47. Omit regulation 78 (revocation of the Burma (Sanctions) (EU Exit) Regulations 2019) (including the heading).

48. In regulation 79 (transitional provision: prior obligations etc.)—

(a) in paragraph (1)—

(i) after “2019 Regulations” insert “(as it has effect in the United Kingdom)”;

(ii) in sub-paragraph (a), after “of those Regulations” insert “(as they have effect in the United Kingdom)”;

(a) AT 15 of 1991.

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