

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Sixth Delegated Legislation Committee

THE MYANMAR (SANCTIONS) REGULATIONS 2021

*Thursday 27 May 2021*

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**The Committee consisted of the following Members:**

*Chair:* GRAHAM STRINGER

† Adams, Nigel ( <i>Minister for Asia</i> )	Morrissey, Joy ( <i>Beaconsfield</i> ) (Con)
Bradshaw, Mr Ben ( <i>Exeter</i> ) (Lab)	Pursglove, Tom ( <i>Corby</i> ) (Con)
Caulfield, Maria ( <i>Lewes</i> ) (Con)	Ribeiro-Addy, Bell ( <i>Streatham</i> ) (Lab)
Eagle, Maria ( <i>Garston and Halewood</i> ) (Lab)	† Rimmer, Ms Marie ( <i>St Helens South and Whiston</i> ) (Lab)
† Harris, Rebecca ( <i>Lord Commissioner of Her Majesty's Treasury</i> )	Rutley, David ( <i>Lord Commissioner of Her Majesty's Treasury</i> )
Huq, Dr Rupa ( <i>Ealing Central and Acton</i> ) (Lab)	Thomson, Richard ( <i>Gordon</i> ) (SNP)
† Kinnock, Stephen ( <i>Aberavon</i> ) (Lab)	† Tomlinson, Michael ( <i>Lord Commissioner of Her Majesty's Treasury</i> )
Mak, Alan ( <i>Lord Commissioner of Her Majesty's Treasury</i> )	
Mann, Scott ( <i>Lord Commissioner of Her Majesty's Treasury</i> )	Bradley Albrow, <i>Committee Clerk</i>
Morris, James ( <i>Lord Commissioner of Her Majesty's Treasury</i> )	† <b>attended the Committee</b>

# Sixth Delegated Legislation Committee

Thursday 27 May 2021

[GRAHAM STRINGER *in the Chair*]

## Myanmar (Sanctions) Regulations 2021

11.30 am

**The Chair:** Before we begin, I remind Members to observe social distancing and, when not speaking, to wear masks.

**The Minister for Asia (Nigel Adams):** I beg to move,

That the Committee has considered the Myanmar (Sanctions) Regulations 2021 (S.I. 2021, No. 496).

As ever, Mr Stringer, it is a pleasure to appear under your chairmanship. The statutory instrument before us was laid on 29 April under the powers provided by the Sanctions and Anti-Money Laundering Act 2018, also known as the sanctions Act. The instrument revokes and replaces the Burma (Sanctions) (EU Exit) Regulations 2019, which had previously established the UK's sanctions regime in respect of Myanmar. The 2019 regulations brought the policy effect of the European Union's Myanmar regime into UK law at the end of the transition period. That regime was designed as a response to the serious human rights violations committed by the Myanmar security forces, including widespread and systematic attacks on ethnic minorities and the ethnic cleansing of the Rohingya in 2017.

As Committee members know, on 1 February this year the Myanmar military launched a coup that disregarded the democratically expressed will of the Myanmar people, and arrested Aung San Suu Kyi, among many others. Peaceful protest has been met with brutal force, with more than 700 civilians killed and more than 4,000 detained. There are credible reports of torture, humanitarian relief organisations have been refused access, and there are internet shutdowns and the intimidation and persecution of civil society, which have restricted access to information and journalistic freedoms. We are pressing the military to return power to the democratically elected Government of Myanmar; to protect the rights and freedoms of the Myanmar people, including their right to political protest; to release all those who are arbitrarily detained; and to ensure unobstructed humanitarian access.

Targeted sanctions are a key part of our response. However, the 2019 regulations did not contain purposes or designation criteria that would allow us to make designations in relation to the coup. The Government therefore took the decision to revoke and replace the 2019 regime, which focused more narrowly on human rights compliance among the Myanmar security forces. The new regulations, which we are considering, expand the purposes and designation criteria from those set out in the previous 2019 regulations.

The purpose of our new regime is to promote peace, security and stability in Myanmar; to promote respect for democracy, the rule of law and good governance; to

discourage the repression of the civilian population; and to promote compliance with international human rights law and respect for human rights, including the rights to liberty and security and the rights to freedom of expression and peaceful assembly. As for designations, the regulations enable us to designate not only members of the Myanmar security forces, but any other individuals or entities that meet the designation criteria, including those supported by the junta.

We are now able to designate people not only for committing serious human rights violations, important as that is, but for undermining democracy, the rule of law or good governance; repressing the civilian population; violating international humanitarian law; obstructing humanitarian assistance activity; or any other action, policy or activity that threatens peace, stability or the security of Myanmar. We had already designated the two largest military conglomerates—Myanmar Economic Holdings Ltd and Myanmar Economic Corporation—under the global human rights sanctions regime before we laid the new regulations.

Significantly, the regulations give us the power to list entities under our geographic regime, allowing us to target the military's economic interests and demonstrating that we stand in solidarity with the domestic movement to boycott businesses linked to the military. On 17 May, we used the regulations to designate the Myanmar Gems Enterprise. Gems are a multibillion dollar trade in Myanmar and a key source of revenue for the junta.

In addition to expanding the purposes of the designation criteria, the new regulations create another licensing purpose for financial sanctions, enabling the Treasury to grant a licence to conduct otherwise prohibited activities, if those activities are in connection with humanitarian assistance activity. That helps to ensure that the effects of the sanctions are targeted and that there is no unintentional impact on humanitarian operations. Otherwise, the substance of the regulations is the same as we set out in the previous legislation, and the types of sanctions measures permitted—financial, trade and immigration—have not changed.

It is important to note that the new regulations retain the comprehensive arms embargo, which the UK worked to secure while we were in the EU. They also retain trade prohibitions on dual-use items for military use, as well as items that could be used to intercept or monitor telecommunications and repress the civilian population. Finally, the regulations also prohibit the provision of military-related services, including the provision of technical assistance, to or for the benefit of the Myanmar security forces, which are defined to include the Tatmadaw, the police force and the border force.

Of course, sanctions are only one element of our response to the coup. We have been at the forefront of the international response, capitalising on our presidencies of both the G7 and the United Nations Security Council, as well as our relationships with Association of Southeast Asian Nations member states and others in the region. At the G7 Foreign and Development Ministers meeting on 4 and 5 May, we ensured that the G7 countries were aligned in calling for the military to restore democracy to Myanmar. We also got all G7 countries to commit for the first time to preventing the supply, sale or transfer of weapons, munitions or other military-related equipment to Myanmar.

Similarly, our leadership at the UN Security Council has ensured that the issue remains at the forefront of its agenda. We have secured a succession of strong Security Council statements, which condemn the violence, call for the release of political detainees and support Myanmar's democratic transition.

In addition, we are working closely with civil society to build community resilience and help create the foundations for a more open, inclusive and democratic Myanmar. However, sanctions provide an important tool to take concrete and meaningful steps that demonstrate to the junta that its actions have a cost and that it cannot repress the population of Myanmar with impunity.

Our designations have already undermined the credibility of the junta and its governing body, the State Administration Council, and have also reduced its access to key revenue streams. We are giving consideration to further possible designations that would meet our objective of targeting the military's revenue streams, while mitigating the risks to the wider population.

As I set out at the beginning of my speech, the UK considers the recent action of the junta and the Myanmar security forces to be abhorrent. They have undermined democracy, brutally repressed protests, arbitrarily detained thousands, and killed hundreds of innocent people, including children. These regulations expand our powers to impose sanctions in response. They demonstrate that we will not accept such egregious violations of human rights. They enable us to stand with our international partners and, most importantly, with the people of Myanmar in working towards a peaceful, prosperous and democratic future. I welcome this opportunity to hear the views of Members on the regulations, and I commend them to the Committee.

11.38 am

**Stephen Kinnock** (Aberavon) (Lab): It is a pleasure to serve under your chairmanship, Mr Stringer. I thank the Minister for setting out the need for this secondary legislation. It is of course absolutely critical that we as a country get the legalities around sanctions frameworks correct so that we can act with speed to apply sanctions against those who seek to repress the population of Myanmar or who break international law.

Sanctions play a critical role in holding Governments to account, not least in Myanmar. Recent events in the country, as the Minister has said, have been absolutely appalling and devastating, with more than 800 deaths of protesters at the hands of the tyranny of the Tatmadaw. The Labour party will always speak up for universal rights and freedoms, the rule of law, and democracy across the world, including in Myanmar.

Few with knowledge of Aung San Suu Kyi's Myanmar would claim that the country's democracy was in rude health. Her failure to stand up for the Rohingya people in the face of the military has been deeply troubling, but the fact remains that her party secured a landslide victory in the November election. It is clear that Myanmar's fragile democracy must be respected and protected. Elected politicians should not be languishing in prison cells; protesters should not be lying dead on the streets. The military coup is a flagrant breach of the constitution of Myanmar, and it must be condemned in the strongest terms. The army's claims of voter fraud are utterly spurious: this is a naked power grab. The barbaric killing of more than 800 protesters is a scar on the conscience of the world.

But words are not enough. We need international action, and a functioning sanctions regime is a good start. We are pleased that the Government are seeking to make the scope for sanctions less restrictive than under the previous legislation. However, the sanctioning of Myanmar officials and military-owned companies has been too slow across the board. For example, the sanctioning of Myanmar Economic Holdings Ltd and Myanmar Economic Corporation did not come until after the 1 February coup, despite the fact that we on the Labour Benches had been asking for those sanctions for well over six months before then in relation to the Myanmar Government's appalling persecution of the Rohingya.

It is also clear that the Government should have seen the 1 February coup coming. For decades, the power-hungry Myanmar military have oppressed and persecuted the Burmese people, committing countless atrocities—most notably the apparent genocide against the Rohingya—without meaningful consequence. If you give a bully an inch, he will take a mile, and the 1 February coup is testament to that fact.

While the Gambia has shown real leadership by taking Myanmar to the International Court of Justice on allegations of genocide, the wider response from the international community—including, unfortunately, the UK Government—has been somewhat lethargic. We do not understand why the Government continue to drag their feet on this point. Experts who observe what is happening in Myanmar, and have done for many years, note that the military were emboldened by the weak international response on the Rohingya and, of course, have been further emboldened by the tacit support that they have received from China. It was telling that the Chinese Government simply “noted” the 1 February coup without condemning it, while the main state news agency in China described the coup as merely a “cabinet reshuffle”.

Now is the time for the UK and the wider international community to stand up for the Burmese people, so I would like to press the Minister on some of the actions that the UK Government must take. First, the Foreign, Commonwealth and Development Office must seek to apply further sanctions where appropriate. Ministers should work with NGOs such as Burma Campaign UK and Justice for Myanmar on getting the designations right so that they have a laser-like focus on the Burmese military. I would be grateful for the Minister's assurance that that is happening.

On the specifics of this legislation, will the Minister make something clear? Part 6 of the regulations

“provides for certain exceptions to this sanctions regime, in particular in relation to financial sanctions (for example to allow for frozen accounts to be credited with interest or other earnings)”.

Will he say a little more about what the exceptions are, when they might be needed and where the situations might occur, so that we can get a bit more flesh on the bones? For instance, in what situation would it be important for a bank account to accrue interest if it had been frozen because its owner had committed serious human rights abuses?

Secondly, aside from sanctions, the Government should use their international influence to seek to extend the arms embargo against Myanmar. Clearly, Russia and China will not be participating in that, but we must still seek to build the broadest possible international coalition.

[Stephen Kinnock]

The Chinese Government may just be opposed to having a failed state on their doorstep. What steps are the UK Government taking in that regard?

Thirdly, the UK Government should think carefully about whether they recognise the military junta as the legitimate Government of Myanmar. There are legal and practical challenges here; we on the Labour Benches fully understand that. But we also feel that we should be standing in full support of the Myanmar ambassador Kyaw Zwar Minn in refusing to recognise new appointments by the junta to the embassy here in London. Will the Minister set out the Government's position on that?

Fourthly, when the moment is right the UK Government should publicly declare that it is time to refer Burmese officials to the International Criminal Court via the United Nations and call on other countries to follow suit. Just because Russia and China can block the referral in the UN Security Council does not mean that the UK should be prevented from doing what is right.

Finally, the UK must now finally join the Netherlands and Canada in formally supporting the Gambia in its International Court of Justice case against Myanmar. Myanmar's first report has now been submitted. The FCDO must ask for that report to be made public so that the international community can scrutinise the contents.

The Opposition support the legislation in front of us today, but the people of Myanmar need a stronger response from the UK Government and the international community—and they need it now. The UK must stand up for its values and interests, and those include the rule of law, democracy and human rights in Myanmar.

11.45 am

**The Minister for Asia (Nigel Adams):** I am grateful to the hon. Gentleman for his contribution and his support for the changes to the sanctions regime that are before us today. I will address some of the points that he has raised but, as I said in my opening speech, the regulations give us the power to target not only members of the Myanmar security forces but the civilian members of the junta and the economic interests that fund their activities.

We have been clear about our support for the ICJ process. We have urged the military to comply with the provisional measures rulings. We also provided funding

to enable Rohingya citizens to attend the hearings in December 2019. Obviously, that case will develop in the coming months. We are monitoring developments closely, and will consider the legal arguments to establish whether a UK intervention would add value. But we have made it extremely clear that we believe Myanmar should comply with the provisional measures.

On the question of the asset freezes, all sanctions regulations that contain asset freezes include exceptions related to interest—crediting frozen accounts, among other things. This is standard practice. However, interest on frozen accounts will also be frozen when added to an account. I hope that that clears up that issue.

As the hon. Gentleman knows, I have met the ambassador on several occasions. We commend his bravery in standing up for democracy in Myanmar, and we strongly condemn the bullying behaviour of the junta towards him. It has come at great personal cost to him to speak out against the regime. We have offered him and delivered further significant support. We have received notification in accordance with the Vienna convention on diplomatic relations of the appointment of a chargé d'affaires ad interim to act provisionally as head of Myanmar's mission in the UK. Under the Vienna convention, the appointment by foreign states of an interim chargé does not require our approval. I hope that establishes that point for the hon. Gentleman.

The measures will demonstrate that the United Kingdom will not stand by in the face of unacceptable behaviour by the junta. We are ready and willing to act as a force for good in the world, and we will stand up for those who believe in democracy. We work closely with our international partners on this, and we are fortunate in having the two presidencies that I mentioned earlier. We are regularly in contact with ASEAN partners, and we welcome the five points that they came out with following their leaders' meeting a couple of weeks ago. I assure the hon. Gentleman that we are working tirelessly with international partners on this measure. We all want to see democracy restored in Myanmar at the earliest opportunity, and I commend the regulations to the Committee.

*Question put and agreed to.*

11.50 am

*Committee rose.*



