

2006 No. 2682

CUSTOMS

**The Burma (Sale, Supply, Export, Technical Assistance,
Financing and Financial Assistance) (Penalties and Licences)
Regulations 2006**

<i>Made</i> - - - -	<i>9th October 2006</i>
<i>Laid before Parliament</i>	<i>10th October 2006</i>
<i>Coming into force</i> - -	<i>11th October 2006</i>

The Secretary of State has been designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States.

The Secretary of State makes the following Regulations in exercise of the powers conferred by that section:

1.—(1) These Regulations may be cited as the Burma (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 and shall come into force on 11th October 2006.

(2) In these Regulations—

“the EC Regulation” means Council Regulation (EC) No. 817/2006 of 29 May 2006(c);

“the 1979 Act” means the Customs and Excise Management Act 1979(d); and

“customs and excise Acts” and “assigned matter” have the same meanings as in section 1 of the 1979 Act.

2. The Burma (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) Regulations 2004(e) are revoked.

3. A person who, except under the authority of a licence granted under these Regulations, infringes any of the following prohibitions in the EC Regulation—

(a) Article 2(a) prohibiting the provision of technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related material of all types, directly or indirectly to any person, entity or body in, or for use in, Burma; or

(b) Article 2(b) prohibiting the provision of financing or financial assistance related to military activities, for any sale, supply, transfer or export of arms and related material, directly or indirectly to any person, entity or body in, or for use in, Burma; or

(a) S.I.1994/757

(b) 1972 c.68.

(c) O.J. No. L 148, 2.6.2006.

(d) 1979 c.2.

(e) S.I.2004/1315

- (c) Article 2(c) prohibiting the participation, knowingly or intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in Articles 2(a) or (b); or
- (d) Article 3(a), prohibiting the sale, supply, transfer or export of equipment, directly or indirectly, as listed in Annex I to the EC Regulation, whether or not originating in the Community, to any person, entity or body in, or for use in, Burma; or
- (e) Article 3(b), prohibiting the provision of technical assistance, related to the equipment listed in Annex I to the EC Regulation, directly or indirectly to any person, entity or body in, for use in Burma; or
- (f) Article 3(c), prohibiting the provision of financing or financial assistance related to the equipment listed in Annex I to the EC Regulation, directly or indirectly to any person, entity or body in, or for use in Burma; or
- (g) Article 3(d) the participation knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in Articles 3 (a), (b) or (c),

shall be guilty of an offence and may be arrested.

4.—(1) Authorisation for the activities set out in regulation 3 shall in the United Kingdom be by way of a licence in writing granted by the Secretary of State.

(2) If, for the purpose of obtaining a licence, a person—

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

that person shall be guilty of an offence; and any licence granted in connection with the application for which the false statement was made or the false document or information furnished shall be void as from the time it was granted.

(3) A person who, having acted under the authority of a licence granted under these Regulations, fails to comply with any of the requirements or conditions to which the licence is subject shall be guilty of an offence, unless—

- (a) the licence had been modified by the Secretary of State; and
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified; and
- (c) the licence was modified after the doing of the act authorised by the licence.

5.—(1) A person guilty of an offence under regulation 3, or regulation 4(2) or (3) of these Regulations shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years, or to both.

6.—(1) Where the Commissioners for Her Majesty's Revenue and Customs investigate or propose to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under these Regulations has been committed; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 138 of the 1979 Act (provision as to arrest of persons) shall apply to the arrest of any person for any offences under these Regulations as it applies to the arrest of any person for offences under the customs and excise Acts.

(3) Sections 145 to 148 and 150 to 155 of the 1979 Act (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under these Regulations as they apply to offences and penalties under the customs and excise Acts.

(4) Section 77A of the 1979 Act (provision as to information powers)(a) shall apply to any person concerned in an activity requiring a licence under these Regulations as it applies to any person concerned in exportation of goods for which an entry is required by or under that Act, and accordingly references in section 77A of the 1979 Act to exportation shall be read as including any activity requiring a licence under these Regulations.

9th October 2006

Malcolm Wicks
Minister of State for Energy
Department of Trade and Industry

(a) Section 77A was inserted by section 10 of the Finance Act 1987 (c.16) and amended by S.I. 1992/3095.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of Burma for offences, penalties and enforcement in respect of Council Regulation (EC) No. 817/2006 of 2006 (“the EC Regulation”) which repeals and replaces Council Regulation (EC) No.798/2004 (“the 2004 EC Regulation”).

Regulation 2 revokes the Burma (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) Regulations 2004 which made provision in relation to the 2004 EC Regulation.

Regulation 3 provides for criminal offences in relation to the prohibitions in Articles 2 and 3 of the EC Regulation. Sub-paragraphs (a) to (c) provide offences for breach of the prohibitions on technical assistance, financing and financial assistance related to military activities, and on activities circumventing these prohibitions. Sub-paragraphs (d) to (g) provide offences for breach of the prohibitions on the sale, supply, transfer or export of equipment in Annex I of the EC Regulation, connected technical assistance, financing or financial assistance, and on activities circumventing these prohibitions.

Regulation 4 provides for the licensing of the activities set out in Articles 2 and 3 of the EC Regulation. It also provides for an offence in connection with the provision of false statements related to the obtaining of a licence. Regulation 5 provides penalties in respect of criminal offences created by these Regulations. Regulation 6 provides for the enforcement of these Regulations by the Commissioners for Her Majesty’s Revenue and Customs.

A regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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