

**EXPLANATORY MEMORANDUM TO**  
**THE ZIMBABWE (FINANCIAL SANCTIONS) (AMENDMENT) REGULATIONS**

**2014 No. 383**

1. This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 These Regulations suspend regulations 6 and 7 of the Zimbabwe (Financial Sanctions) Regulations 2009 (S.I. 2009/847) (“the 2009 Regulations”) insofar as they apply to certain persons, entities or bodies. Regulations 6 and 7 of the 2009 Regulations provide for criminal penalties for breach of financial sanctions imposed by Council Regulation (EC) No. 314/2004 (“the 2004 Council Regulation”) of 19 February 2004 concerning certain restrictive measures in respect of Zimbabwe (O.J. L 55, 24.2.2004, p.1) The 2004 Council Regulation contains various sanctions measures imposed in respect of the Government of Zimbabwe and those connected with it. Those measures include financial sanctions which require the funds and economic resources of certain persons, entities and bodies, listed in Annex III of the 2004 Council Regulation, to be frozen.

2.2 The Regulations also remove the power of the Treasury to make directions designating a person where there was reasonable grounds to suspect that the person was a person listed in Annex III of the 2004 Council Regulation. They also revoke other provisions concerning directions made by the Treasury. Treasury no longer consider these provisions to be necessary.

2.3 Council Regulation (EU) No. 153/2014 of 17 February 2014 (O.J. L 50, 20.2.2014, p.1) (“the 2014 Council Regulation”) suspended the financial sanctions measures in the 2004 Council Regulation insofar as they apply to certain persons entities or bodies listed in its annex, which is inserted into the 2004 Council Regulation as Annex IV. The restrictive measures continue to remain in force against those persons entities or bodies listed in Annex III and not the new Annex IV to the 2004 Council Regulation. The suspension continues and expands the existing suspension of sanctions, due to expire on 20<sup>th</sup> February 2014, put in place by Council Regulation (EU) No. 298/2013. Other restrictions and obligations, save for the asset freeze, imposed by the 2004 Council Regulation will continue to apply to persons, entities and bodies listed in Annex IV.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 These Regulations have been laid before Parliament less than 21 days before they come into force.

3.2 The 2009 Regulations provide for penalties for breach of the financial sanctions contained in the 2004 Council Regulation. The 2014 Council Regulation has suspended the financial sanctions measures in the 2004 Council Regulation, insofar as they apply to persons entities or bodies listed in the annex to the 2014 Regulation. It is important that the penalties put in place by the 2009 Regulations for breach of these measures are removed as soon as possible, otherwise penalties will continue to apply in domestic law, or at least appear to do so, in respect of activities which are not prohibited under EU law. In practice, no prosecution would be likely to be brought for anything done from the start of the period of suspension under the 2014 Council Regulation.

#### **4. Legislative Context**

4.1 These Regulations suspend regulations 6 and 7 of the 2009 Regulations insofar as they apply to certain persons entities or bodies. The 2009 Regulations provide for criminal penalties for breach of the financial sanctions provisions of the 2004 Council Regulation. The Council of the European Union adopted Council Decision 2014/98/CFSP on 17th February (“the 2014 Council Decision”) which amends Council Decision 2011/101/CFSP concerning restrictive measures against Zimbabwe by suspending the operation of financial sanctions measures insofar as they apply to certain persons, entities or bodies. The 2014 Council Regulation of the same date has accordingly suspended the application of the financial sanctions measures contained in the 2004 Council Regulation to certain persons, entities or bodies.

4.2 The Foreign and Commonwealth Office submitted an Explanatory Memorandum on the amending Council Decision for Parliamentary Scrutiny on 31 January 2014. The House of Lords Select Committee on the European Union cleared the document at sift on 4 February 2014; the House of Commons European Scrutiny Committee cleared the document as “politically important” on 5 February 2014. Both Committees granted the associated Regulation a waiver from Parliamentary scrutiny.

#### **5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom and, outside the United Kingdom, to British Citizens, any UK national and any body incorporated in the UK.

#### **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### **7. Policy background**

- What is being done and why

7.1 These Regulations suspend the effect of regulations 6 to 10 of the 2009 Regulations insofar as they apply to certain persons, entities or bodies. The 2009 Regulations provide for criminal penalties for breach of financial sanctions contained in the 2004 Council Regulation.

7.2 The financial sanctions contained in the 2004 Council Regulation have been suspended by the 2014 Council Regulation insofar as they apply to certain persons, entities or bodies. These Regulations accordingly suspend the domestic penalties for breach of those measures.

7.3 The Regulations also remove the power of the Treasury to make directions designating a person where there was reasonable grounds to suspect that the person was a person listed in Annex III of the 2004 Council Regulation. They also revoke other provisions concerning directions made by the Treasury.

- Consolidation

7.4 Not applicable.

## **8. Consultation outcome**

No consultation has been carried out in relation to these Regulations.

## **9. Guidance**

Guidance on current and lifted asset freezing regimes is available on the Treasury's website. Financial Sanctions, within the Treasury, operates a free subscription email service alerting subscribers on changes to the asset freezing regimes, and on other financial sanctions measures. A dedicated telephone line and email address are available for the financial sector and any other persons to submit queries on the asset freezing regime. A notice explaining the suspension of the financial sanctions in the 2004 Council Regulation is available on the Treasury website and was emailed to subscribers.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is negligible, because these Regulations do not themselves impose requirements, but only suspend penalties in relation to activities which are not currently prohibited by the directly effective 2004 Council Regulation.

10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for this instrument, because any impact results from the 2004 Council Regulation rather than these Regulations.

**11. Regulating small business**

The legislation applies to small business. To minimise the impact of the requirements on firms employing up to 20 people, the Treasury work with the financial sector on the requirements for complying with the asset freezing and financial sanctions measures set out in the Council Regulation. The Treasury have provided detailed guidance to assist business in complying with these measures.

**12. Monitoring & review**

The EU monitors and reviews its financial sanctions measures. The Treasury will review the penalties for breach of the restrictions imposed by Regulation (EC) No 314/2004 if it is amended or repealed.

**13. Contact**

Financial Sanctions at the Treasury Tel: 020 7270 5454 or email: [financialsanctions@hmtreasury.gsi.gov.uk](mailto:financialsanctions@hmtreasury.gsi.gov.uk) can answer any queries regarding the instrument.