

**EXPLANATORY MEMORANDUM TO**  
**THE BURMA (EUROPEAN UNION FINANCIAL SANCTIONS) REGULATIONS**  
**2018**

**2018 No. 539**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 This instrument puts in place the UK's domestic enforcement regime for changes made to the existing Burma sanctions regime in Council Regulation (EU) No 401/2013 ("the Council Regulation"). New financial sanctions provisions have been added into the Council Regulation with effect from 27th April 2018 by Council Regulation (EU) 2018/647.

**3. Matters of special interest to Parliament**

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

- 3.1 In the Joint Committee on Statutory Instruments' Seventh Report of Session 2016–17, the Committee invited HM Treasury to reconsider its approach to the repetition of EU provisions in UK statutory instruments if the Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2013 came to be revoked and replaced. HM Treasury wrote to the Clerk of the Joint Committee on Statutory Instruments on 21<sup>st</sup> December 2016 in response to those comments explaining why HM Treasury intends to continue with its current approach in relation to financial sanctions Regulations. This instrument adopts the same approach to the issue as that taken in other similar financial sanctions Regulations.
- 3.2 The new Annex IV to the Council Regulation, as amended, does not currently contain any designated persons to whom the new financial sanctions provisions apply. Ongoing discussions suggest that it is possible that the EU will designate persons by including them in Annex IV in due course. In that situation, if these Regulations were not to in force, persons within the UK who breach the additional measures would not face enforcement consequences for such breaches. Given that financial sanctions are a matter of international and domestic security, and that the UK has obligations under EU law to put them in place and enforce them, it is necessary to ensure that the sanctions can be enforced against any designated persons who are added to Annex IV after these Regulations are made.

*Other matters of interest to the House of Commons*

- 3.3 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

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

- 4.1 These Regulations have been made under section 2(2) of the European Communities Act 1972. They put in place the enforcement provisions which apply to the new financial sanctions provisions inserted into the Council Regulation.

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

- 5.1 These Regulations extend to the whole of the United Kingdom.
- 5.2 These Regulations apply to the whole of the United Kingdom, and outside the United Kingdom to any UK national or any body incorporated in the United Kingdom.

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

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

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

##### *What is being done and why*

- 7.1 On 22nd April 2013, the Council adopted Decision 2013/184/CFSP concerning restrictive measures against Burma. The Decision repealed most earlier restrictive measures on Burma (including financial sanctions) as a means of encouraging positive changes to continue, however, it did not repeal the arms embargo.
- 7.2 The EU has now agreed new autonomous measures to condemn the ongoing widespread and systematic human rights violations committed by the Burma military and security forces, including rape and killings, and calling on the Government of Burma to ensure that security, the rule of law, and accountability prevail in Rakhine, Kachin and Shan States. The Council Regulation, as amended by Council Regulation (EU) 2018/647 effect from 27th April 2018, will contain targeted restrictive measures against military officers of the Burma Armed Forces who are responsible for the serious human rights violations, for example inciting violence against persons belonging to minorities in Rakhine and for obstructing the voluntary and safe return process of displaced persons from Rakhine State to their place of origin.
- 7.3 These measures will take the form of new asset freezing provisions, so that targeted listings from the Armed Forces and Border Guard Police can be added to the regime.
- 7.4 The UK is obliged to put enforcement provisions in place for breaches of the financial sanctions contained in the Council Regulation, as amended. In the absence of this instrument, persons within the UK would face no enforcement consequences should they breach these financial sanctions.

#### **8. Consultation outcome**

- 8.1 No consultation has been carried out in relation to these Regulations, which provide for enforcement of financial sanctions that have been imposed by the Council Regulation, as amended.

## **9. Guidance**

- 9.1 Guidance on the asset freezing and other financial sanctions measures is available on HM Treasury's website (<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>).
- 9.2 The Office of Financial Sanctions Implementation, within HM Treasury, operate a free subscription email service alerting subscribers to changes to the asset freezing regime, and to 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 and financial sanctions regimes.

## **10. Impact**

- 10.1 The impact on business, charities or voluntary bodies is negligible, because these Regulations do not impose substantive requirements themselves.
- 10.2 The impact on the public sector is also negligible.
- 10.3 An Impact Assessment has not been prepared for these Regulations, because any impact results from the Council Regulation, as amended, rather than these Regulations which only relate to enforcement powers.

## **11. Regulating small business**

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), HM Treasury works with the financial sector on the requirements for complying with the asset freezing and financial sanctions measures set out in the Council Regulation, as amended. HM Treasury have provided detailed guidance to assist business in complying with these measures.

## **12. Monitoring and review**

- 12.1 It is not appropriate to make provision for periodic review as contemplated in sections 28-32 of the Small Business Enterprise and Employment Act 2015 because these Regulations do not regulate business.
- 12.2 The EU monitors and reviews its financial sanctions measures, which HM Treasury is under an obligation to implement.

## **13. Contact**

- 13.1 Please contact [Sanctions.Legislation@HMTreasury.gsi.gov.uk](mailto:Sanctions.Legislation@HMTreasury.gsi.gov.uk) for any queries regarding the instrument.