
STATUTORY INSTRUMENTS

2009 No. 1495

The Burma/Myanmar (Financial Restrictions) Regulations 2009

PART 6

Miscellaneous

Information gathering provisions

18. The Schedule (which contains further provisions about information gathering) has effect.

Officers of a body corporate etc.

19.—(1) If an offence under these Regulations committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer of the body corporate;
or
- (b) to be attributable to any neglect on the officer's part;

the officer as well as the body corporate is guilty of the offence.

(2) Paragraph (1) also applies to an institution which is not a body corporate, with the substitution for the reference to an officer of the body of a reference—

- (a) in the case of a partnership, to a partner;
- (b) in the case of an unincorporated body other than a partnership—
 - (i) where the body's affairs are managed by its members, to a member of the body;
 - (ii) in any other case, to a member of the governing body.

Penalties

20.—(1) A person guilty of an offence under regulation 6, 7, 9, 10, 13, 14 or 17 or paragraph 4(b), (c) or (d) of the Schedule is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction—
 - (i) in England, Wales and Northern Ireland, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both; and
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both.

(2) A person guilty of an offence under paragraph 2(4) or 4(a) of the Schedule is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.

Proceedings

21.—(1) Proceedings against any person for an offence may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(2) In England and Wales, summary proceedings for an offence may be tried by a magistrates' court if any information is laid—

- (a) before the end of 12 months from the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor's knowledge, but
- (b) not later than three years from the commission of the offence.

(3) In Scotland—

- (a) summary proceedings for an offence may be commenced—
 - (i) before the end of 12 months from the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to the Lord Advocate's knowledge; but
 - (ii) not later than three years from the commission of the offence; and
- (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995⁽¹⁾ (time limit for certain offences) applies for the purpose of this paragraph as it applies for the purpose of that section.

(4) In Northern Ireland, summary proceedings for an offence may be instituted—

- (a) before the end of 12 months from the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor's knowledge; but
- (b) not later than three years from the commission of the offence.

(5) For the purpose of this regulation—

- (a) a certificate signed by or on behalf of the prosecutor or the Lord Advocate as to the date on which such evidence as is referred to in paragraphs (2) to (4) came to the prosecutor's or the Lord Advocate's knowledge is conclusive evidence of that fact, and
- (b) a certificate purporting to be so signed is presumed to be so signed unless the contrary is proved.

(6) In Scotland, where a constable reasonably believes that a person has committed or is committing an offence, the constable may arrest that person without a warrant.

(7) No proceedings for an offence, other than for a summary offence, may be instituted in England, Wales or Northern Ireland except with the consent of the Attorney General or, as the case may be, the Attorney General for Northern Ireland.

(8) Whether or not such consent has been given, paragraph (7) does not prevent—

- (a) the arrest of any person in respect of an offence, or
- (b) the remand in custody or on bail of any person charged with an offence.

(9) In this regulation, "offence" means an offence under these Regulations.

Notices

22.—(1) This regulation has effect in relation to any notice to be given to a person by the Treasury under regulation 5^{(1)(a)} or (2)(a) or 10^{(4)(a)}.

(2) Any such notice may be given—

- (a) by posting it to the person's last known address; or

(1) 1995 c.46.

(b) where the person is a body corporate which has its registered or principal office in the United Kingdom, by posting it to that office.

(3) Where the Treasury do not have an address in the United Kingdom for a person, they must make arrangements for the notice to be given to the person at the first available opportunity.

The Crown

23.—(1) These Regulations bind the Crown, subject to the following provisions of this regulation.

(2) No contravention by the Crown of a provision of these Regulations makes the Crown criminally liable; but the High Court or in Scotland the Court of Session may, on the application of a person appearing to the Court to have an interest, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Nothing in this regulation affects Her Majesty in her private capacity; and this is to be construed as if section 38(3) of the Crown Proceedings Act 1947⁽²⁾ (meaning of Her Majesty in her private capacity) were contained in these Regulations.

Revocation

24. These Regulations revoke the Burma (Financial Sanctions) Regulations 2005⁽³⁾, the Burma (Freezing of Funds) (Amendment) Regulations 2003⁽⁴⁾ and the Burma (Freezing of Funds) Regulations 2000⁽⁵⁾.

⁽²⁾ 1947 c.44.

⁽³⁾ S.I. 2005/1526.

⁽⁴⁾ S.I.2003/1810.

⁽⁵⁾ S.I. 2000/1472.