STATUTORY INSTRUMENTS

2004 No. 1257

CRIMINAL LAW

The Burma (Freezing of Funds and Economic Resources) Regulations 2004

Made - - - - -	*4th May 2004*
Laid before Parliament	*4th May 2004*
Coming into force - -	*5th May 2004*

Whereas the Treasury are a government department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to measures relating to (i) the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States, and (ii) the movement of capital and to payments, between Member States and between Member States and countries which are not Member States;

Now, therefore, the Treasury, in exercise of the powers conferred on them by that section, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Burma (Freezing of Funds and Economic Resources) Regulations 2004 and shall come into force on 5th May 2004.

(2) In these Regulations—

"body corporate" includes a Scottish partnership and, in relation to such a partnership, any reference to a director of a body corporate is a reference to a partner; and

"the EC Regulation" means Council Regulation (EC) No. 798/2004 of 26th April 2004 concerning certain restrictive measures in respect of Burma(**c**).

Breaches of the EC Regulation

2.—(1) Any person who—

(a) without reasonable excuse commits a breach of Article 6(1) of the EC Regulation; or

(b) commits a breach of Article 6(2) or (3) of the EC Regulation,

is guilty of an offence.

(2) Any person who—

(a) without reasonable excuse fails to comply with Article 9(1) of the EC Regulation; or

(b) uses information in breach of Article 9(3) of the EC Regulation,

is guilty of an offence.

(**a**) S.I. 1994/757.
(**b**) 1972 c. 68.
(**c**) O.J. L 125, 28.4.2004, p. 4.

Requests for authorisations etc.

3. Any person who, in connection with a request for an authorisation pursuant to Article 7(1) of the EC Regulation—

(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,

is guilty of an offence.

Information

4. The Schedule to these Regulations has effect in order to facilitate the obtaining by or on behalf of the Treasury or the Bank of England of information for the purpose of ensuring compliance with the EC Regulation.

Penalties and proceedings

5.—(1) Any person guilty of an offence under regulation 2(1) or 3 or paragraph 2(b) or (c) of the Schedule to these Regulations is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both;

(b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum, or both.

(2) Any person guilty of an offence under regulation 2(2), or paragraph 2(a) or 3(2) of the Schedule to these Regulations, 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 both.

(3) Where any body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person as well as the body corporate is guilty of that offence and is liable to be proceeded against and punished accordingly.

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

(5) No proceedings for an offence under these Regulations, other than a summary offence, shall be instituted in England, Wales or Northern Ireland except by or with the consent of the Secretary of State, the Treasury or the Attorney General, or, as the case may be the .Attorney General for Northern Ireland.

(6) But paragraph (5) does not prevent the arrest, or the issue or execution of a warrant for the arrest of any person in respect of an offence, or the remand in custody or on bail of any person charged with an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Nick Ainger
Derek Twigg

4th May 2004 — Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE

Regulation 4

INFORMATION

1.—(1) The Treasury or the Bank of England (or any person authorised by the Treasury or the Bank of England for that purpose, either generally or in a particular case) ("the requesting authority") may request any person in or resident in the United Kingdom to furnish to the requesting authority any information in his possession or control, or to produce to the requesting authority any document in his possession or control, which the requesting authority may require for the purpose of ensuring compliance with the EC Regulation; and any person to whom such a request is made must comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in sub-paragraph (1) requires any person who has acted as counsel or solicitor for any person to disclose any privileged document or information in his possession in that capacity.

(3) Where a person is convicted of an offence under paragraph 2 of this Schedule of failing to furnish any information or produce any document, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents includes power to take copies of or extracts from any document so produced and to request that person or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any such document.

2. Any person who—

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule;

(b) intentionally furnishes false information or a false explanation to any person exercising his powers under this Schedule; or

(c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

is guilty of an offence.

3.—(1) No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule shall be disclosed except—

(a) with the consent of the person by whom the information was furnished or the document was produced: provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to possession of that document in his own right;

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom;

(c) on the authority of the Treasury, to the European Commission or to any of the competent authorities listed in Annex II to the EC Regulation, for the purpose of assisting the Commission or that competent authority to ensure compliance with the EC Regulation; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under these Regulations.

(2) Any person who, without reasonable excuse, discloses information or a document in contravention of paragaph (1) is guilty of an offence.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide that breaches of certain provisions of Council Regulation (EC) No. 798/2004 of 26th April 2004 ("the EC Regulation") are criminal offences. The provisions in question are:

(a) Article 6(1) which provides for the freezing of funds and economic resources belonging to individual members of the Government of Burma and persons or entities associated with them as listed in Annex III to the EC Regulation;

(b) Article 6(2) which prohibits the making available of funds or economic resources directly or indirectly to or for the benefit of persons listed in Annex III to the EC Regulation;

(c) Article 6(3) which prohibits the knowing and intentional participation in activities the object or effect of which is, directly or indirectly, to circumvent the prohibitions in Article 6(1) and (2); and

(d) Article 9 which requires all persons to provide immediately to the Treasury or the Bank of England and to the European Commission any information which would facilitate compliance with the EC Regulation, but requires such information to be used only for the purposes for which it was provided or received.

Regulation 3 makes it an offence to provide false information in connection with a request for an authorisation under Article 7(1) of the EC Regulation.

Regulation 4 and the Schedule make provision for information to be requested by or on behalf of the Treasury or the Bank of England for the purpose of ensuring compliance with the EC Regulation. Failure to provide such information, the provision of false information or the suppression of information is a criminal offence. Unauthorised disclosure of information acquired under the Schedule is also a criminal offence.

Regulation 5 makes provision with respect to penalties and proceedings for offences under these Regulations.

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