STATUTORY INSTRUMENTS

# 2013 No. 1447

# OVERSEAS TERRITORIES

## The Burma (Sanctions) (Overseas Territories) Order 2013

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| *Made - - - -* | *13th June 2013* |
| *Laid before Parliament* | *20th June 2013* |
| *Coming into force - -* | *11th July 2013* |

At the Court at Buckingham Palace, the 13th day of June 2013

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 112 of the Saint Helena Act 1833(**a**), the British Settlements Acts 1887 and 1945(**b**), and all of the other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order as follows:

**Citation, commencement and extent**

**1.**—(1) This Order may be cited as the Burma (Sanctions) (Overseas Territories) Order 2013.

(2) It comes into force on 11th July 2013.

(3) It extends to the territories listed in Schedule 1.

**Application of the Order**

**2.**—(1) This Order applies to—

(a) any person in the Territory,

(b) any person elsewhere who is—

(i) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person and is ordinarily resident in the Territory, or

(ii) a body incorporated or constituted under the law of any part of the Territory, and

(c) any person onboard a ship or aircraft that is registered in the Territory.

(2) Article 4(2) and paragraph 3 of Schedule 2 also apply to any relevant person mentioned in those provisions (and for this purpose "relevant person" has the meaning given in article 4(4) and (5)).

(**a**) 1833 c.85.
(**b**) 1887 c.54 and 1945 c.7.

(3) Article 13 applies to—

(a) the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 3,

(b) the Falkland Islands and South Georgia and the South Sandwich Islands subject to the modification set out in Schedule 4, and

(c) St Helena, Ascension and Tristan da Cunha as set out in Schedule 5.

(4) Article 14 applies to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 3.

(5) In the application of this Order to any territory listed in Schedule 1, the expression "the Territory" in this Order means that territory.

**Interpretation**

**3.**—(1) In this Order, unless otherwise provided—

"aircraft" means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing airborne vehicle or helicopter;

"assistance" means any form of assistance, including advice, training, technical assistance, financing and financial assistance, investment services, brokering services or other services, and the transfer of financial resources and services;

"brokering services" means—

(a) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology or of financial and technical services, including from a third country to any other third country, or

(b) the selling or buying of goods and technology or of financial and technical services, including where they are located in third countries for their transfer to another third country;

"commander", in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator of the aircraft, or, if there is no operator, the person who is for the time being the pilot in command of the aircraft;

"the Council Regulation" means Council Regulation (EU) No. 401/2013 adopted by the Council of the European Union on 2nd May 2013(**a**) concerning restrictive measures in respect of Burma;

"document" includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

"export" includes shipment as stores;

"exportation" in relation to any ship or aircraft, includes taking the ship or aircraft out of the Territory, whether or not it is conveying goods or passengers or moving under its own power, and cognate expressions are to be construed accordingly;

"financing and financial assistance", in relation to the provision of assistance related to restricted goods, includes in particular grants, loans and export credit insurance for any sale, supply, transfer or export of restricted goods;

"goods" includes items, materials and equipment;

"Governor" means the Governor or other officer administering the Government of the Territory;

"insurance" means an undertaking or commitment where a natural or legal person is obliged, in return for a payment, to provide another person, in the event of materialisation of a risk, with an indemnity or a benefit as determined by the undertaking or commitment;

"master", in relation to a ship, includes any persons for the time being in charge of the ship;

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(**a**) O.J. L.121 3.5.2013, p.1.

"officer", in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate or any person who has purported to act in any such capacity;

"operator", in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or vehicle;

"owner", in relation to a ship, where the owner is not the operator, means the operator and any person to whom it is chartered;

"person" means any natural or legal person, entity or body;

"restricted goods" means—

(a) the goods, software and technology specified in Schedule 2 to the Export Control Order 2008(**a**), and

(b) so far as not covered by paragraph (a), the goods, software and technology specified in the Common Military List of the European Union(**b**) as amended from time to time, and

(c) any equipment which might be used for internal repression listed in Annex I to the Council Regulation;

"ship" includes every description of vessel used in navigation;

"shipment" includes loading into an aircraft;

"stores" means goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried in them;

"technical assistance" means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services, including verbal forms of assistance;

"the Territory" has the meaning given in article 2(5);

"vehicle" means land transport vehicle.

(2) An expression used both in this Order and in the Council Regulation has the meaning given in the Council Regulation.

(3) A reference in this Order to any enactment (including legislation of the European Union) or statutory instrument is to be construed as a reference to that enactment or instrument as amended from time to time.

# PART 1

## Restricted goods

**Providing, obtaining or carrying restricted goods**

**4.**—(1) It is an offence for a person to knowingly sell, supply, transfer or export (directly or indirectly) restricted goods—

(a) to any person in Burma, or

(b) for use in Burma.

(2) It is an offence for a relevant person to knowingly use a ship, aircraft or vehicle falling within paragraph (3) for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Burma to any destination in Burma.

(3) The following fall within this paragraph—

(a) a ship, aircraft or vehicle within the Territory,

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(**a**) S.I. 2008/3231.
(**b**) O.J. C. 85 22.3.2012, p.1.

(b) a ship or aircraft registered in the Territory, or

(c) any other ship or aircraft that is for the time being chartered to a person mentioned in article 2(1)(a) or (b).

(4) A "relevant person", in relation to a ship, aircraft or vehicle falling within paragraph (3)(a) or (b), means—

(a) the owner or master of the ship,

(b) the charterer, operator or commander of the aircraft, or

(c) the driver or operator of the vehicle.

(5) A "relevant person", in relation to a ship or aircraft falling within paragraph (3)(c) means—

(a) the charterer of the ship or aircraft, or

(b) the master of the ship, or operator of the aircraft, if the master or operator is a person mentioned in article 2(1)(a) or (b).

(6) Paragraph (2) is without prejudice to any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

(7) Schedule 2 (which contains provision about customs powers and investigations in relation to offences under this article) has effect.

(8) This article is subject to articles 7 and 8.

**Providing assistance related to restricted goods**

**5.**—(1) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the sale, supply, transfer or export of restricted goods —

(a) to any person in Burma, or

(b) for use in Burma.

(2) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to the maintenance, manufacture or use of restricted goods—

(a) by any person in Burma, or

(b) for use in Burma.

(3) This article is subject to articles 7 and 8.

**Providing assistance related to military activities**

**6.**—(1) It is an offence for a person to knowingly provide (directly or indirectly) assistance relating to military activities in Burma.

(2) This article is subject to articles 7 and 8.

# PART 2

## General

**Licences granted by the Governor**

**7.**—(1) The Governor may, with the consent of the Secretary of State, grant a licence authorising an activity that would otherwise be prohibited under articles 4 to 6.

(2) A person is not guilty of an offence under articles 4 to 6 in respect of anything done by the person under the authority of a licence granted by the Governor.

(3) A licence may, in particular, relate to—

(a) the sale, supply, transfer or export of protective clothing, including flak jackets and military helmets, temporarily exported to Burma by United Nations personnel, personnel

of the European Union or its Member States, representatives of the media and humanitarian and development workers and associated personnel for their personal use only;

(b) the sale, supply, transfer or export of non-lethal military equipment, or equipment which might be used for internal repression, intended solely for humanitarian or protective use, or for institution-building programmes of the United Nations and the European Union;

(c) the sale, supply, transfer or export of materiel intended for United Nations and the European Union crisis management operations;

(d) the sale, supply, transfer or export of demining equipment and materiel for use in demining operations;

(e) the provision of financing and financial assistance related to the equipment, programmes or operations referred to in paragraphs (a)-(d);

(f) the provision of technical assistance related to the equipment, programmes or operations referred to in paragraphs (a)-(d).

(4) A licence must specify the acts authorised by it and may be—

(a) general or granted to a category of persons or to a particular person,

(b) subject to conditions, and

(c) of indefinite duration or subject to an expiry date.

(5) The Governor may, with the consent of the Secretary of State, vary or revoke a licence at any time.

(6) On the grant, variation or revocation of a licence, the Governor must—

(a) in the case of a licence granted to a particular person, give written notice of the grant, variation or revocation to that person, and

(b) in the case of a general licence or a licence granted to a category of persons, take such steps as the Governor considers appropriate to publicise the grant, variation or revocation of the licence.

(7) Any notice to be given to a person by the Governor under paragraph (6) may be given—

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

(b) where the person is a body corporate, partnership or unincorporated body other than a partnership, by posting it to the registered or principal office in the Territory of the body or partnership.

(8) Where the Governor does not have an address in the Territory for the person, the Governor must make arrangements for the notice to be given to the person at the first available opportunity.

(9) Failing to comply with any condition in the licence is acting in a way that is not authorised by the licence unless—

(a) the licence was modified after the completion of the act authorised by the licence, and

(b) the alleged failure to comply with a condition in the licence would not have been a failure if the licence had not been so modified.

(10) It is an offence for a person to knowingly or recklessly make any statement or give any document or information which is false in a material particular for the purpose of obtaining a licence.

(11) A licence granted in connection with the application for which the false statement was made or the false document or information given is void from the time it was granted.

**Licences granted outside the Territory**

**8.** A person is not guilty of an offence under articles 4 to 6 in respect of anything done by the person—

(a) outside the Territory, and

(b) under the authority of a licence granted in accordance with any provisions of the law in force in the place where it is done corresponding to the provisions of this Order.

**Requirement to publish list of restricted goods**

**9.**—(1) The Governor must—

(a) publish a list of restricted goods, and

(b) keep the list up to date.

(2) The Governor may publish a list under paragraph (1) in any form the Governor considers appropriate, including by means of a website.

**Evidence and information**

**10.** Schedule 6 (which contains further provisions about obtaining evidence and information) has effect.

**Functions of the Governor**

**11.**—(1) The Governor may, to such extent and subject to such restrictions and conditions as the Governor thinks proper, delegate or authorise the delegation of any of the Governor's functions under this Order to any person, or class or description of persons.

(2) References in this Order to the Governor are to be construed accordingly.

(3) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to sums expressed in sterling in this Order.

**Circumvention and contravention of prohibitions**

**12.** It is an offence for a person to intentionally participate in an activity, knowing that the object or effect of the activity is (directly or indirectly)—

(a) to circumvent any of the prohibitions in articles 4 to 6, or

(b) to enable or facilitate the contravention of any such prohibition.

**Penalties**

**13.**—(1) A person guilty of an offence under article 4, 5, 6 or 12 is liable—

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

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) A person guilty of an offence under article 7(10), paragraph 2(2)(b) or paragraph 3(6)(b) or (c) of Schedule 2, or paragraph 3(b), (c) or (d) of Schedule 6 is liable—

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

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) A person guilty of an offence under paragraph 3(6)(a) of Schedule 2, or paragraph 3(a) or paragraph 5 of Schedule 6 is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(4) A person guilty of an offence under paragraph 1, 2(2)(a) or 2(5) of Schedule 2 is liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(5) If an offence under this Order 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 part of an officer of the body corporate,

the officer as well as the body corporate is guilty of an offence and is liable to be proceeded against and punished accordingly.

**Proceedings**

**14.**—(1) Proceedings against a person for an offence may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(2) Summary proceedings for an offence alleged to have been committed outside the Territory may be instituted within the period of 12 months beginning with the date on which the person charged first enters the Territory after committing the offence.

(3) Proceedings for an offence must not be instituted in the Territory except with the consent of the principal public officer of the Territory responsible for criminal prosecutions.

(4) Nothing in paragraph (3) prevents—

(a) the arrest, or the issue or execution of a warrant for 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.

(5) A reference in this article to an offence is to an offence under this Order.

**Revocation**

**15.** The following Orders are revoked—

(a) The Burma (Restrictive Measures) (Overseas Territories) Order 2009(**a**), and

(b) The Burma (Restrictive Measures) (Overseas Territories) (Suspension) Order 2012(**b**).

*Richard Tilbrook*
Clerk of the Privy Council

# SCHEDULE 1

Article 1(3)

## Territories to which this Order extends

Anguilla

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands

Falkland Islands

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(**a**) S.I. 2009/3008; By virtue of Section 17(2)(b) of the Interpretation Act 1978 a licence granted by the Governor under the Burma (Restrictive Measures) (Overseas Territories) Order 2009 that was in effect immediately before the coming into force of this Order has effect as if it were granted under this Order.

(**b**) S.I. 2012/2596.

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St Helena, Ascension and Tristan da Cunha

South Georgia and the South Sandwich Islands

The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus

Turks and Caicos Islands

Virgin Islands

# SCHEDULE 2

Article 4

## Customs powers and investigations

**Power to demand evidence of destination of restricted goods**

**1.**—(1) An authorised officer may require a person who exports or carries restricted goods from the Territory to provide proof to the officer's satisfaction that the goods have reached an authorised destination.

(2) For the purposes of sub-paragraph (1), "an authorised destination" means a destination to which the exportation or carriage of the goods is—

(a) authorised by a licence granted by the Governor under article 7, or

(b) not otherwise prohibited under this Order.

(3) It is an offence for a person ("P") to fail to comply with a requirement under sub-paragraph (1), unless P proves that the goods reached a destination other than an authorised destination without P's consent or connivance.

**Requirement for declaration as to carriage of restricted goods: power to search persons**

**2.**—(1) An authorised officer may require a person who is about to leave the Territory ("P") to—

(a) declare whether P is carrying restricted goods destined for Burma or for delivery (directly or indirectly) to, or to the order of, any person in Burma, and

(b) produce any such goods that P is carrying.

(2) It is an offence for P to—

(a) fail without reasonable excuse to comply with a requirement under sub-paragraph (1), or

(b) knowingly or recklessly make a declaration which is false in a material particular.

(3) An authorised officer may search P for the purpose of finding out whether P is carrying restricted goods.

(4) A search under sub-paragraph (3) must be carried out by a person of the same sex as P.

(5) It is an offence for P to fail without reasonable excuse to comply with a request to be searched under sub-paragraph (3).

**Investigation of suspected ships, aircraft or vehicles**

**3.**—(1) Where an authorised officer reasonably suspects that a ship, aircraft or vehicle has been, is being, or is about to be used in the commission of an offence under article 4(2), the officer may—

(a) stop and enter it;

(b) search it;

(c) require the relevant person to provide such information relating to the ship, aircraft or vehicle and any goods it is carrying, and produce for inspection such documents and goods, as the officer may specify;

(d) in relation to a ship, require the relevant person to do anything mentioned in sub-paragraph (2);

(e) in relation to an aircraft or vehicle, require the relevant person to keep the aircraft or vehicle and any goods it is carrying in the Territory until notified by an authorised officer that it may depart.

(2) Further to sub-paragraph (1)(d), the officer may require the relevant person to do any of the following—

(a) stop the ship from proceeding with the voyage on which it is engaged, or about to engage, until notified by an authorised officer that it may proceed;

(b) not land any part of the ship's cargo at any port specified by the officer, except with the officer's consent;

(c) if the ship is in port in the Territory, cause it to remain there until notified by an authorised officer that it may depart;

(d) if the ship is in any other place, take it to a port specified by the officer and keep it there until notified by an authorised officer that it may depart.

(3) The officer may take such steps as appear necessary to carry out a search under sub-paragraph (1)(b), or secure compliance with a requirement under sub-paragraph (1)(c), (d) or (e), including in particular—

(a) entering any land,

(b) using reasonable force, and

(c) detaining the ship, aircraft or vehicle and any goods it is carrying.

(4) The officer may seize any restricted goods from the ship, aircraft or vehicle.

(5) Any restricted goods seized may be forfeited, disposed of or transferred as appropriate.

(6) It is an offence for a relevant person to—

(a) fail without reasonable excuse to comply with a requirement under sub-paragraph (1)(c), (d) or (e),

(b) knowingly or recklessly provide information or a document which is false in a material particular in response to a requirement under sub-paragraph (1)(c), or

(c) otherwise intentionally obstruct an authorised officer, or a person acting under the officer's authority, in the exercise of any power conferred by this paragraph.

**Exercise of customs powers: general**

**4.**—(1) Any power exercisable by an authorised officer under this Schedule may be exercised by a person acting under the officer's authority.

(2) An authorised officer, or a person acting under the officer's authority, must, if requested to do so, produce evidence of his or her authority before exercising any power conferred by this Schedule.

(3) Any power conferred by this Schedule to require information, or produce for inspection a document or goods, includes a power to specify the form in which the information or document should be given, and the period within which the information, document or goods should be provided or produced for inspection.

(4) An authorised officer may exercise any power conferred by paragraph 3 in relation to—

(a) any ship within the seaward limits of the territorial sea of the Territory,

(b) a ship registered in the Territory while it is on the high seas, or

(c) any aircraft or vehicle in the Territory.

(5) But a power conferred by paragraph 3 may not be exercised in relation to a ship falling within sub-paragraph (6) unless—

(a) in the case of a ship falling only within sub-paragraph (6)(a), the Territory is entitled under international law to exercise the power without the consent of the flag state, or

(b) in any other case, the Governor, with the consent of the Secretary of State, has authorised the exercise of the power.

(6) A ship falls within this sub-paragraph if it is—

(a) a ship flying the flag of, or registered in, a State or territory other than the Territory,

(b) a warship that belongs to a government of a State or territory other than the Territory, or

(c) any other ship that is being used by such a government only for non-commercial purposes.

(7) The Governor may authorise the exercise of a power under sub-paragraph (5)(b) only if the flag state has consented to the Territory exercising the power (whether generally or in relation to the ship in question).

(8) In giving such authority, the Governor must impose such conditions or limitations on the exercise of the power as are necessary to give effect to any conditions or limitations imposed by the flag state.

(9) This Schedule is without prejudice to any other provision of law conferring powers, imposing restrictions or enabling restrictions to be imposed in respect of ships, aircraft or vehicles.

**Interpretation**

**5.** In this Schedule—

"authorised officer" means—

(a) a commissioned naval or military officer,

(b) a police or customs officer, or

(c) a person authorised by the Governor for the purposes of this Schedule, whether generally or in a particular case;

"high seas" means seas that are not within the seaward limits of—

(a) the territorial sea of the Territory, or

(b) the territorial sea adjacent to a State or territory outside the Territory;

"relevant person" has the meaning given in article 4(4) and (5).

# SCHEDULE 3

Article 2

## Application of Articles 13 and 14 to the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus

**1.** A person guilty of an offence under article 4, 5, 6, or 12 is liable on conviction to imprisonment for a term not exceeding seven years or to a fine or to both.

**2.** A person guilty of an offence under article 7(10), paragraph 2(2)(b) or paragraph 3(6)(b) or (c) of Schedule 2, or paragraph 3(b), (c) or (d) of Schedule 6 is liable on conviction to imprisonment for a term not exceeding two years or to a fine or to both.

**3.** A person guilty of an offence under paragraph 3(6)(a) of Schedule 2 or paragraph 3(a) or paragraph 5 of Schedule 6 is liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £5,000 or its equivalent or to both.

**4.** A person guilty of an offence under paragraph 1, 2(2)(a) or 2(5) of Schedule 2 is liable on conviction to a fine not exceeding £5,000 or its equivalent.

**5.** If an offence under this Order 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 part of an officer of the body corporate,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

**6.** Proceedings against a person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

**7.** Proceedings for an offence under this Order must not be instituted in the Territory except with the consent of the Attorney General and Legal Adviser.

**8.** Nothing in paragraph 7 prevents—

(a) the arrest, or the issue or execution of a warrant for 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.

## SCHEDULE 4

Article 2

## Application of Article 13 to the Falkland Islands and to South Georgia and the South Sandwich Islands

**1.** This Schedule applies when the Magistrates' Court is sentencing a person following a summary conviction for an offence under this Order.

**2.** Any penalties which would be available to the Magistrates' Court under article 13 on conviction on indictment for the offence are available to the Court as if they were penalties so available on summary conviction.

## SCHEDULE 5

Article 2

## Application of Article 13 to St Helena, Ascension and Tristan da Cunha

**1.** A person guilty of an offence under article 4, 5, 6, or 12 is liable on conviction to imprisonment for a term not exceeding seven years or to a fine or to both.

**2.** A person guilty of an offence under article 7(10), paragraph 2(2)(b) or paragraph 3(6)(b) or (c) of Schedule 2 or paragraph 3(b), (c) or (d) of Schedule 6 is liable on conviction to imprisonment for a term not exceeding two years or to a fine or to both.

**3.** A person guilty of an offence under paragraph 3(6)(a) of Schedule 2 or paragraph 3(a) or paragraph 5 of Schedule 6 is liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £5,000 or its equivalent or to both.

**4.** A person guilty of an offence under paragraph 1, 2(2)(a) or 2(5) of Schedule 2 is liable on conviction to a fine not exceeding £5,000 or to its equivalent.

**5.** If an offence under this Order 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 part of an officer of the body corporate,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

# SCHEDULE 6

Article 10

## Evidence and information

**Power to require information or documents**

**1.** —(1) An authorised officer may request any person in, or resident in, the Territory to provide any information or produce any document in the person's possession or control which the officer may require for the purpose of—

(a) securing compliance with, or detecting evasion of, this Order,

(b) obtaining evidence of the commission of an offence under this Order,

(2) When exercising the power in sub-paragraph (1), an authorised officer may—

(a) take copies of or extracts from any document so produced,

(b) request any person producing a document to give an explanation of it, and

(c) where that person is a body corporate, request any person who is a present or past officer or employee of the body corporate to give such an explanation.

(3) Any person to whom a request is made must comply with it within such time and in such manner as may be specified in the request.

(4) Nothing in this paragraph is to be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged information or document in the person's possession in that capacity.

**Powers of search and entry to obtain evidence or information**

**2.**—(1) A justice of the peace may grant a search warrant if satisfied by information on oath that—

(a) there are reasonable grounds for suspecting that—

(i) an offence under this Order has been or is being committed, or

(ii) information or a document requested by an authorised officer under paragraph 1 has not been provided or produced; and

(b) evidence of the commission of the offence, or the information or document so requested, is to be found on a ship, aircraft, vehicle or premises specified in the information.

(2) A search warrant issued under this paragraph is a warrant empowering an authorised officer to enter and search the ship, aircraft, vehicle or premises specified in the information, at any time within one month from the date of the warrant.

(3) An authorised officer who enters and searches a ship, aircraft, vehicle or premises under a warrant issued under this paragraph may—

(a) take such other persons and such equipment on to the ship, aircraft, vehicle or premises as appear to the officer to be necessary;

(b) inspect and seize anything found in the course of a search if the officer reasonably suspects that—

(i) it is evidence in relation to an offence under this Order,

(ii) it is information or a document requested (but not provided or produced) under paragraph 1, or

(iii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed;

(c) take copies of any document;

(d) require information which is stored in an electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible (or from which it can readily be produced in a visible and legible form).

(4) An authorised officer may, if necessary, use reasonable force in the exercise of the powers conferred by this paragraph.

(5) Anything seized under sub-paragraph (3) may be retained for so long as is necessary in all the circumstances.

(6) An authorised officer who enters a ship, aircraft, vehicle or premises under a warrant issued under this paragraph, or by virtue of sub-paragraph (3)(a), may—

(a) search any person found on the ship, aircraft, vehicle or premises whom the officer has reasonable cause to believe to be in possession of anything which may be required as evidence for the purposes of proceedings in respect of an offence under this Order, and

(b) seize anything found in such a search.

(7) A search of a person under sub-paragraph (6) must be carried out by a person of the same sex.

(8) The powers in this paragraph are without prejudice to the powers in paragraph 3 of Schedule 2.

**Offences relating to information etc.**

**3.** It is an offence for a person to—

(a) without reasonable excuse, refuse or fail 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) knowingly or recklessly give any information, or produce any document, which is false in a material particular in response to such a request,

(c) destroy, mutilate, deface, conceal or remove any document with intent to evade the provisions of this Schedule, or

(d) otherwise intentionally obstruct any person in the exercise of that person's powers under this Schedule.

**4.** Where a person is convicted of an offence under paragraph 3(a), the court may make an order requiring the person, within such period as may be specified in the order, to give the requested information or produce the requested document.

**5.**—(1) It is an offence for a person to disclose information or a document obtained in accordance with this Order (including a copy or extract made of such a document) except—

(a) to a person who would have been authorised to request the information or document under this Order;

(b) to a person holding or acting in any office under or in the service of—

(i) the Crown in right of the Government of the United Kingdom,

(ii) the Government of the Isle of Man,

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark,

(iv) the States of Jersey, or

(v) the Government of any British overseas territory;

(c) for the purpose of giving assistance or cooperation, with the authority of the Governor, to—

(i) any organ of the United Nations, or

(ii) any person in the service of the United Nations, the Council of the European Union, the European Commission or the government of any State or territory;

(d) with a view to instituting, or otherwise for the purposes of, any proceedings—

(i) in the Territory, for an offence under this Order, or

(ii) in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory (other than the Territory), for an offence under a similar provision in any such jurisdiction;

(e) to any third party, with the consent of a person who, in the person's own right, is entitled to the information or to possession of the document, copy or extract.

(2) In sub-paragraph (1)(e) "in the person's own right" means not merely in the person's capacity as a servant or agent of another person.

**6.** An authorised officer must, if requested to do so, produce evidence of his or her authority before exercising any power conferred by this Schedule.

**7.** In this Schedule "authorised officer" means—

(a) a police or customs officer, or

(b) a person authorised by the Governor for the purposes of this Schedule, whether generally or in a particular case.

**8.** Anything done in accordance with this Schedule is not to be treated as a breach of any restriction imposed by statute or otherwise.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order gives effect in specified Overseas Territories to sanctions in respect of Burma applied by the European Union in Council Decision 2013/184/CFSP.

On 22 April 2013, by Decision 2013/184/CFSP the Council of the European Union decided to revoke sanctions in respect of Burma except for the embargoes on the supply of arms and related materiel and equipment which might be used for internal repression, together with the prohibition on the provision of technical assistance and military assistance related to such goods. This Order revokes and replaces the Burma (Restrictive Measures)(Overseas Territories) Order 2009 and the Burma (Restrictive Measures)(Overseas Territories)(Suspension) Order 2012.

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STATUTORY INSTRUMENTS

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# OVERSEAS TERRITORIES

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