EXPLANATORY MEMORANDUM TO

THE BURMA/MYANMAR (FINANCIAL RESTRICTIONS) (REVOCATION) REGULATIONS 2013

2013 No. 1096

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

2. Purpose of the instrument

2.1 The Burma/Myanmar (Financial Restrictions) Regulations 2009 (S.I. 2009/1495) (the "2009 Regulations") put in place criminal penalties for breaches of the financial restrictions measures contained in Council Regulation (EC) No. 194/2008 ("the first Council Regulation") of 25 February 2008 renewing and strengthening the restrictive measures in respect of Burma/Myanmar and repealing Regulation (EC) No. 817/2006 (O.J. L 66, 10.3.2008, p.1). Various sanctions measures contained in the first Council Regulation, including the financial restrictions measures, were suspended until 30 April 2013 by Council Regulation (EU) No. 409/2012 of 14 May 2012 (O.J. No. L 126, 15.5.2012, p.1) with effect from 16 May 2012. The Burma/Myanmar (Financial Restrictions) (Suspension) Regulations 2012 (S.I. 2012/1302) (the "2012 Regulations") accordingly suspended Parts 3 and 5 of the 2009 Regulations until 30 April 2013. The financial restrictions measures contained in the first Council Regulation have now been revoked by Council Regulation (EU) No. 401/2013 of 2 May 2013 (O.J. No. L 121, 3.5.2013, p. 1) (the "2013 Council Regulation"). These Regulations accordingly revoke the 2009 Regulations and the 2012 Regulations.

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. The 2013 Council Regulation came into force on the day of its publication in the Official Journal, on 3rd May 2013. As a consequence of the adoption of the 2013 Council Regulation, the financial restrictions contained in the first Council Regulation have been revoked as 3rd May 2013. It is necessary to revoke the 2009 Regulations and the 2012 Regulations immediately so that there are no criminal penalties in place under UK law for activities which have ceased to be unlawful under EU law.

4. Legislative context

4.1 These Regulations revoke the 2009 Regulations and the 2012 Regulations so that criminal penalties do not continue in place in UK law following the revocation of the EU financial restrictions contained in the first Council Regulation.

4.2 The Foreign and Commonwealth Office have proceeded on the basis that the amending Council Regulation is not required to be subjected to Parliamentary scrutiny before its adoption.

5. Territorial extent and application

5.1 This instrument applies to all of the United Kingdom and, outside the United Kingdom, to British citizens and those with a UK connection.

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 is required.

7. Policy background

- What is being done and why

7.1 The EU has, by way of the 2013 Council Regulation, revoked the restrictions that apply in respect of Burma/Myanmar which were contained in the first Council Regulation, with the exception of the embargo on arms and the embargo on equipment which might be used for internal repression. These financial restrictions are being permanently removed in light of the positive steps the Burmese government has taken in its political reform agenda. This is a good example of how sanctions have been used effectively as a coercive tool to encourage regime change and their revocation is intended to encourage further positive steps by the Government.

7.2 Criminal penalties contained in the 2009 Regulations apply to breaches of the financial restrictions in the first Council Regulation. Those penalties were temporarily suspended by the 2012 Regulations, to come back into force on 1 May 2013.

7.3 The revocation of the financial restrictions at EU level necessitates the revocation of the criminal penalties for breaches of those restrictions at UK level. Accordingly, these Regulations revoke the 2009 Regulations and the 2012 Regulations.

- Consolidation

7.4 There are no plans to consolidate the relevant legislation.

8. Consultation outcome

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

9. Guidance

9.1 The Treasury's Financial Sanctions group operates a free subscription email service alerting subscribers to changes to, and revocations of, 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 revocation of the financial restrictions.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies because the financial restrictions have been revoked and these Regulations revoke the criminal penalties for breaches of them.

10.2 There is also no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 Sanctions legislation applies to small business.

11.2 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 measures. In this case, those measures have been revoked.

12. Monitoring and review

12.1 The EU monitors and reviews its financial sanctions measures. The Treasury will put in place criminal penalties if new financial restrictions are imposed by the EU in respect of Burma/Myanmar in the future.

13. Contact

Financial Sanctions at the Treasury Tel: 020 7270 5454 or email: FinancialSanctions@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.