EXPLANATORY MEMORANDUM TO

THE ZIMBABWE (FINANCIAL SANCTIONS) (SUSPENSION) REGULATIONS 2013

2013 No. 795

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 These Regulations suspend regulations 6 to 10 of the Zimbabwe (Financial Sanctions) Regulations 2009 (S.I. 2009/847) ("the 2009 Regulations") from 3:00 p.m. 5th April 2013 until 20th February 2014 insofar as they apply to certain persons, entities or bodies. Regulations 6 to 10 of the 2009 Regulations provide for criminal penalties for breach of financial sanctions imposed by Council Regulation (EC) No. 314/2004 ("the 2004 Council Regulation") of 19 February 2004 concerning certain restrictive measures in respect of Zimbabwe (O.J. L 55, 24.2.2004, p.1) The 2004 Council Regulation contains various sanctions measures imposed in respect of the Government of Zimbabwe and those connected with it. Those measures include financial sanctions which require the funds and economic resources of certain persons, entities and bodies, listed in Annex III of the 2004 Council Regulation, to be frozen.

2.2 Council Regulation (EU) No. 298/2013 of 27 March 2013 (O.J. L 90, 28.3.2013, p.48) ("the 2013 Council Regulation") suspended until 20th February 2014 the financial sanctions measures in the 2004 Council Regulation insofar as they apply to certain persons entities or bodies listed in its annex. The restrictive measures continue to remain in force against those in Annex III to the 2004 Regulation which are not named in the annex to the 2013 Regulation.

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.

3.2 The 2009 Regulations provide for penalties for breach of the financial sanctions contained in the 2004 Council Regulation. The 2013 Council Regulation has suspended the financial sanctions measures in the 2004 Council Regulation, insofar as they apply to persons entities or bodies listed in the annex to the 2013 Regulation. It is important that the penalties put in place by the 2009 Regulations for breach of these measures are removed as soon as possible, otherwise penalties will continue to apply in domestic law, or at least appear to do so, in respect of activities which are not currently prohibited under EU law; in practice, no prosecution would be likely to be brought for anything done from the start of the period of suspension under the 2013 Council Regulation.

4. Legislative Context

4.1 These Regulations suspend until 20th February 2014 regulations 6 to 10 of the 2009 Regulations insofar as they apply to certain persons entities or bodies. The 2009 Regulations provide for criminal penalties for breach of the financial sanctions provisions of the 2004 Council Regulation. The Council of the European Union adopted Council Decision 2013/160/CFSP on 27th March 2013 ("the 2013 Council Decision") which amends Council Decision 2011/101/CFSP concerning restrictive measures against Zimbabwe by suspending the operation of financial sanctions measures insofar as they apply to certain persons, entities or bodies. The 2013 Council Regulation of the same date has accordingly suspended the application of the financial sanctions measures contained in the 2004 Council Regulation to certain persons, entities or bodies.

4.2 It was not possible for the Foreign and Commonwealth Office to submit the 2013 Council Decision and the 2013 Council Regulation to the relevant Parliamentary Committees (the Commons EU Scrutiny Committee and the Lords Select Committee on the European Union) for those Committees' approval prior to the documents' 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 any UK national or body incorporated in the UK.

6. European Convention on Human Rights

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 These Regulations suspend the effect of regulations 6 to 10 of the 2009 Regulations insofar as they apply to certain persons, entities or bodies. The 2009 Regulations provide for criminal penalties for breach of financial sanctions contained in the 2004 Council Regulation.

7.2 The financial sanctions contained in the 2004 Council Regulation have been suspended until 20th February 2014 by the 2013 Council Regulation insofar as they apply to certain persons, entities or bodies. These Regulations accordingly suspend the domestic penalties for breach of those measures.

- Consolidation

7.3 Not applicable.

8. Consultation outcome

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

9. Guidance

9.1 Guidance on current and lifted asset freezing regimes is available on the Treasury's website. Financial Sanctions, within the Treasury, operates a free subscription email service alerting subscribers on changes to the asset freezing regimes, and on 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 regime. A notice explaining the suspension of the financial sanctions in the 2004 Council Regulation is available on the Treasury website and was emailed to subscribers.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible, because these Regulations do not themselves impose requirements, but only suspend penalties in relation to activities which are not currently prohibited by the directly effective 2004 Council Regulation.

10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for this instrument, because any impact results from the 2004 Council Regulation rather than these Regulations.

11. Regulating small business

11.1 The 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 EU asset freezing measures. The Treasury have provided detailed guidance to assist business in complying with these measures.

12. Monitoring & review

12.1 Sanctions against Zimbabwe will be reviewed by the EU before the expiry of the suspension period.

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.