
EXPLANATORY NOTE

(This note is not part of the Order)

This Order creates offences relating to the provisions of Council Regulation (EC) No 194/2008(1) (“the Regulation”) that fall within the remit of the Department for Business, Enterprise and Regulatory Reform. The Regulation itself implements at European Community level the provisions of Common Position 2007/750/CFSP(2) (amending Common Position 2006/318/CFSP(3)) which strengthens the existing European Union sanctions and embargoes relating to Burma. It replaces Council Regulation (EC) No 817/2006(4) (“the previous Regulation”).

Article 1(3) ensures that if the Commission amends an Annex to the Regulation, using the procedure in Article 18 of the Regulation, the Order works by reference to the amended Annex. However, the lists of goods, equipment and technology in Annexes I, II and III to the Regulation cannot be amended in this manner. Consequently, the main purpose of Article 1(3) is to allow the Order to keep pace with changes to those designated as caught by the financial assistance restrictions in Article 7(3) of the Regulation (i.e. those listed in Annex V).

Articles 2 to 8 create offences for contravention of the provisions of the Regulation referred to there. There are already offences in sections 50, 68 and 170 of the Customs and Excise Management Act 1979 that relate to prohibited importation of goods (to the United Kingdom) and prohibited exportation of goods (from the United Kingdom).

Article 9 supplements the provisions of the Regulation that allow a competent authority to authorise activities that are otherwise prohibited. Article 9(1) makes it an offence knowingly or recklessly to provide false information for the purpose of obtaining an authorisation. Authorisations may be subject to requirements or conditions that continue even after the activity authorised has been carried out. Article 9(2) makes it an offence to fail to comply with such continuing requirements or conditions unless they were imposed after the activity was carried out or amended after that time in such a way as to give rise to non-compliance.

Article 10 sets out the penalties relating to the offences in the Order. The most serious penalties are reserved for sale, supply, transfer or export of equipment that could be used for internal repression. Exportation from the United Kingdom being dealt with in sections 68 and 170 of the Customs and Excise Management Act 1979, Article 10(6) modifies the maximum penalty under those sections for contravening an export prohibition in the Regulation relating to such equipment.

Her Majesty’s Revenue and Customs will enforce the provisions of the Order. Article 11 ensures that the same ancillary provisions as apply to their enforcement of customs and excise legislation apply in this context.

Article 12 revokes the secondary legislation that created offences relating to the previous Regulation.

A full regulatory impact assessment has not been produced for this instrument as no or minimal impact on the private or voluntary sectors is foreseen.

(1) OJ No L 66, 10.3.2008, p1.
(2) OJ No L 308, 24.11.2007, p1.
(3) OJ No L 116, 29.4.2006, p77.
(4) OJ No L 148, 2.6.2006, p1.