

**EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (BURMA) (AMENDMENT) ORDER 2010**

2010 No. 1675

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments

2. Purpose of the instrument

2.1. The Export Control (Burma) (Amendment) Order 2010 (“the amendment Order”) updates the Export Control (Burma) Order 2008 (“the 2008 Order”) following changes in the EU sanctions against Burma/Myanmar.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. The Department is today laying before Parliament the Export Control (Burma) (Amendment) Order 2010.

3.2. The Department considers that, in order to give effect to the UK’s European obligations in respect of Burma, it is necessary for the amendment Order to come into force as soon as possible. This is because the changes to the EU sanctions regime, effected by Council Regulation (EU) No 408/2010, came into force on 13 May 2010, the day following the Regulation’s publication in the Official Journal. The cross-references in the 2008 Order need to be altered in order to work properly following these changes (see below). Accordingly, it has been decided to bring the amendment Order into force earlier than the usual minimum 21 days after laying.

4. Legislative Context

4.1. Council Regulation (EC) No 194/2008 (“the Burma Regulation”) contains a number of restrictive measures affecting Burma/Myanmar. These include trade sanctions, principally affecting timber and mining operations (although the restrictions also affect the export to Burma of equipment that might be used for internal repression). The trade sanctions provide for certain exemptions and some of these are triggered by Member State authorisations.

4.2. The trade restrictions in the Burma Regulation are made effective in the United Kingdom by the 2008 Order, which creates offences and penalties supplementing the relevant provisions. These include an offence, in article 9, related to making false statements in applications for authorisations under the Burma Regulation.

4.3 Council Regulation (EU) No 408/2010 amends the Burma Regulation to provide for Member State authorisations in a new context and, because the 2008 Order cross refers to all the authorisation provisions in the Burma Regulation, it now needs to be updated to refer to the provision inserted by the new Regulation. This is the purpose of the amendment Order, which also changes the terminology in the 2008 Order, so it refers to “EU” rather than “Community” in line with the Lisbon Treaty.

5. Territorial Extent and Application

5.1. This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As this instrument is subject to negative instrument resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- *What is being done and why*

7.1 The government’s policy is to support the EU legislation concerning restrictive measures against Burma/Myanmar.

7.2. The trade elements of the sanctions against Burma/Myanmar include restrictions on the purchase from Burma of round logs, timber and timber products, coal and certain metals and precious and semi-precious stones. These restrictions have been revised, enabling Member States to authorise the purchase of items located in Burma in certain circumstances, notably in connection with humanitarian aid and other development projects. The consequence is that some minor adjustments to previous UK implementing legislation are needed (see above) and these are effected by the amendment Order.

7.3. The amendment Order is also in line with the general policy to implement EU Legislation in a timely and appropriate manner.

- *Consolidation*

7.4. No consolidation of the 2008 Order is planned.

8. Consultation outcome

8.1. This is purely a technical implementation of a directly applicable EU Regulation so no consultation was necessary.

9. Guidance

9.1. A notice to exporters will be published explaining the implementation of Council Regulation (EU) No 408/2010.

10. Impact

10.1. This will have no impact on trade between Burma and the UK. All that the amendment does is permit NGOs working in Burma on humanitarian projects to purchase timber in Burma. This is not expected to have any material impact on the work in the UK business sector, charities or voluntary bodies. Any impact that does accrue over time would be in the direction of making it easier for UK NGOs to operate.

10.2. Given the very restrictive nature of exception on the prohibitions contained within the Regulation, it is expected that the impact on the public sector would be minimal.

10.3. For these reasons an Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1. This legislation applies to small business.

12. Monitoring & Review

12.1. The Burma/Myanmar sanctions are renewed periodically. The current Council Decision imposing sanctions (Council Decision 2010/232/CFSP) expires on 30 June 2011 but, in any event, the EU keeps the sanctions under constant review.

13. Contact

13.1. Jim Bouttell at the Department for Business, Innovation and Skills Tel: 020 7215 4648, or email: jim.bouttell@bis.gsi.gov.uk can answer any queries regarding this instrument.

DEPARTMENT FOR BUSINESS, INNOVATION AND SKILLS