
STATUTORY INSTRUMENTS

2018 No. 894

The Export Control (Burma Sanctions) (No. 2) Order 2018

Application of the 1979 Act for the purposes of this Order

10.—(1) Where the Commissioners for Her Majesty’s Revenue and Customs investigate or propose to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under this Order has been committed, or
- (b) whether a person should be prosecuted for such an offence,

the matter is to be treated as an assigned matter.

(2) In this article “assigned matter” has the meaning given in section 1(1) of the 1979 Act⁽¹⁾.

(3) Section 77A⁽²⁾ of the 1979 Act applies to a person concerned in a relevant activity as it applies to a person concerned in the importation or exportation of goods but with the modifications specified in paragraph (4).

(4) The modifications are that—

- (a) the reference in subsection (1) to a person concerned in the importation or exportation of goods for which for that purpose an entry is required by regulation 5 of the Customs Controls on Importation of Goods Regulations 1991 or an entry or specification is required by or under the 1979 Act is to be read as a reference to a person concerned in a relevant activity;
- (b) any other reference to importation or exportation is to be read as a reference to a relevant activity.

(5) For the purposes of paragraphs (3) and (4), “relevant activity” means an activity (other than the importation or exportation of goods) which, if not authorised by a licence under this Order, would contravene Article 2(1), 3(1)(a) and (b) and (2)(a) and (b), 3a(1) and (4)(a) and (b), 3b(1) or 3c(1) (a), (b) or (c) of the Burma Regulation.

(6) Section 138⁽³⁾ of the 1979 Act applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, an offence under this Order as it applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, an offence for which the person is liable to be arrested under the customs and excise Acts but with the modifications specified in paragraph (7).

(7) The modifications are that—

- (a) any reference to an offence under, or for which a person is liable to be arrested under, the customs and excise Acts is to be read as a reference to an offence under this Order;
- (b) subsection (2) is to be read as if for the words “any person so liable” there were substituted “any such person”.

(1) The definition was amended by paragraph 22(a) of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c.11) (“the 2005 Act”), section 24(7) of the Scotland Act 2012 (c.11) and section 7(1) of the Wales Act 2014 (c.29).
(2) Section 77A was inserted by section 10 of the Finance Act 1987 (c.16) and amended by S.I. 1992/3095.
(3) Section 138 was amended by sections 114(1) and 119 of, and paragraph 37 of Schedule 6 and Schedule 7 to, the Police and Criminal Evidence Act 1984, section 11 of the Finance Act 1988 (c.39), section 111 of, and paragraph 54 of Schedule 7 to, the Serious Organised Crime and Police Act 2005 (c.15) and by S.I. 1989/1341 (N.I. 12).

(8) The provisions of the 1979 Act mentioned in paragraph (9) apply for the purposes of proceedings for an offence under this Order as they apply for the purposes of proceedings for an offence under the customs and excise Acts⁽⁴⁾ but with the modifications specified in paragraph (10).

(9) The provisions of the 1979 Act are sections 145⁽⁵⁾, 146⁽⁶⁾, 146A⁽⁷⁾, 147⁽⁸⁾, 148, 150⁽⁹⁾, 151⁽¹⁰⁾, 152⁽¹¹⁾, 154⁽¹²⁾ and 155⁽¹³⁾.

(10) The modifications are that—

- (a) any reference to proceedings for an offence under the customs and excise Acts is to be read as a reference to proceedings for an offence under this Order;
- (b) any reference to an offence for which a person is liable to be arrested under the customs and excise Acts is to be read as a reference to an offence under this Order;
- (c) section 146A has effect as if for subsection (1) of that section there were substituted—

“(1) The following provisions apply in relation to proceedings for an offence under the Export Control (Burma Sanctions) Order 2018.”;
- (d) the reference in section 151 to any penalty imposed under the customs and excise Acts is to be read as a reference to any penalty imposed under this Order.

(4) See section (1) of the 1979 Act.

(5) Section 145 was amended by section 114(1) of the Police and Criminal Evidence Act 1984 and by section 50(6) of, and paragraphs 20 and 23 of Schedule 4 to, the 2005 Act.

(6) Section 146 was modified by [S.I.1990/2167](#).

(7) Section 146A was inserted by section 16(1) of the Finance Act 1989 ([c.26](#)) and amended by section 50(6) of, and paragraphs 20 and 24 of Schedule 4 to, the 2005 Act.

(8) Section 147 was amended by section 154 of, and paragraph 176 of Schedule 7 to, the Magistrates’ Courts Act 1980 ([c.43](#)), sections 77 and 78 of, and paragraph 42 of Schedule 14 and Schedule 16 to, the Criminal Justice Act 1982 ([c.48](#)) and section 16(2) of the Finance Act 1989.

(9) Section 150 was amended by section 50(6) of, and paragraphs 20 and 25 of Schedule 4 to, the 2005 Act.

(10) Section 151 was amended by section 154 of, and paragraph 177 of Schedule 7 to, the Magistrates’ Courts Act 1980.

(11) Section 152 was amended by section 50(6) and 52 of, and paragraphs 20 and 26 of Schedule 4 and Schedule 5 to, the 2005 Act.

(12) Section 154 was modified by [S.I. 1990/2167](#).

(13) Section 155 was amended by section 50(6) of, and paragraphs 20, 21 and 27 of Schedule 4 to, the 2005 Act.