

**EXPLANATORY MEMORANDUM TO THE
THE BURMA (PROHIBITION ON FINANCING) REGULATIONS 2004**

2004 No. 3100

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 The Burma (Prohibition on Financing) Regulations (SI 2004/3100) provide that breaches of certain provisions of Council Regulation (EC) No. 798/2004 of 26 April 2004, as amended by Council Regulation (EC) No 1853/2004 of 25 October 2004 ("the EC Regulation), and certain other acts and omissions, are criminal offences. They also make other provisions to give practical effect to the EC Regulation, notably in relation to the obtaining of information for the purposes of enforcement.

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

3.1 It is necessary for the above Regulations to come into force as soon as possible in order that the proper effect is given to Council Regulation (EC) No 1853/2004 of 25 October 2004, and to deter any possible breach of the financial sanctions. The Treasury have acted quickly to adopt the necessary amending legislation and considers it necessary to avoid any further delay before the Regulations come into force, and for that reason they are expressed to come into force on 25 November 2004 (the day after they were made), without waiting the usual 21 days for Parliamentary scrutiny.

4. **Legislative Background**

4.1 Some of the restrictive measures imposed against Burma/Myanmar were implemented at European Community level by Council Regulation (EC) No 798/2004 of 26 April 2004, which renewed the restrictive measures in respect of Burma/Myanmar and repealed Regulation (EC) No 1081/2000 of 24 May 2000. Council Regulation (EC) No 798/2004 was subsequently amended by Commission Regulation (EC) No 1517/2004 of 27 August 2004, to enlarge the list of Competent Authorities at Annex II, and by Council Regulation (EC) No 1853/2004 of 25 October, which introduced additional restrictive measures, notably a ban on the financing of certain Burmese state-owned companies. The financing ban consists of:

- (a) a prohibition on the granting of any financial loan or credit to Burmese

state-owned enterprises as listed in Annex IV to the EC Regulation, or the acquisition of bonds, certificates of deposit, warrants or debentures issued by those enterprises;

(b) a prohibition on the acquisition or extension of a participation in Burmese state-owned enterprises listed in Annex IV to the EC Regulation, including the acquisition in full of such enterprises and the acquisition of shares and securities of a participating nature;

(c) a prohibition on the knowing and intentional participation in activities the object or effect of which is, directly or indirectly, to circumvent the prohibitions in (a) and (b).

However, the prohibition on financing does not affect obligations arising under existing contracts.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention Human Rights

6.1 The requirement to make an ECHR statement is not applicable in this instance as this is a negative instrument which does not amend primary legislation.

7. Policy background

7.1 In view of the current political situation in Burma/Myanmar, as witnessed by the failure of the military authorities to release Daw Aung San Suu Kyi and other members of the National League for Democracy (NLD) as well as other political detainees, and the failure to allow a genuine and open National Convention, and in view of the continued harassment of the NLD and other organised political movements, the UK supports the further restrictive measures imposed in respect of Burma/Myanmar by Council Regulation (EC) No 1853/2004 of 25 October 2004.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary

8.2 The impact on the public sector is negligible.

9. Contact

Robert Pollock at the Her Majesty's Treasury, Tel: 0207 270 5323 or e-mail: Robert.Pollock@HM-Treasury.gsi.gov.uk can answer any queries regarding the instrument.