

**EXPLANATORY MEMORANDUM TO THE**  
**THE BURMA (RESTRICTIVE MEASURES) (OVERSEAS TERRITORIES)**  
**(AMENDMENT) ORDER 2004**

**2004 No. 3333**

1. This Explanatory Memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

**2. Description**

This instrument amends the Burma (Restrictive Measures) (Overseas Territories) Order 2004 (SI 2004/1979) so as to implement further restrictive measures by the EU against Burma, in particular a prohibition (with certain exemptions) on new investment in listed Burmese state-owned companies.

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

None.

**4. Legislative background**

- 4.1 This instrument amends the Burma (Restrictive Measures) (Overseas Territories) Order 2004 (SI 2004/1979) to give effect to Council Common Position 2004/730/CFSP (OJ L 323, 26.10.2004, p. 17) and Council Regulation (EC) No 1853/2004 (OJ L 323, 26.10.2004, p. 11) which amend, respectively, Common Position 2004/423/CFSP (OJ L 125, 28.4.2004, p. 4) and Regulation (EC) No 798/2004 (OJ L 125, 28.4.2004, p. 4). This instrument extends current measures against Burma to include a ban, with certain exemptions, on financing of listed Burmese state-owned companies, including by way of financial loans or credit, or the acquisition or extension of a participation in such companies or the acquisition of shares and securities in such companies.
- 4.2 This instrument also extends the existing assets freeze and visa ban on senior members of the State Peace and Development Council (SPDC), Burmese authorities in the tourist sector, senior members of the military, the Government or the security forces who formulate, implement or benefit from policies that impede Burma's transition to democracy and members of their family, to include serving members of the army of the rank of Brigadier-General or above, and their family members.
- 4.3 This instrument applies to the territories listed in 5.1 below. Bermuda adopts its own legislation to implement EU Common Positions as the UK does not have power to legislate for Bermuda in this respect. Gibraltar is covered by the EC Regulations and takes its own action to implement arms embargoes and to provide penalties for breach of EC Regulations.
- 4.4 This Order is made pursuant to section 112 of the Saint Helena Act 1833 (1833 c. 85) and the British Settlement Acts 1887 and 1945 (1887 c. 54 and 1945 c.7), and prerogative powers.

**5. Extent**

This instrument applies to the following territories: Anguilla, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, Falkland Islands, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, St Helena and Dependencies, South Georgia and the South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia, the Turks and Caicos Islands and the Virgin Islands. All the territories were consulted.

## **6. European Convention on Human Rights**

Not applicable.

## **7. Policy background**

This instrument gives effect to EU restrictive measures against Burma (Myanmar) deemed necessary by the European Council in light of the current political situation there, 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) and in view of the continued harassment of the NLD and other organised political movements. The measures are targeted at the military regime, those who benefit most from its misrule, and those who actively frustrate the process of national reconciliation, respect for human rights and democracy.

## **8. Impact**

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

## **9. Contact**

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