
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate the Dual-use and Related Goods (Export Control) Regulations 1996 and the various Regulations which amended them, and incorporate further amendments to give effect to certain provisions of Council Regulation (EC) No. 1334/2000 (“the new Council Regulation”) on the control of exports of dual-use items and technology. The 1996 Regulations and the Regulations which amended them are revoked, but continue to have effect for any export which has occurred before 28th September 2000.

The changes of significance from the 1996 Regulations are as follows—

- (a) The Regulations apply not just to exports of goods (including software and technology) in tangible form, but also to the transmission of software and technology by fax, telephone (subject to certain limits) or other electronic means. This is reflected in the use of the word “items” rather than “goods” throughout, as in the new Council Regulation.
- (b) Provision is made for use of the Community General Export Authorisation (“CGEA”) introduced by Article 6(1) of Annex II to the new Council Regulation. This operates as a general authorisation for the export of most controlled dual-use items from anywhere in the European Community to the destinations listed in Part 3 of that Annex, subject to certain exceptions set out in that Annex. Exporters established in the United Kingdom who wish to make an export from the United Kingdom under the authority of the CGEA must, on first doing so, register with the Secretary of State and then keep certain records in relation to each such export. Any exporter who wishes to export certain cryptographic items from the United Kingdom under the authority of the CGEA must give the Secretary of State written notice of certain information in accordance with regulation 9(3) of and Part II of Schedule 3 to these Regulations.
- (c) The new Council Regulation extends the circumstances in which the actual or possible end-use of dual-use items may make their export from the European Community subject to control. They now include cases where the exporter has been informed by a competent authority that the dual-use items in question are or may be intended for a military end-use in a country subject to certain types of arms embargo, or for use as parts or components of military list items which have been exported in breach of United Kingdom export controls (and exporters who are aware that dual-use items are intended for such a use must inform the competent authorities of the country where they are established). These Regulations take up the option given by the new Council Regulation of also making exports of dual-use items from the United Kingdom to other Community Member States subject to control, where the exporter knows that the items are to be sent from another Member State out of the Community and export of the items directly out of the Community would require authorisation under the end-use controls.
- (d) Certain cryptographic items are no longer subject to control when they are exported from the United Kingdom to other Community Member States, but exporters of those items to other Member States are required to keep records containing certain information in relation to such items in accordance with regulation 10(7) and Part II of Schedule 3.
- (e) Regulation 4(3)(b) now only controls exports, for use in connection with weapons of mass destruction, of dual-use items in transit taking the form of the transmission of software or technology by fax, telephone or other electronic media. The control on goods other than dual-use goods in regulation 4(2)(b) of the 1996 Regulations is not reproduced in

Status: *This is the original version (as it was originally made).*

these Regulations, but is inserted into the Export of Goods (Control) Order 1994 by an amendment coming into force on the same date as these Regulations. It will apply to dual-use goods which are items in transit by virtue of regulation 13 of these Regulations.

A number of consequential and drafting amendments of no substance have been made.

It should be noted that the Annexes containing the lists of dual-use items subject to Community controls are now part of the Council Regulation itself, not part of a separate Council Decision as before. Copies of the issue of the Official Journal of the European Communities which contains the Council Regulation including the Annexes (O.J. No. L.159, 30.6.00) can be obtained from HMSO.