
STATUTORY INSTRUMENTS

2003 No. 2764

**Export of Goods, Transfer of Technology and Provision
of Technical Assistance (Control) Order 2003**

PART II

CONTROLS ON THE TRANSFER OF TECHNOLOGY

Electronic transfer of controlled military and certain other technology

6.—(1) Subject to the provisions of this Order, no person shall transfer by any electronic means to a person or place outside the United Kingdom any software or technology of a description specified in Schedule 1 to this Order.

(2) Paragraph (1) does not prohibit the transfer of any software or technology of a description specified in Schedule 1 to this Order in relation to which a licence in writing has been granted by the Secretary of State, provided that all conditions attaching to the licence are complied with.

Electronic transfer of controlled dual-use technology and software and end-use controls

7.—(1) Subject to the provisions of this Order, no person shall transfer by any electronic means any dual-use software or technology of a description specified in Schedule 2 to this Order where the transfer is to a person or place in any destination specified in that Schedule as being a prohibited destination in relation to that software or technology.

(2) Subject to the provisions of this Order, no person shall transfer by any electronic means to a person or place in any Member State any dual-use software or technology that is either—

- (a) specified in Annex I but not in Annex IV to the Regulation;
- (b) specified in Schedule 2 to this Order; or
- (c) not specified in Annex I to the Regulation or Schedule 2 to this Order but for the transfer of which from the European Community an authorisation is required pursuant to—
 - (i) Article 4(1) of the Regulation; or
 - (ii) Article 4(2), (3) or (4) of the Regulation,

if he knows at the time of the transfer that such software or technology is intended for use outside the European Community and no processing or working is to be performed on that software or technology in any Member State to which it is to be transferred.

(3) Subject to the provisions of this Order, no person shall transfer by any electronic means any dual-use software or technology not listed in Annex 1 of the Regulation, to a person or place outside the European Community where he has grounds for suspecting that such software or technology is or may be intended, in its entirety or in part, for any relevant use, unless he has made all reasonable enquiries as to its proposed use and is satisfied that it will not be so used.

(4) Subject to the provisions of this Order—

- (a) Article 21(1) of the Regulation and paragraphs (1), (2) and (3) of this article do not prohibit the transfer of any dual-use software or technology in relation to which a licence in writing has been granted by the Secretary of State provided that all conditions attaching to the licence are complied with; and
- (b) Article 3(1) of the Regulation does not prohibit the transfer of any dual-use software or technology under the authority of the Community General Export Authorisation, or in relation to which a licence in writing has been granted by the Secretary of State or a Community Licence has been granted by any competent authority, provided that all conditions applying to that authorisation or attaching to the licence or Community Licence are complied with.

End-Use Controls on the transfer of all software and technology by any means

Electronic transfer of all software and technology and end-use controls

8.—(1) Subject to the provisions of this Order, no person shall transfer by any electronic means any software or technology to a person or place within the United Kingdom, where—

- (a) he has been informed by the Secretary of State that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) he is aware that such software or technology is intended, in its entirety or in part, for any relevant use,

if he has reason to believe that such software or technology may be used outside the European Community.

(2) Subject to the provisions of this Order and where paragraph (3) applies, no United Kingdom person shall transfer by any electronic means any software or technology from any place outside the European Community to—

- (a) a person or place outside the European Community; or
- (b) a person or place in any Member State, if he knows at the time of transfer that such software or technology is intended for use outside the European Community and no processing or working is to be performed on that software or technology in any Member State to which it is to be transferred.

(3) This paragraph applies where—

- (a) the United Kingdom person has been informed by a competent authority that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) the United Kingdom person is aware that such software or technology is intended, in its entirety or in part, for any relevant use.

(4) Subject to the provisions of this Order, no United Kingdom person shall transfer by any electronic means any software or technology from any place outside the European Community to a person or place within the United Kingdom where—

- (a) he has been informed by a competent authority that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) he is aware that such software or technology is intended, in its entirety or in part, for any relevant use,

if he has reason to believe that such software or technology may be used outside the European Community.

(5) For the purposes of paragraphs (1) and (4) a person has reason to believe that software or technology may be used outside the European Community if he knows that it may be or is intended to be so used or if he has been informed by the Secretary of State that it may be or is intended to be so used.

(6) Nothing in paragraph (1), (2) or (4) shall be taken to prohibit the transfer of any software or technology in the public domain.

(7) Paragraph (1), (2) or (4) do not prohibit the transfer of any software or technology in relation to which a licence in writing has been granted by the Secretary of State, provided that all conditions attaching to the licence are complied with.

Non-electronic transfer of all software and technology and end-use controls

9.—(1) Subject to the provisions of this Order, and where paragraph (2) applies, no person (“the person concerned”) shall transfer by any non-electronic means any software or technology to—

- (a) a person or place outside the European Community; or
- (b) a person or place in any Member State if he knows at the time of transfer that such software or technology is intended for use outside the European Community and no processing or working is to be performed on that software or technology in any Member State to which it is to be transferred.

(2) This paragraph applies where—

- (a) the person concerned has been informed by the Secretary of State that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) the person concerned is aware that such software or technology is intended, in its entirety or in part, for any relevant use.

(3) Subject to the provisions of this Order, no person shall transfer by any non-electronic means any software or technology to a person or place within the United Kingdom where—

- (a) he has been informed by the Secretary of State that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) he is aware that such software or technology is intended, in its entirety or in part, for any relevant use,

if he has reason to believe that such software or technology may be used outside the European Community.

(4) Subject to the provisions of this Order and where paragraph (5) applies, no United Kingdom person shall transfer by any non-electronic means any software or technology from any place outside the European Community to—

- (a) a person or place outside the European Community; or
- (b) a person or place in any Member State if he knows at the time of transfer that such software or technology is intended for use outside the European Community and no processing or working is to be performed on that software or technology in any Member State to which it is to be transferred.

(5) This paragraph applies where—

- (a) the United Kingdom person has been informed by a competent authority that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) the United Kingdom person is aware that such software or technology is intended, in its entirety or in part, for any relevant use.

(6) For the purposes of paragraph (3) a person has reason to believe that software or technology may be used outside the European Community if he knows that it may be or is intended to be so used or if he has been informed by the Secretary of State that it may be or is intended to be so used.

(7) Nothing in paragraph (1), (3) or (4) shall be taken to prohibit the transfer of any software or technology in the public domain.

(8) Paragraphs (1), (3) and (4) do not prohibit the transfer of any software or technology in relation to which a licence in writing has been granted by the Secretary of State, provided that all conditions attaching to the licence are complied with.