

2006 No. 1719

CUSTOMS

The Technical Assistance Control Regulations 2006

Made - - - - *29th June 2006*

Laid before Parliament *30th June 2006*

Coming into force - - *30th July 2006*

The Secretary of State has been designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to matters relating to trade in certain goods, including technical assistance, which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

The Secretary of State makes the following Regulations in exercise of the powers conferred by that section:

1.—(1) These Regulations may be cited as the Technical Assistance Control Regulations 2006 and shall come into force on 30th July 2006.

(2) In these Regulations—

“the Regulation” means Council Regulation (EC) No 1236/2005 of 27 June 2006(c); and

“the custom and excise Acts” and “assigned matter” have the same meaning as in section 1 of the Customs and Excise Management Act 1979(d).

2. Any person who, except under the authority of a licence granted under these Regulations, infringes the prohibition on the acceptance of technical assistance in Article 4 of the Regulation shall be guilty of an offence.

3. Any person who knowingly accepts technical assistance with intent to evade the prohibition in Article 4 of the Regulation shall be guilty of an offence and may be liable to arrest.

4.—(1) Authority for the acceptance of technical assistance set out in regulation 2 shall in the United Kingdom be by way of a licence in writing granted by the Secretary of State.

(2) If, for the purpose of obtaining a licence, any person—

(a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or

(b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

(a) S.I. 2006/1461.
(b) 1972 c.68.
(c) OJ No. L200/1, 30.7.2005.
(d) 1979 c.2

he shall be guilty of an offence; and any licence granted in connection with the application for which the false statement was made or the false document or information furnished shall be void as from the time it was granted.

(3) Any person who, having acted under the authority of a licence granted under these Regulations, fails to comply with any of the requirements or conditions to which the licence is subject shall be guilty of an offence, unless—

- (a) the licence had been previously modified by the Secretary of State;
- (b) and the alleged failure to comply would not have been a failure had the licence not been so modified; and
- (c) the licence was modified after the doing of the act authorised by the licence.

5.—(1) A person guilty of an offence under regulation 2 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A person guilty of an offence under regulation 3, or regulation 4(2) or (3) shall be liable—

- (a) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years, or to both; or
- (b) on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months, or to both.

6.—(1) Where the Commissioners for 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 these Regulations has been committed; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 138 of the Customs and Excise Management Act 1979 (provision as to arrest of persons) shall apply to the arrest of any person for an offence under these Regulations as it applies to the arrest of any person for offences under the customs and excise Acts.

(3) Sections 145 to 148 and 150 to 155 of the Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under these Regulations as they apply to offences and penalties under the customs and excise Acts.

(4) Section 77A of the Customs and Excise Management Act 1979 (provision as to information powers) shall apply to any person concerned in an activity requiring a licence under these Regulations as it applies to any person concerned in importation of goods for which an entry is required by or under that Act, and accordingly references in section 77A of the Customs and Excise Management Act 1979 to importation shall be read as including any activity requiring a licence under these Regulations.

29th June 2006

Malcolm Wicks
Minister for Energy
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for penalties and enforcement in respect of Council Regulation (EC) No 1236/ 2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment ('the Regulation').

Regulations 2 and 3 provide for criminal offences in relation to a breach of the provision relating to technical assistance in Article 4 of the Regulation.

Regulation 4 provides for licensing. Regulation 5 provides for penalties in respect of criminal offences created by these Regulations. Regulation 6 provides for their enforcement.

A regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

STATUTORY INSTRUMENTS

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