
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Trade in Goods (Control) Order 2003 (“the Trade Order”) and the Trade in Controlled Goods (Embargoed Destinations) Order 2004 (“the Embargoed Destinations Order”).

The main changes to the Trade Order are as follows.

Provision is made to distinguish between three categories of military and para-military goods whose trade between one overseas country and another require controls. Article 2(1) of the Trade Order, which contains a number of definitions, is amended by paragraph 2 of the Schedule. In particular, new article 2(1) contains definitions of category A, B and C goods.

Category A goods include certain paramilitary goods relating to which there is evidence of their use in torture or other inhumane or degrading treatment, cluster munitions and certain long range missiles; see paragraph 10 of the Schedule. Article 3 of the Trade Order is amended so as to prohibit any person within the United Kingdom, or a United Kingdom person anywhere in the world, from supplying or delivering, or doing any act calculated to promote the supply or delivery of, category A goods without a licence from the Secretary of State; see paragraph 3 of the Schedule.

Category B goods include small arms and man portable air defence systems; see paragraph 11 of the Schedule. Article 3A of the Trade Order, inserted by paragraph 4 of the Schedule, prohibits any person in the United Kingdom, or a United Kingdom person anywhere in the world, from transferring, acquiring or disposing, or arranging or negotiating a contract for the acquisition or disposal of category B goods without a licence from the Secretary of State. In addition, the provisions on category B goods prohibit any person, or a United Kingdom person anywhere in the world, in return for a fee, commission or other consideration from doing any act or agreeing to do any act, without a licence, which would promote the arrangement or negotiation of a contract for the acquisition or disposal of category B goods where that person knows or has reason to believe that the goods will be moved from one third country to another third country. Persons whose sole involvement in the movement of category B goods from one overseas country to another is to provide transport, finance, insurance or general advertising or promotion services are exempt from these controls.

Category C goods include goods which fall within Schedule 1 of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 ([S.I. 2003/2764](#) as amended) but which are not category A or B goods; see paragraph 12 of the Schedule. Article 4 of the Trade Order is amended so as to prohibit certain activities in relation to category C goods. These activities are the same activities as those controlled in respect of category B goods but the controls are limited to the activities of any person in the United Kingdom; see paragraph 5 of the Schedule.

By paragraph 7 of the Schedule, Article 9 of the Trade Order is amended to provide offences and penalties in relation to the prohibitions and restrictions created by this Order.

Article 12 of the Trade Order is amended to make provision for the application of the [Customs and Excise Management Act 1979](#) in relation to the prohibitions and restrictions created by this Order; see paragraph 8 of the Schedule.

Article 3 of the Order amends the definition of controlled goods in Article 2 of the Embargoed Destinations Order by extending it to all the goods listed at Schedule 1 of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003.