
STATUTORY INSTRUMENTS

2008 No. 3231

The Export Control Order 2008

PART 6

OFFENCES, ENFORCEMENT AND PENALTIES

Offences relating to prohibitions and restrictions in the [^{F1}retained dual-use Regulation]

35.—(1) Subject to paragraph (8), a person who contravenes a prohibition or restriction in Article 3(1) (controls on listed goods), 4(2) (military end-use control), 4(3) (end-use control relating to use in items exported or transferred without authorisation) ^{F2}... of the [^{F3}retained dual-use Regulation] commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A person who—

- (a) contravenes a prohibition or restriction in Article 4(1) (WMD purposes end-use control) [^{F4}or Article 5(1) (brokering services)] of the [^{F3}retained dual-use Regulation]; or
- (b) fails to comply with the requirement in Article 4(4) (requirement to notify [^{F5}the Secretary of State] in the case of awareness of end-use for [^{F6}certain military or] WMD purposes) of the [^{F3}retained dual-use Regulation]

commits an offence and may be arrested.

(3) A person guilty of an offence under paragraph (2) shall be liable—

[^{F7}(a) on summary conviction in ^{F8}... Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both; or]

[^{F9}(iii) in England and Wales, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding the general limit in a magistrates' court, or to both; or]

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years, or to both.

(4) Subject to paragraph (8), a person knowingly concerned in an activity prohibited or restricted by Article 3(1), 4(1), 4(2), 4(3) [^{F10}, 5(1) ^{F11}...] of the [^{F3}retained dual-use Regulation] with intent to evade the relevant prohibition or restriction commits an offence and may be arrested.

(5) A person guilty of an offence under paragraph (4) shall be liable—

[^{F12}(a) on summary conviction in ^{F13}... Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both; or]

[^{F14}(iii) in England and Wales, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding the general limit in a magistrates' court, or to both; or]

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding ten years, or to both.

(6) A person who fails to comply with [^{F15}Article 9(2) (provision of relevant information for export authorisation applications) or 10(2) (provision of relevant information for authorisation applications for brokering services)] of the [^{F3}retained dual-use Regulation] commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and any licence which may have been granted in connection with the application shall be void as from the time it was granted.

[^{F16}(7) A person who fails to comply with Article 20 (record-keeping) ^{F17}... of the [^{F3}retained dual-use Regulation] commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

(8) Paragraphs (1) and (4) do not create offences related to prohibitions or restrictions on the exportation of goods from the United Kingdom (as to which see CEMA).

(9) In [^{F18}paragraphs (3)(a)(iii) and (5)(a)(iii)] as they apply to England and Wales in the case of an offence committed before [^{F19}2nd May 2022], for “[^{F20}the general limit in a magistrates’ court]” substitute “six months”.

Textual Amendments

- F1** Words in art. 35 heading substituted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **9(1)**
- F2** Words in art. 35(1) omitted (31.12.2020) by virtue of The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(24)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in art. 35 substituted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **9(2)(a)**
- F4** Words in art. 35(2) inserted (27.8.2009) by The Export Control (Amendment) (No. 3) Order 2009 (S.I. 2009/2151), art. 1, **Sch. para. 8(b)**
- F5** Words in art. 35(2) substituted (31.12.2020) by The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(24)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in art. 35(2)(b) inserted (16.6.2009) by The Export Control (Amendment) Order 2009 (S.I. 2009/1305), arts. 1(1), **2**
- F7** Art. 35(3)(a) substituted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **9(2)(b)**
- F8** Words in art. 35(3)(a) omitted (7.2.2023 at 12.00 p.m.) by virtue of The Judicial Review and Courts Act 2022 (Magistrates’ Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), **32(2)**
- F9** Art. 35(3)(a)(iii) inserted (E.W.) (7.2.2023 at 12.00 p.m.) by virtue of The Judicial Review and Courts Act 2022 (Magistrates’ Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), **32(3)**
- F10** Words in art. 35(4) substituted (27.8.2009) by The Export Control (Amendment) (No. 3) Order 2009 (S.I. 2009/2151), art. 1, **Sch. para. 8(c)**
- F11** Words in art. 35(4) omitted (31.12.2020) by virtue of The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(24)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Art. 35(5)(a) substituted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **9(2)(c)**
- F13** Words in art. 35(5)(a) omitted (7.2.2023 at 12.00 p.m.) by virtue of The Judicial Review and Courts Act 2022 (Magistrates’ Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), **32(2)**
- F14** Art. 35(5)(a)(iii) inserted (E.W.) (7.2.2023 at 12.00 p.m.) by virtue of The Judicial Review and Courts Act 2022 (Magistrates’ Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), **32(3)**
- F15** Words in art. 35(6) substituted (27.8.2009) by The Export Control (Amendment) (No. 3) Order 2009 (S.I. 2009/2151), art. 1, **Sch. para. 8(d)**
- F16** Art. 35(7) substituted (27.8.2009) by The Export Control (Amendment) (No. 3) Order 2009 (S.I. 2009/2151), art. 1, **Sch. para. 8(e)**
- F17** Words in art. 35(7) omitted (31.12.2020) by virtue of The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(24)(d)**; 2020 c. 1, Sch. 5 para. 1(1)

- F18** Words in art. 35(9) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), **32(5)**
- F19** Words in art. 35(9) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(2), **Sch. Pt. 2**
- F20** Words in art. 35(9) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(2), **Sch. Pt. 2** table

Changes to legislation:

There are currently no known outstanding effects for the The Export Control Order 2008, Section 35.