
STATUTORY INSTRUMENTS

2008 No. 3231

The Export Control Order 2008

PART 1

INTRODUCTORY

Citation and commencement

1. This Order may be cited as the Export Control Order 2008 and shall come into force on 6th April 2009.

Interpretation

2.—(1) In this Order, the following expressions have the meanings given below, save where an expression is also defined in a Schedule where it has, for the purposes of that Schedule, that meaning—

“aircraft” means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing vehicle or helicopter;

“category A goods” means goods specified in Part 1 of Schedule 1;

“category B goods” means goods specified in Part 2 of Schedule 1;

“category C goods” means—

- (a) military goods other than goods specified in Schedule 1;
- (b) portable devices for the purpose of riot control or self-protection by the administration or dissemination of an incapacitating chemical substance;
- (c) pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4);
- (d) oleoresin capsicum (OC) (CAS 8023-77-6);

“CEMA” means the Customs and Excise Management Act 1979 ^{M1};

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“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

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“contract promotion activity” means any act calculated to promote the arrangement or negotiation of a contract for the acquisition, disposal or movement of goods or any agreement to do such an act;

“country” includes territory;

“the customs and excise Acts” has the same meaning as in section 1 of CEMA;

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“dual-use” in relation to goods, software or technology, means usable for both civil and military purposes;

[^{F6}“the dual-use Regulation”, in relation to—

- (a) England and Wales and Scotland, means the retained dual-use Regulation;
- (b) Northern Ireland, means the EU dual-use Regulation;]

“embargoed destination” means a country listed in Part 1 or 2 of Schedule 4;

^{F7} ...

[^{F8}“the EU dual-use Regulation” means Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast) as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;]

[^{F8}“exportation” shall be construed as follows—

- (a) unless the context otherwise requires, it only includes removal from the United Kingdom to a destination outside the United Kingdom and the Isle of Man;
- (b) it includes shipment as stores;
- (c) in relation to a vessel, vehicle, submersible vehicle or aircraft, it includes taking it out of the United Kingdom, notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power

and cognate expressions shall be construed accordingly;

^{F9} ...

“general” in relation to a licence, means not granted to a particular person but available for use generally;

[^{F10}“general export authorisation” means—

- (a) in relation to England and Wales and Scotland, a retained general export authorisation within the meaning given in Article 2(9) of the retained dual-use Regulation;
- (b) in relation to Northern Ireland, a Union general export authorisation within the meaning given in Article 2(15) of the EU dual-use Regulation;]

“goods subject to trade controls” means goods that are category A goods, category B goods or category C goods.

“importation” in relation to a vessel, vehicle, submersible vehicle or aircraft means taking it into the United Kingdom, notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power and cognate expressions shall be construed accordingly;

[^{F11}“individual” in relation to a licence, means granted to a particular person;]

^{F12} ...

“licence” except in article 45(2), means a UK licence or an authorisation granted under the dual-use Regulation or the torture Regulation;

“licence user” means a person who is registered under article 28 to use a general licence or who is entitled to use a general licence without registration owing to the terms of that general licence;

“microprogramme” means a sequence of elementary instructions, maintained in a special storage, the execution of which is initiated by the introduction of its reference instruction into an instruction register;

“military” in relation to goods, software and technology, means listed in Schedule 2;

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“payment” includes a payment in money or money's worth or in kind whether referable to a particular act or made from time to time but does not include a payment made by way of wages or salary;

“programme” means a sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer;

“proper” has the same meaning as in CEMA;

“in the public domain” means available without restriction upon further dissemination (no account being taken of restrictions arising solely from copyright);

[^{F14}“the retained dual-use Regulation” means Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (Recast);]

“scheduled journey” means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service operated in such a manner that its benefits are available to members of the public from time to time seeking to take advantage of it;

“shipment” (and cognate expressions) and “stores” have the same meanings as in CEMA;

“software” means one or more programmes or microprogrammes fixed in any tangible medium of expression;

“surface effect vehicle” means any air cushion vehicle (whether side wall or skirted) and any vehicle using the wing-in-ground effect for positive lift;

“technical assistance” means any technical support related to repairs, development, manufacture, assembly, testing, use, maintenance or any other technical service;

“technology” means information (including but not limited to information comprised in software and documents such as blueprints, manuals, diagrams and designs) that is capable of use in connection with the development, production or use of any goods;

“a third country” means any country that is not the United Kingdom or the Isle of Man except that, for the purposes of Part 4 of this Order, goods that are goods in transit are considered to be located in a third country;

[^{F15}“the torture Regulation”, in relation to—

- (a) England and Wales and Scotland, means Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment;
- (b) Northern Ireland, means Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;]

“transfer”, in relation to software or technology, means transfer by electronic or non-electronic means (or any combination of electronic and non-electronic means) from a person or place within the United Kingdom to a person or place outside the United Kingdom, except in articles 10 and 11 where the limitations as to the origin and destination of the transfer do not apply, and cognate expressions shall be construed accordingly;

[^{F16}“transfer by electronic means”, in relation to software and technology, means transmission by facsimile, telephone or other electronic media, and includes the transmission of technology by describing it orally over the telephone;]

“transfer by non-electronic means”, in relation to software or technology, means disclosure of software or technology by any means (or combination of means), including oral communication, other than as the exportation of goods or the transfer by electronic means;

“in transit” means imported into the United Kingdom for transit or transhipment;

“transit or transhipment”, in relation to goods, means transit through the United Kingdom or transhipment with a view to re-exportation of the goods or transhipment of the goods for use as stores;

“UK controlled” in relation to dual-use goods, software and technology, means listed in Schedule 3;

“UK licence” means a licence in writing granted by the Secretary of State that authorises an act or acts that would otherwise be prohibited by this Order;

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...

“vehicle” includes a railway carriage;

“vessel” includes any ship, surface effect vehicle, vessel of small waterplane area or hydrofoil, and the hull or part of the hull of a vessel;

“WMD purposes” means use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons.

(2) Except in the definition of category C goods, tangible storage media on which military or dual-use software or technology is recorded are taken to be military or dual-use goods respectively.

(3) Any reference in this Order to time after an event is a reference to a period of that length of time beginning on the day of that event.]

Textual Amendments

- F1** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(2)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in art. 2(1) omitted (10.8.2012) by virtue of [The Export Control \(Amendment\) \(No. 2\) Order 2012 \(S.I. 2012/1910\)](#), arts. 1, 2, **Sch. para. 1(b)**
- F3** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(2)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(2)(a)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(2)(a)(iv)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in art. 2(1) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **3(a)**
- F7** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(2)(a)(v)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in art. 2(1) inserted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **3(b)**
- F9** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(2)(a)(vi)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in art. 2(1) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **3(c)**
- F11** Words in art. 2(1) inserted (10.8.2012) by [The Export Control \(Amendment\) \(No. 2\) Order 2012 \(S.I. 2012/1910\)](#), arts. 1, 2, **Sch. para. 1(e)**

- F12** Words in art. 2 omitted (5.3.2018) by virtue of [The Export Control \(Amendment\) Order 2018](#) (S.I. 2018/165), arts. 1, 2
- F13** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/137), regs. 1, **4(2)(a)(vii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in art. 2(1) inserted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022](#) (S.I. 2022/1300), regs. 1(1), **3(d)**
- F15** Words in art. 2(1) substituted (31.12.2020) by S.I. 2019/137, regs. 1, **4(2)(d)** (as substituted by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1502), regs. 2(3), **7(2)(b)**); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in art. 2(1) substituted (27.8.2009) by [The Export Control \(Amendment\) \(No. 3\) Order 2009](#) (S.I. 2009/2151), art. 1, **Sch. para. 1(d)**
- F17** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/137), regs. 1, **4(2)(a)(viii)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M1** 1979 c. 2.

[^{F18}Crown application

2A.—(1) The following articles bind the Crown—

- (a) article 4 (movement of UK controlled dual-use goods, etc. to certain destinations);
 - (b) article 6 (WMD purposes end-use control supplementing the dual-use Regulation);
 - [^{F19}(c) article 8 (transit controls supplementing the dual-use Regulation);
 - (d) article 42L (export and transfer control in relation to Northern Ireland: dual-use goods, software, and technology); and
 - (e) article 42S (export control in relation to Northern Ireland: leg irons, gang chains, and portable electric shock devices).]
- (2) The Crown is not criminally liable as a result of a contravention of any of those articles.
- (3) Paragraph (2) does not affect the application of those articles to persons in the public service of the Crown.]

Textual Amendments

- F18** [Art. 2A](#) inserted (10.8.2012) by [The Export Control \(Amendment\) \(No. 2\) Order 2012](#) (S.I. 2012/1910), arts. 1, 2, **Sch. para. 2**
- F19** [Art. 2A\(1\)\(c\)-\(e\)](#) substituted (31.12.2020) by S.I. 2019/137, regs. 1, **4(3)** (as substituted by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1502), regs. 2(3), **7(3)**); 2020 c. 1, Sch. 5 para. 1(1)

PART 2

EXPORT AND TRANSFER CONTROLS

Modifications etc. (not altering text)

- C1** Pt. 2 excluded (20.2.2010) by [The Export Control \(Guinea\) Order 2010](#) (S.I. 2010/364), arts. 1(1), 5

Military goods, etc.

3. Subject to articles 13 to 18 and 26, no person shall—
- (a) export military goods; or
 - (b) transfer military software or technology by electronic means.

[^{F20}Movement of UK controlled dual-use goods, etc. to certain destinations

- 4.—(1) [^{F21}Subject to articles 13, 14, 15, 16, 17, 18 and 26], no person shall—
- (a) export UK controlled dual-use goods; or
 - (b) transfer UK controlled dual-use software or technology by electronic means

if paragraph (2) or (3) applies.

(2) This paragraph applies where the destination is one specified in Schedule 3 as a prohibited destination in relation to the goods, software or technology in question (“a prohibited destination”).

(3) This paragraph applies where the destination is not a prohibited destination but the exporter or transferor knows—

- (a) that the final destination of the goods, software or technology in question is a prohibited destination; and
- (b) that no processing or working is to be performed on the goods, software or technology in question before they are exported or transferred to that final destination.]

Textual Amendments

F20 Art. 4 substituted for arts. 4, 5 (27.1.2010) by [The Export Control \(Amendment\) Order 2010 \(S.I. 2010/121\)](#), arts. 1(1), **2(2)**

F21 Words in art. 4(1) substituted (17.4.2015) by [The Export Control \(Amendment\) \(No. 2\) Order 2015 \(S.I. 2015/940\)](#), arts. 1, **2(2)**

[^{F22}Movement of certain medicinal products to the United States of America

4A.—(1) Subject to articles 17 and 26, no person shall export a human or veterinary medicinal product containing the active ingredient pancuronium bromide [^{F23}or propofol] where—

- (a) the product is in a form suitable for injection or for preparation of an injection; and
- (b) paragraph (2) or (3) applies.

(2) This paragraph applies where the destination of the product is the United States of America.

(3) This paragraph applies where the destination is not the United States of America but the exporter knows that the final destination of the product is the United States of America.]

Textual Amendments

F22 Art. 4A inserted (16.4.2012) by [The Export Control \(Amendment\) Order 2012 \(S.I. 2012/929\)](#), arts. 1, **3(2)**

F23 Words in art. 4A(1) inserted (10.8.2012) by [The Export Control \(Amendment\) \(No. 2\) Order 2012 \(S.I. 2012/1910\)](#), arts. 1, 2, **Sch. para. 3**

Movement of Libyan bank notes and coins

^{F24} **4B.**

Textual Amendments

F24 Art. 4B inserted (temp.) (2.3.2011 at 7 p.m. until it expires on 1.3.2012 by virtue of art. 1(3) of the amending S.I.) by [The Export Control \(Amendment\) \(No. 2\) Order 2011 \(S.I. 2011/580\)](#), arts. 1(2), 3(2)

Movement of UK controlled dual-use goods, etc. within the customs territory

^{F20} **5.**

Textual Amendments

F20 Art. 4 substituted for arts. 4, 5 (27.1.2010) by [The Export Control \(Amendment\) Order 2010 \(S.I. 2010/121\)](#), arts. 1(1), 2(2)

WMD purposes end-use control supplementing the dual-use Regulation

6.—(1) This article applies where—

- (a) a person (“the enquirer”) has grounds for suspecting that dual-use goods, software or technology are or may be intended, in their entirety or in part, for WMD purposes; and
- (b) the goods, software or technology in question are not specified in Annex I to the dual-use Regulation.

(2) Subject to article 26, the enquirer shall not—

- (a) export the goods in question; or
- (b) transfer the software or technology in question by electronic means

to a destination outside the [^{F25}United Kingdom] unless, having made all reasonable enquiries as to the proposed use of the goods, software or technology in question, the enquirer is satisfied that they will not be used for WMD purposes.

Textual Amendments

F25 Words in art. 6 substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, 4(4); 2020 c. 1, Sch. 5 para. 1(1)

Control on transfers within the customs territory supplementing the dual-use Regulation

^{F26} **7.**

Textual Amendments

F26 Art. 7 omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, 4(5); 2020 c. 1, Sch. 5 para. 1(1)

Transit controls supplementing the dual-use Regulation

[^{F27}8.—[^{F28}(1) Subject to articles 17 and 26, no person shall export goods listed in Annex I to the dual-use Regulation where the goods in question are entering and passing through the United Kingdom with a final destination outside the United Kingdom and the Isle of Man.]

(2) Paragraph (3) applies where a person (“the exporter”)—

- (a) has been informed by [^{F29}the Secretary of State] that dual-use goods are or may be intended, in their entirety or in part, for purposes referred to in [^{F30}Article 4(1) (WMD purposes end-use control) of the retained dual-use Regulation or Article 4(1)(a) (WMD purposes end-use control) of the EU dual-use Regulation]; or
- (b) is aware that dual-use goods specified are or may be intended, in their entirety or in part, for purposes referred to in [^{F30}Article 4(1) (WMD purposes end-use control) of the retained dual-use Regulation or Article 4(1)(a) (WMD purposes end-use control) of the EU dual-use Regulation];

[^{F31}and the dual-use goods in question are goods which are not listed in Annex I to the dual-use Regulation and which are entering and passing through the United Kingdom with a final destination outside the United Kingdom and the Isle of Man.]

(3) Subject to article 26, the exporter shall not export the goods in question.]

Textual Amendments

- F27** Art. 8 substituted (27.8.2009) by [The Export Control \(Amendment\) \(No. 3\) Order 2009 \(S.I. 2009/2151\)](#), art. 1, [Sch. para. 2](#)
- F28** Art. 8(1) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, [4\(6\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F29** Words in art. 8(2)(a) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, [4\(6\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F30** Words in art. 8(2) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), [4](#)
- F31** Words in art. 8(2) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, [4\(6\)\(c\)](#); 2020 c. 1, Sch. 5 para. 1(1)

Provisions supplementing the torture Regulation

[^{F32}9.]

Textual Amendments

- F32** Art. 9 omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, [4\(7\)](#); 2020 c. 1, Sch. 5 para. 1(1)

[^{F33}General prohibition

9A. To the extent that, pursuant to any of articles 3 to 9 [^{F34}or 12A] of this Order, a person may not export goods, the exportation of the goods in question is prohibited.]

Textual Amendments

- F33** Art. 9A inserted (14.7.2009) by [The Export Control \(Amendment\) \(No. 2\) Order 2009 \(S.I. 2009/1852\)](#), arts. 1, 2
- F34** Words in art. 9A inserted (19.5.2022) by [The Export Control \(Amendment\) Order 2022 \(S.I. 2022/491\)](#), arts. 1(1), 2(2)

Transfers within the United Kingdom for WMD purposes

- 10.**—(1) This article applies where a person (“the transferor”)—
- (a) has been informed by the Secretary of State that software or technology is or may be intended, in its entirety or in part, for WMD purposes; or
 - (b) is aware that software or technology is intended, in its entirety or in part, for WMD purposes

and knows that it may be or is intended to be used outside the [^{F35}United Kingdom] or has been informed by the Secretary of State that it may be or is intended to be so used.

(2) Subject to articles 18 and 26, the transferor shall not transfer the software or technology in question to a person or place within the United Kingdom.

Textual Amendments

- F35** Words in art. 10 substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, 4(8); 2020 c. 1, Sch. 5 para. 1(1)

Transfers from outside the [^{F36}United Kingdom] for WMD purposes

- 11.**—(1) This article applies where a United Kingdom person (“the transferor”)—
- (a) has been informed by [^{F37}the Secretary of State] that software or technology is or may be intended, in its entirety or in part, for WMD purposes; or
 - (b) is aware that software or technology is intended, in its entirety or in part, for WMD purposes.

(2) Subject to articles 18 and 26, the transferor shall not transfer the software or technology in question from a place outside the [^{F38}United Kingdom] to—

- (a) a destination outside the [^{F38}United Kingdom]; or
- (b) a destination within the [^{F38}United Kingdom] if the transferor—
 - (i) knows that the final destination of the software or technology is outside the [^{F38}United Kingdom]; and
 - (ii) knows that no processing or working is to be performed on the software or technology within the [^{F38}United Kingdom],

or, if the destination is the United Kingdom, knows that the software or technology may be or is intended to be used outside the [^{F38}United Kingdom] or has been informed by the Secretary of State that it may be or is intended to be so used.

Textual Amendments

- F36** Words in art. 11 heading substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(9)**; 2020 c. 1, Sch. 5 para. 1(1)
- F37** Words in art. 11(1)(a) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(10)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F38** Words in art. 11(2) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(10)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Transfers by non-electronic means from the United Kingdom for WMD purposes

12.—(1) This article applies where a person (“the transferor”)—

- (a) has been informed by the Secretary of State that software or technology is or may be intended, in its entirety or part, for WMD purposes; or
- (b) is aware that software or technology is intended, in its entirety or in part, for WMD purposes.

[^{F39}(2) Subject to articles 18 and 26, the transferor shall not transfer the software or technology in question by non-electronic means to a destination outside the United Kingdom.]

Textual Amendments

- F39** [Art. 12\(2\)](#) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(11)**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F40}Military end-use control supplementing the dual-use Regulation

12A.—(1) This article applies where a person (“a relevant person”)—

- (a) has been informed by the Secretary of State that dual-use goods, software or technology are, or may be intended, in their entirety or in part, for use by a relevant entity, and
- (b) the dual-use goods, software or technology in question are not specified in Annex I to the dual-use Regulation.

(2) Subject to articles 12B, 18 and 26, a relevant person shall not—

- (a) export the goods in question, or
- (b) transfer the software or technology in question by electronic means to a destination outside the United Kingdom.

(3) In this article, “relevant entity” means—

- (a) any military forces, para-military forces, police forces, security services or intelligence services of a country that is one or more of the following—
 - (i) an embargoed destination,
 - (ii) subject to an arms embargo imposed by a decision of the Organization for Security and Co-operation in Europe, or
 - (iii) subject to an arms embargo imposed by a binding resolution of the Security Council of the United Nations, or
- (b) any person involved in the procurement, research, development, production or use of dual-use goods, software or technology on behalf, or at the direction, of any of the entities mentioned in subparagraph (a).

Textual Amendments

F40 Arts. 12A, 12B inserted (19.5.2022) by [The Export Control \(Amendment\) Order 2022 \(S.I. 2022/491\)](#), arts. 1(1), 2(3)

Exceptions to military end-use control supplementing the dual-use Regulation

12B.—(1) Nothing in article 12A shall be taken to prohibit—

- (a) the export of medical goods, including medicines and medical devices, for the benefit of the civilian population of a country;
- (b) the export of consumer goods generally available to the public, or
- (c) the transfer of software or technology generally available to the public.

(2) For the purposes of paragraph (1), goods, software or technology are generally available to the public if they are—

- (a) sold from stock at retail selling points without restriction, by means of—
 - (i) over the counter transactions,
 - (ii) mail order transactions,
 - (iii) electronic transactions, or
 - (iv) telephone order transactions, and
- (b) designed for installation by the user without further substantial support by the supplier.]

Textual Amendments

F40 Arts. 12A, 12B inserted (19.5.2022) by [The Export Control \(Amendment\) Order 2022 \(S.I. 2022/491\)](#), arts. 1(1), 2(3)

Exceptions for aircraft

13.—(1) Nothing in article 4 ^{F41}... shall be taken to prohibit the exportation of any aircraft the immediately preceding importation of which was on a scheduled journey and which is intended for further scheduled journeys.

(2) Nothing in article 3 shall be taken to prohibit the exportation of any aircraft which is being exported (except to a country or destination specified in Part 1, 2 or 3 of Schedule 4) after temporary importation into the United Kingdom provided that—

- (a) there has been no change of ownership or registration since such importation; and
- (b) no military goods have been incorporated into the aircraft since such importation other than by way of replacement for a component essential for the departure of the aircraft.

(3) Nothing in article 4 ^{F42}... shall be taken to prohibit the exportation of any aircraft on a scheduled journey.

(4) Nothing in article 3 [^{F43}or 4] shall be taken to prohibit the exportation of any aircraft which is departing temporarily from the United Kingdom on trials.

Textual Amendments

- F41** Words in art. 13(1) omitted (27.1.2010) by virtue of [The Export Control \(Amendment\) Order 2010 \(S.I. 2010/121\)](#), arts. 1(1), **2(3)(a)**
- F42** Words in art. 13(3) omitted (27.1.2010) by virtue of [The Export Control \(Amendment\) Order 2010 \(S.I. 2010/121\)](#), arts. 1(1), **2(3)(a)**
- F43** Words in art. 13(4) substituted (27.1.2010) by [The Export Control \(Amendment\) Order 2010 \(S.I. 2010/121\)](#), arts. 1(1), **2(3)(b)**

Exceptions for vessels

14.—(1) Nothing in article 3 shall be taken to prohibit the exportation of any vessel registered or constructed outside the United Kingdom which is being exported (except to a country or destination specified in Part 1, 2 or 3 of Schedule 4) after temporary importation into the United Kingdom provided that no military goods have been incorporated into the vessel since such importation other than by way of replacement for a component essential for the departure of the vessel.

(2) Nothing in article 4 ^{F44}... shall be taken to prohibit the exportation of any vessel proceeding on a journey providing transport services in the ordinary course of business.

(3) Nothing in article 3 [^{F45}or 4] shall be taken to prohibit the exportation of any vessel which is departing temporarily from the United Kingdom on trials.

Textual Amendments

- F44** Words in art. 14(2) omitted (27.1.2010) by virtue of [The Export Control \(Amendment\) Order 2010 \(S.I. 2010/121\)](#), arts. 1(1), **2(4)(a)**
- F45** Words in art. 14(3) substituted (27.1.2010) by [The Export Control \(Amendment\) Order 2010 \(S.I. 2010/121\)](#), arts. 1(1), **2(4)(b)**

[^{F46}Exception for historic military vehicles

14A.—(1) The prohibition on the export of military goods in article 3 does not apply to the export of a vehicle or component falling within entry ML6 in Schedule 2 provided that the following conditions are met.

(2) The conditions are that—

- (a) the vehicle or component was manufactured more than 50 years before the date of exportation;
- (b) the exportation is to a destination in Belgium, France or Germany;
- (c) the exportation is for the purposes of a military re-enactment, commemorative event or recreational activity; and
- (d) the vehicle or component is to be returned to the United Kingdom within 3 months of the date of exportation.]

Textual Amendments

- F46** Art. 14A inserted (10.8.2012) by [The Export Control \(Amendment\) \(No. 2\) Order 2012 \(S.I. 2012/1910\)](#), arts. 1, 2, **Sch. para. 4**

Exception for firearms – European firearms pass

^{F47}15.

Textual Amendments

F47 Art. 15 omitted (31.12.2020) by virtue of The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, 4(12); 2020 c. 1, Sch. 5 para. 1(1)

Exception for firearms – firearm or shot gun certificate or permit

16.—(1) This article applies to firearms authorised to be possessed or, as the case may be, purchased or acquired by—

- (a) a firearm certificate or shot gun certificate granted under the Firearms Act 1968;
- (b) a visitor's firearm or shot gun permit granted under section 17 of the Firearms (Amendment) Act 1988 ^{M2};
- (c) a firearm certificate granted under the Firearms (Northern Ireland) Order 1981 ^{M3}; or
- (d) a firearm certificate granted under the Firearms Act 1947 (an Act of Tynwald) ^{M4} as amended by the Firearms Act 1968 (an Act of Tynwald) ^{M5} and the Air Guns and Shot Guns, etc Act 1968 (an Act of Tynwald) ^{M6}.

[^{F48}(2) Articles 3 (military goods, etc.) and 4 (movement of UK-controlled dual-use goods, etc. to certain destinations) do not apply in relation to a person who exports a firearm to which this article applies if—

- (a) the firearm, and any related ammunition or sight using non-electronic image enhancement, is a part of the personal effects of the person; and
- (b) the person—
 - (i) is a part of the armed forces, a police force, or a public authority, of the United Kingdom;
 - (ii) is, subject to paragraph (3), not required to have an export authorisation by virtue of Article 4 of the firearms Regulation because the person meets the requirements set out in Article 9(1)(a) of that Regulation (exception for hunters and sport shooters); or
 - (iii) holds in relation to the firearm a certificate of the type specified in paragraph (1)(d) (Manx firearm certificate).]

[^{F49}(3) Paragraph (2)(b)(ii) applies only if the export of the firearm is to a country or territory that is neither an embargoed destination nor a country or territory listed in Part 3 of Schedule 4 (countries and territories subject to transit control for military goods).

(4) In this article, “firearms Regulation”, in relation to—

- (a) England and Wales and Scotland, means Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition;
- (b) Northern Ireland, means Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components

and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.]

Textual Amendments

- F48** Art. 16(2) substituted (31.12.2020) by [S.I. 2019/137, regs. 1, 4\(13\)\(a\)](#) (as substituted by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1502\), regs. 2\(3\), 7\(4\)](#)); 2020 c. 1, Sch. 5 para. 1(1)
- F49** Art. 16(3)(4) substituted for art. 16(3) (31.12.2020) by [S.I. 2019/137, regs. 1, 4\(13\)\(b\)](#) (as substituted by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1502\), regs. 2\(3\), 7\(4\)](#)); 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M2** [1988 c. 45](#); section 17 was amended by the [Firearms Acts \(Amendment\) Regulations, regulations 6\(1\) and 7\(1\)](#) and the [Firearms Amendment Act 1997, Schedule 2, paragraph 19](#).
- M3** [S.I. 1981/155 \(N.I. 2\)](#); relevant amending instruments are [S.I. 1989/1338 \(N.I. 10\)](#), [1992/1723 \(N.I. 14\)](#).
- M4** [Acts of Tynwald 1947, p586](#).
- M5** [Acts of Tynwald 1968, p464](#).
- M6** [Acts of Tynwald 1968, p509](#).

Transit or transshipment exception

17.—(1) Subject to paragraphs (2) and (3), nothing in articles 3, 4^{F50} ..., [^{F51}4A^{F52} ...]^{F52}... or 8(1) shall be taken to prohibit the exportation of any goods which are goods in transit provided that the [^{F53}condition in paragraph (4) is met].

(2) Paragraph (1) does not apply to—

- (a) anti-personnel landmines and components specially designed for them;
- (b) category A goods;
- (c) equipment, software or technology falling within entry ML18, ML21 or ML22 in Schedule 2, specifically related to anti-personnel landmines or Category A goods;
- (d) goods being exported to a destination specified in Part 1 of Schedule 4;
- (e) military goods being exported to any country or destination specified in Part 2 or 3 of Schedule 4;
- (f) category B goods being exported to any country or destination specified in Part 4 of Schedule 4.

(3) Paragraph (1) does not apply to the extent that—

- (a) the exporter (or, if the exporter is not within the United Kingdom, any agent of the exporter within the United Kingdom concerned in the exportation or intended exportation) has been informed by [^{F54}the Secretary of State] that the goods are or may be intended, in their entirety or in part, for WMD purposes;
- (b) the exporter is aware that the goods are intended, in their entirety or in part, for WMD purposes; or

- (c) the exporter has grounds for suspecting that the goods are or may be intended, in their entirety or in part, for WMD purposes, unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that they will not be so used.

[^{F55}(4) The condition is that the goods in question remain on board a vessel, aircraft or vehicle for the entire period that they remain in the United Kingdom or are goods on a through bill of lading, through the air waybill or single transport contract and in any event are exported before the end of the period of 30 days beginning with the date of their importation.]

Textual Amendments

- F50** Word in art. 17(1) omitted (27.1.2010) by virtue of [The Export Control \(Amendment\) Order 2010 \(S.I. 2010/121\)](#), arts. 1(1), **2(5)**
- F51** Word in art. 17(1) inserted (16.4.2012) by [The Export Control \(Amendment\) Order 2012 \(S.I. 2012/929\)](#), arts. 1, **3(3)**
- F52** Word in art. 17(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(14)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F53** Words in art. 17(1) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(14)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F54** Words in art. 17(3)(a) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(14)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F55** Art. 17(4) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(14)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Software and technology exceptions

18.—(1) Nothing in article 3 [^{F56}or 4] shall be taken to prohibit the transfer of technology—

- (a) that is in the public domain;
- (b) that is the minimum technology required for—
- (i) the installation, operation, maintenance or repair of goods or software that are not military goods or software or UK controlled dual-use goods or software; or
- (ii) a patent application; or
- (c) in the course of basic scientific research.

(2) Nothing in article 10, [^{F57}11, 12 or 12A] shall be taken to prohibit the transfer of software or technology in the public domain.

(3) In this article, “basic scientific research” means experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts and not primarily directed towards a specific practical aim or objective.

Textual Amendments

- F56** Words in art. 18(1) substituted (27.1.2010) by [The Export Control \(Amendment\) Order 2010 \(S.I. 2010/121\)](#), arts. 1(1), **2(6)**
- F57** Words in art. 18(2) substituted (19.5.2022) by [The Export Control \(Amendment\) Order 2022 \(S.I. 2022/491\)](#), arts. 1(1), **2(4)**

PART 3

TECHNICAL ASSISTANCE CONTROLS

Modifications etc. (not altering text)

C2 Pt. 3 excluded (20.2.2010) by [The Export Control \(Guinea\) Order 2010 \(S.I. 2010/364\)](#), arts. 1(1), 5

End-use control on technical assistance

19.—(1) Subject to article 26, no person shall directly or indirectly provide to a person or place outside the [^{F58}United Kingdom] any technical assistance related to the supply, delivery, manufacture, maintenance or use of anything which—

- (a) that person has been informed by the Secretary of State is or may be intended, in its entirety or in part, for WMD purposes; or
- (b) that person is aware is intended, in its entirety or in part, for WMD purposes.

(2) Subject to article 26, no United Kingdom person shall directly or indirectly provide from a place outside the [^{F58}United Kingdom] to any person or place outside the [^{F58}United Kingdom] any technical assistance related to the supply, delivery, manufacture, maintenance or use of anything which—

- (a) that person has been informed by the Secretary of State is or may be intended, in its entirety or in part, for WMD purposes; or
- (b) that person is aware is intended, in its entirety or in part, for WMD purposes.

(3) For the purposes of paragraphs (1) and (2)—

- (a) directly providing technical assistance includes providing technical assistance or agreeing to do so; and
- (b) indirectly providing technical assistance includes making arrangements under which another person provides technical assistance or agrees to do so.

Textual Amendments

F58 Words in art. 19 substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, 4(15); 2020 c. 1, Sch. 5 para. 1(1)

PART 4

TRADE CONTROLS

Modifications etc. (not altering text)

C3 Pt. 4 excluded (20.2.2010) by [The Export Control \(Guinea\) Order 2010 \(S.I. 2010/364\)](#), arts. 1(1), 5

Embargoed destinations

20.—(1) This article applies to—

- (a) persons carrying out activities in the United Kingdom; and

(b) United Kingdom persons.

(2) Subject to articles 25 and 26, no person to whom this article applies shall directly or indirectly—

(a) supply or deliver;

(b) agree to supply or deliver; or

(c) do any act calculated to promote the supply or delivery of

any goods subject to trade controls from one third country to another third country that is an embargoed destination.

Modifications etc. (not altering text)

- C4** Art. 20 restricted (31.12.2020) by The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/433), regs. 1(2), **65**; S.I. 2019/627, reg. 5(2); 2020 c. 1, Sch. 5 para. 1(1)
- C5** Art. 20 restricted (31.12.2020) by The South Sudan (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/438), regs. 1(2), **65**; S.I. 2019/627, reg. 6(2); 2020 c. 1, Sch. 5 para. 1(1)
- C6** Art. 20 restricted (31.12.2020) by The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/411), regs. 1(2), **127**; S.I. 2019/627, reg. 7(2); 2020 c. 1, Sch. 5 para. 1(1)
- C7** Art. 20 restricted (31.12.2020) by The Libya (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/1665), regs. 1(3), **82**
- C8** Art. 20 restricted (31.12.2020) by The Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855), regs. 1(2), **96**; 2020 c. 1, Sch. 5 para. 1(1)
- C9** Art. 20 restricted (31.12.2020) by The Lebanon (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/612), regs. 1(2), **39**; S.I. 2020/1514, reg. 9
- C10** Art. 20 restricted (31.12.2020) by The Sudan (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/753), regs. 1(2), **66**; S.I. 2020/1514, reg. 15(2)
- C11** Art. 20 restricted (31.12.2020) by The Iraq (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/707), regs. 1(2), **66**; S.I. 2020/1514, reg. 14(2)
- C12** Art. 20 restricted (31.12.2020) by The Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/600), regs. 1(2), **64**; S.I. 2019/627, reg. 12(2); 2020 c. 1, Sch. 5 para. 1(1)
- C13** Art. 20 restricted (31.12.2020) by The Zimbabwe (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/604), regs. 1(2), **65**; S.I. 2019/627, reg. 13(2); 2020 c. 1, Sch. 5 para. 1(1)
- C14** Art. 20 restricted (31.12.2020) by The Somalia (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/642), regs. 1(2), **79**; S.I. 2020/1514, reg. 12(2)
- C15** Art. 20 restricted (31.12.2020) by The Central African Republic (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/616), regs. 1(2), **65**; S.I. 2020/1514, reg. 10(2)
- C16** Art. 20 restricted (31.12.2020) by The Venezuela (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/135), regs. 1(2), **67**; S.I. 2019/627, reg. 3(2); 2020 c. 1, Sch. 5 para. 1(1)
- C17** Art. 20 restricted (31.12.2020) by The Burma (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/136), regs. 1(2), **67**; S.I. 2019/627, reg. 4(2); 2020 c. 1, Sch. 5 para. 1(1)
- C18** Art. 20 restricted (31.12.2020) by The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 (S.I. 2019/461), regs. 1(2), **72**; S.I. 2019/627, reg. 8(2); 2020 c. 1, Sch. 5 para. 1(1)
- C19** Art. 20 restricted (31.12.2020) by The Syria (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/792), regs. 1(3), **96**; 2020 c. 1, Sch. 5 para. 1(1)
- C20** Art. 20 restricted (29.4.2021 at 5.00 pm) by The Myanmar (Sanctions) Regulations 2021 (S.I. 2021/496), regs. 1(3), **76**

Category A goods

21.—(1) This article applies to—

(a) persons carrying out activities in the United Kingdom; and

(b) United Kingdom persons.

(2) Subject to articles ^{F59}... 25 and 26, no person to whom this article applies shall directly or indirectly—

(a) supply or deliver;

(b) agree to supply or deliver; or

(c) do any act calculated to promote the supply or delivery of

any category A goods, where that person knows or has reason to believe that such action or actions will, or may, result in the removal of those goods from one third country to another third country.

Textual Amendments

F59 Word in art. 21(2) omitted (31.12.2020) by virtue of S.I. 2019/137, regs. 1, **4(15A)** (as substituted by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1502), regs. 2(3), **7(5)**); 2020 c. 1, Sch. 5 para. 1(1)

Category B goods

22.—(1) This article applies to—

(a) persons carrying out activities in the United Kingdom; and

(b) United Kingdom persons.

(2) Subject to paragraphs (3), (4) and (7) and to articles 25 and 26, no person to whom this article applies shall directly or indirectly—

(a) supply or deliver;

(b) agree to supply or deliver; or

(c) do any act calculated to promote the supply or delivery of

any category B goods, where that person knows or has reason to believe that such action or actions will, or may, result in the removal of those goods from one third country to another third country.

(3) Nothing in this article shall be taken to prohibit the provision of—

(a) financing or financial services;

(b) insurance or reinsurance services; or

(c) general advertising or promotion services

by a person whose only involvement in the activities described in paragraph (2) is to provide or agree to provide such services.

(4) A person (“the transporter”) whose only involvement in the activities described in paragraph (2) is to provide or agree to provide transportation services in relation to category B goods (“the relevant goods”) only contravenes the prohibition in this article if paragraph (5) or (6) applies.

(5) This paragraph applies if the transporter arranges the removal of the relevant goods from one third country to another third country.

(6) This paragraph applies if the transporter, otherwise than in the course of providing services to another person—

(a) to whom this article applies; and

(b) who has agreed to provide transportation services in relation to the relevant goods, removes or agrees to remove the relevant goods from one third country to another third country.

(7) Nothing in this article shall be taken to prohibit any contract promotion activity that is carried out otherwise than for payment.

Category C goods

23.—(1) Subject to paragraphs (2) and (3) and to articles ^{F60}... 25 and 26, no person shall directly or indirectly—

- (a) agree to supply or deliver; or
- (b) do any act calculated to promote the supply or delivery of

any category C goods, where that person knows or has reason to believe that such action or actions will, or may, result in the removal of those goods from one third country to another third country.

(2) Nothing in this article shall be taken to prohibit the provision of—

- (a) transportation services;
- (b) financing or financial services;
- (c) insurance or reinsurance services; or
- (d) general advertising or promotion services

by a person whose only involvement in the activities described in paragraph (1) is to provide or agree to provide such services.

(3) Nothing in this article shall be taken to prohibit any contract promotion activity that is carried out otherwise than for payment.

Textual Amendments

F60 Word in art. 23(1) omitted (31.12.2020) by virtue of S.I. 2019/137, regs. 1, **4(15B)** (as substituted by The Export Control (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1502), regs. 2(3), **7(5)**); 2020 c. 1, Sch. 5 para. 1(1)

Exception for movement of goods within the customs territory

^{F61}**24.**

Textual Amendments

F61 Art. 24 omitted (31.12.2020) by virtue of The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(16)**; 2020 c. 1, Sch. 5 para. 1(1)

Exception for activities carried out in the Isle of Man

25. Nothing in this Part shall be taken to prohibit activities carried out in the Isle of Man.

PART 5

LICENCES, ETC.

Licences

26.—(1) Nothing in Part 2, 3 or 4 prohibits an activity that is carried out under the authority of a UK licence.

(2) Unless it provides otherwise, a UK licence to export [^{F62}goods, or to transfer software, specified in Schedule 2 or 3] also authorises the export or transfer of the minimum technology required for the installation, operation, maintenance and repair of the goods [^{F63}or software] to the same destination as the goods [^{F64}or software].

(3) A UK licence to supply or deliver goods subject to trade controls also authorises—

- (a) agreeing to supply or deliver; or
- (b) doing any act calculated to promote the supply or delivery of

the goods.

[^{F65}(4) The Secretary of State may grant authorisations for the purposes of—

- (a) Article 9 (rules about export authorisations) of the retained dual-use Regulation; and
- (b) Articles 12 (rules about export authorisations) and 13 (rules about authorisations for brokering and technical assistance) of the EU dual-use Regulation.]

^{F66}(5)

(6) A licence granted by the Secretary of State may be—

- (a) either general or granted to a particular person ^{F67}...;
- (b) limited so as to expire on a specified date unless renewed;
- (c) subject to, or without, conditions and any such condition may require any act or omission before or after the doing of the act authorised by the licence.

Textual Amendments

F62 Words in art. 26(2) substituted (22.2.2017) by [The Export Control \(Amendment\) Order 2017 \(S.I. 2017/85\)](#), arts. 1, **2(3)(a)**

F63 Words in art. 26(2) inserted (22.2.2017) by [The Export Control \(Amendment\) Order 2017 \(S.I. 2017/85\)](#), arts. 1, **2(3)(b)**

F64 Words in art. 26(2) inserted (22.2.2017) by [The Export Control \(Amendment\) Order 2017 \(S.I. 2017/85\)](#), arts. 1, **2(3)(c)**

F65 Art. 26(4) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **5**

F66 Art. 26(5) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(17)**; 2020 c. 1, Sch. 5 para. 1(1)

F67 Words in art. 26(6)(a) omitted (17.3.2017) by virtue of [The Export Control \(Amendment\) \(No. 2\) Order 2017 \(S.I. 2017/193\)](#), arts. 1, **2(2)**

Person authorised by UK licence to export goods

27.—(1) For the purpose of article 26(1), but subject to paragraph (2) below, the exportation of goods to any destination outside the [^{F68}United Kingdom] shall be regarded as being under the authority of a UK licence to, or for the benefit of, a particular person (“the licence holder”) only if—

- (a) the licence holder is the person on whose behalf the exportation declaration is made [^{F69}, where an export declaration is required,] and
 - (b) the licence holder is established within the [^{F68}United Kingdom] and either—
 - (i) the licence holder is the owner of the goods or has a similar right of disposal over them; or
 - (ii) if no person who is the owner of the goods or has a similar right of disposal over them is established within the [^{F68}United Kingdom], the licence holder is a party to one or more contracts under which the ownership of the goods or a similar right of disposal over them has passed to a person not established within the [^{F68}United Kingdom] and pursuant to which the goods are to be, are being or have been exported from the [^{F68}United Kingdom].
- (2) Paragraph (1) does not apply if no person falls within sub-paragraph (b) of that paragraph or if the exportation is of goods imported into the United Kingdom for transit or transhipment.

Textual Amendments

- F68** Words in art. 27(1) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(18)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F69** Words in art. 27(1)(a) inserted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(18)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Registration with the Secretary of State

28.—(1) Not later than 30 days after—

- (a) any person first does any act under the authority of a general licence granted by the Secretary of State that does not provide otherwise;
- (b) any person established in the United Kingdom first does any act under the authority of the [^{F70}general export authorisation],

the person in question shall give to the Secretary of State written notice of their name and the address at which copies of the records referred to in article 29(1) ^{F71}... of this Order or [^{F72}the record-keeping provision] of the dual-use Regulation may be inspected by any person authorised by the Secretary of State or the Commissioners under article 31.

(2) A person who has given to the Secretary of State written notice of particulars under paragraph (1) shall, not later than 30 days after any change in those particulars, give to the Secretary of State notice of the changed particulars.

[^{F73}(3) In this article, the “record-keeping provision” means—

- (a) for the retained dual-use Regulation, Article 20(1);
- (b) for the EU dual-use Regulation, Article 27(1).]

Textual Amendments

- F70** Words in art. 28(1)(b) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(19)** (as amended by [S.I. 2020/1502](#), regs. 2(3), **7(6)**); 2020 c. 1, Sch. 5 para. 1(1)
- F71** Words in art. 28(1) omitted (22.2.2017) by virtue of [The Export Control \(Amendment\) Order 2017 \(S.I. 2017/85\)](#), arts. 1, **2(4)**

- F72** Words in art. 28(1) substituted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **6(1)**
- F73** Art. 28(3) inserted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **6(2)**

Certificates (European military items)

^{F74}**28A.**

Textual Amendments

F74 Art. 28A omitted (31.12.2020) by virtue of The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(20)**; 2020 c. 1, Sch. 5 para. 1(1)

Record keeping – general

- 29.**—^{F75}(1) The following must keep detailed registers or records—
- (a) a person who acts under the authority of a general licence granted by the Secretary of State;
 - (b) a person who acts under the authority of the [^{F76}general export authorisation] whilst established in the United Kingdom [^{F77}.]^{F78} ...
 - ^{F79}(c)

(2) The registers or records shall contain sufficient detail as may be necessary to allow the following information, where appropriate, to be identified in relation to each act carried out under the authority referred to in paragraph (1)—

- (a) a description of the act;
- (b) a description of the goods, software or technology to which the act relates;
- (c) the date of the act or the dates between which the act took place;
- (d) the quantity of the goods (if any) to which the act relates;
- (e) the name and address of the person referred to in paragraph (1);
- (f) the name and address of any consignee of the goods to which the act relates or any recipient of the software or technology to which the act relates;
- (g) in so far as it is known to the person referred to in paragraph (1), the name and address of the end-user of the goods, software or technology to which the act relates;
- (h) if different from the person referred to in paragraph (1), the name and address of the supplier of the goods (if any) to which the act relates;
- (i) any further information required by the licence or authorisation referred to in paragraph (1).

- (3) The registers or records referred to in paragraph (1) shall be kept—
- (a) in the case of a general licence authorising an activity that would otherwise be prohibited by Part 4 of this Order, for at least four years from the end of the calendar year in which the authorised act took place;
 - (b) in any other case, for at least three years from the end of the calendar year in which the authorised act took place

or for such longer period as may be specified in the licence or authorisation referred to in paragraph (1).

^{F80}(4)

Textual Amendments

- F75** Art. 29(1) substituted (10.8.2012) by [The Export Control \(Amendment\) \(No. 2\) Order 2012 \(S.I. 2012/1910\)](#), arts. 1, 2, **Sch. para. 8**
- F76** Words in art. 29(1)(b) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(21)(a)(i)(aa)** (as amended by S.I. 2020/1502, regs. 2(3), 7(7)); 2020 c. 1, Sch. 5 para. 1(1)
- F77** Full stop in art. 29(1)(b) inserted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(21)(a)(i)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F78** Word in art. 29(1)(b) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(21)(a)(i)(cc)**; 2020 c. 1, Sch. 5 para. 1(1)
- F79** Art. 29(1)(c) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(21)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F80** Art. 29(4) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(21)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Registration and record keeping – information security items

^{F81}30.

Textual Amendments

- F81** Art. 30 omitted (22.2.2017) by virtue of [The Export Control \(Amendment\) Order 2017 \(S.I. 2017/85\)](#), arts. 1, **2(5)**

Inspection of records

31.—(1) A person (“a relevant person”) who is required under article 29^{F82} ... of this [^{F83}Order, or Article 20(1) or (2) (record-keeping) of the retained dual-use Regulation or Article 27(1) or (2) (record-keeping) of the EU dual-use Regulation] to keep registers, records or documents (“compulsory records”) shall permit those compulsory records to be inspected and copied by a person authorised by the Secretary of State or the Commissioners.

(2) A person authorised by the Secretary of State or the Commissioners who produces, if required to do so, a duly authenticated document showing their authority, shall have the right at any reasonable hour to enter for the purpose of paragraph (1)—

- (a) in the case of compulsory records required to be kept under article 29^{F84} ... of this Order, the premises the address of which has been most recently notified to the Secretary of State under article 28 in relation to the records; or
- (b) in the case of compulsory records required to be kept [^{F85}under][^{F86}Article 20(1) or (2) (record-keeping) of the retained dual-use Regulation or Article 27(1) or (2) (record-keeping) of the EU dual-use Regulation], the premises the address of which has been most recently notified to the Secretary of State under article 28 in relation to the records or, if none, such other premises the address of which has been notified for this purpose.

(3) Where a relevant person keeps compulsory records in a form which is not legible, the relevant person shall at the request of a person authorised by the Secretary of State or the Commissioners reproduce the relevant records in a legible form.

Textual Amendments

- F82** Words in art. 31(1) omitted (22.2.2017) by virtue of [The Export Control \(Amendment\) Order 2017](#) (S.I. 2017/85), arts. 1, **2(6)(a)**
- F83** Words in art. 31(1) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022](#) (S.I. 2022/1300), regs. 1(1), **7(a)**
- F84** Words in art. 31(2)(a) omitted (22.2.2017) by virtue of [The Export Control \(Amendment\) Order 2017](#) (S.I. 2017/85), arts. 1, **2(6)(b)**
- F85** Words in art. 31(2)(b) substituted (27.8.2009) by [The Export Control \(Amendment\) \(No. 3\) Order 2009](#) (S.I. 2009/2151), art. 1, **Sch. para. 6(b)**
- F86** Words in art. 31(2)(b) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022](#) (S.I. 2022/1300), regs. 1(1), **7(b)**

Amendment, suspension and revocation of licences

32.—(1) The Secretary of State may by notice—

- (a) amend, suspend or revoke a licence granted by the Secretary of State;
- (b) suspend or revoke a general licence granted by the Secretary of State as it applies to a particular licence user.

(2) A notice by the Secretary of State under paragraph (1), [^{F87}under][^{F88}Article 13 (suspension, revocation, etc. of authorisations) of the retained dual-use Regulation, under Article 16(1) (suspension, revocation, etc. of export authorisations) or (4) (suspension, revocation etc. of brokering and technical assistance authorisations) of the EU dual-use Regulation] or under Article [^{F89}21(5)] (suspension, revocation, etc. of authorisations) of the torture Regulation shall not take effect until—

- (a) in the case of a notice affecting all users of a general licence, it has been published in a manner appearing to the Secretary of State to be suitable for securing that the notice is seen by persons likely to be affected by it;
- (b) in any other case, it has been served on the holder of the licence or on the licence user affected.

Textual Amendments

- F87** Words in art. 32(2) substituted (27.8.2009) by [The Export Control \(Amendment\) \(No. 3\) Order 2009](#) (S.I. 2009/2151), art. 1, **Sch. para. 7**
- F88** Words in art. 32(2) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022](#) (S.I. 2022/1300), regs. 1(1), **8**
- F89** Word in art. 32(2) substituted (11.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1502), regs. 2(2), **5**

Licence refusals, etc. and appeals

33.—(1) In the event that the Secretary of State decides not to grant a licence to any person who has applied for one, the applicant shall be provided with a written notification setting out the reason or reasons for the decision.

(2) In the event that the Secretary of State decides to suspend a licence other than a general licence, or to suspend a general licence as it applies to a particular licence user, the licence holder or licence user shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.

(3) In the event that the Secretary of State decides to revoke a licence other than a general licence, or to revoke a general licence as it applies to a particular licence user, the licence holder or licence user shall be provided with a written notification setting out the reason or reasons for the decision.

(4) In the event that the Secretary of State decides to amend a licence other than a general licence, and does not do so at the request of the licence holder, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.

(5) Any person who has a right under any of paragraphs (1) to (4) to a written notification in respect of a decision made by the Secretary of State shall have 28 days beginning with the date of the written notification in which to submit an appeal against the decision in writing to the Secretary of State, Export Control Organisation, [^{F90}Department for Business and Trade].

(6) Any appeal submitted under paragraph (5) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(7) Pending determination of any appeal submitted under paragraph (5), any decision taken by the Secretary of State shall continue to have effect.

Textual Amendments

F90 Words in art. 33(5) substituted (3.5.2023) by [The Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport and the Transfer of Functions \(National Security and Investment Act 2021 etc\) Order 2023 \(S.I. 2023/424\)](#), art. 1(2), **Sch. para. 50(a)** (with art. 17)

Certificates: refusals, etc. and appeals

^{F91}**33A.**

Textual Amendments

F91 [Art. 33A](#) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(23)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 6

OFFENCES, ENFORCEMENT AND PENALTIES

Offences relating to prohibitions in Parts 2, 3 and 4

34.—(1) Subject to paragraphs (2) and (7), a person who contravenes a prohibition in Part 2 or 4 of this Order 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) did not know, and had no reason to suppose, that the goods referred to in article 20 were destined for an embargoed destination; and
- (b) is able to show the matters stated in sub-paragraph (a)

shall not be guilty of an offence under paragraph (1) by reason of a contravention of the prohibition in article 20.

(3) A person who contravenes a prohibition in Part 2 or 3 of this Order that is engaged because the person—

- (a) has been informed;
- (b) is aware; or
- (c) has grounds for suspecting

that goods, software or technology are or may be intended, in their entirety or in part, for WMD purposes commits an offence and may be arrested.

[^{F92}(3A) A person who contravenes a prohibition in Part 2 of this Order that is engaged because the person has been informed by the Secretary of State that dual-use goods, software or technology are or may be intended, in their entirety or in part, for use by a relevant entity referred to in article 12A (military end-use control supplementing the dual-use Regulation), commits an offence and may be arrested.]

(4) A person guilty of an offence under paragraph (3) [^{F93}or (3A)] shall be liable—

- (a) on summary conviction—
 - (i) in ^{F94}... Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both;
 - (ii) in Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both; or
 - [^{F95}(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.

(5) Subject to paragraph (7), a person knowingly concerned in activity prohibited by Part 2, 3 or 4 of this Order with intent to evade the relevant prohibition commits an offence and may be arrested.

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

- (a) on summary conviction—
 - (i) in ^{F96}... Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both;
 - (ii) in Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both; or
 - [^{F97}(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.

(7) Paragraphs (1) and (5) do not create offences related to prohibitions on the exportation of goods (as to which see CEMA).

(8) In [^{F98}paragraphs (4)(a)(iii) and (6)(a)(iii)] as they apply to England and Wales in the case of an offence committed before [^{F99}2nd May 2022], for “[^{F100}the general limit in a magistrates' court]” substitute “six months”.

Textual Amendments

- F92** Art. 34(3A) inserted (19.5.2022) by [The Export Control \(Amendment\) Order 2022 \(S.I. 2022/491\)](#), arts. 1(1), **2(5)**
- F93** Words in art. 34(4) inserted (19.5.2022) by [The Export Control \(Amendment\) Order 2022 \(S.I. 2022/491\)](#), arts. 1(1), **2(6)**
- F94** Words in art. 34(4)(a)(i) 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)**
- F95** Art. 34(4)(a)(iii) inserted (E.W.) (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(3)**
- F96** Words in art. 34(4)(a)(i) 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)**
- F97** Art. 34(6)(a)(iii) inserted (E.W.) (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(3)**
- F98** Words in art. 34(8) 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(4)**
- F99** Words in art. 34(8) 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**
- F100** Words in art. 34(8) 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

Offences relating to prohibitions and restrictions in the ^{F101}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) ^{F102}... of the ^{F103}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) ^{F104}or Article 5(1) (brokering services)] of the ^{F103}retained dual-use Regulation]; or
- (b) fails to comply with the requirement in Article 4(4) (requirement to notify ^{F105}the Secretary of State] in the case of awareness of end-use for ^{F106}certain military or] WMD purposes) of the ^{F103}retained dual-use Regulation]

commits an offence and may be arrested.

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

- ^{F107}(a) on summary conviction in ^{F108}... Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both; or]
- ^{F109}(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) ^{F110}, 5(1) ^{F111}...] of the ^{F103}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—

[^{F112}(a) on summary conviction in ^{F113}... Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both; or]

[^{F114}(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 [^{F115}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 [^{F103}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.

[^{F116}(7) A person who fails to comply with Article 20 (record-keeping) ^{F117}... of the [^{F103}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 [^{F118}paragraphs (3)(a)(iii) and (5)(a)(iii)] as they apply to England and Wales in the case of an offence committed before [^{F119}2nd May 2022], for “[^{F120}the general limit in a magistrates' court]” substitute “six months”.

Textual Amendments

- F101** 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)**
- F102** 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)
- F103** 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)**
- F104** 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)**
- F105** 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)
- F106** 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**
- F107** 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)**
- F108** 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)**
- F109** 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)**
- F110** 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)**
- F111** 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)
- F112** 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)**

- F113** 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)**
- F114** 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)**
- F115** 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)**
- F116** 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)**
- F117** 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)
- F118** 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)**
- F119** 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**
- F120** 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

Offences relating to prohibitions and restrictions in the torture Regulation

36.—(1) A person who contravenes a prohibition or restriction in Article 3(1) (export prohibition) of the torture Regulation in respect of the supply of technical assistance as defined in the torture 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 knowingly concerned in the provision of technical assistance as defined in the torture Regulation with intent to evade the prohibition on the provision of technical assistance in article 3(1) of the torture Regulation commits an offence and may be arrested.

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

(a) on summary conviction—

(i) in ^{F121}... Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both;

(ii) in Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both; or

[^{F122}(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.

(4) A person who contravenes a prohibition or restriction in Article 4(1) (import prohibition) of the torture Regulation in respect of the acceptance of technical assistance as defined in the torture Regulation commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) A person knowingly concerned in the acceptance of technical assistance as defined in the torture Regulation with intent to evade the prohibition on the acceptance of technical assistance in article 4(1) of the torture Regulation commits an offence and may be arrested.

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

(a) on summary conviction—

- (i) in ^{F123}... Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both; or
 - (ii) in Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, or to both; or
 - ^{F124}(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.

(7) A person who fails to comply with ^{F125}Article 20(8)] (provision of relevant information for licence applications) of the torture 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.

(8) In ^{F126}paragraphs (3)(a)(iii) and (6)(a)(iii)] as it applies to England and Wales in the case of an offence committed before ^{F127}2nd May 2022], for “[^{F128}the general limit in a magistrates' court]” substitute “six months”.

Textual Amendments

- F121** Words in art. 36(3)(a)(i) 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)**
- F122** Art. 36(3)(a)(iii) inserted (E.W.) (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(3)**
- F123** Words in art. 36(6)(a)(i) 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)**
- F124** Art. 36(6)(a)(iii) inserted (E.W.) (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(3)**
- F125** Words in art. 36(7) substituted (30.6.2019) by [The Export Control \(Amendment\) Order 2019 \(S.I. 2019/989\)](#), arts. 1, **2(3)**
- F126** Words in art. 36(8) 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(6)**
- F127** Words in art. 36(8) 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**
- F128** Words in art. 36(8) 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

^{F129}Further offences relating to the prohibitions etc. in the torture Regulation

36A.—(1) In this article—

- (a) references to “Articles” are references to articles in the torture Regulation; and
- (b) “brokering services” and “transit” bear the same meaning as they have in that regulation.

(2) A person who is concerned in an activity prohibited by ^{F130}Article 5(1)] (prohibition of transit), ^{F131}Article 6] (prohibition of brokering services), ^{F132}Article 7] (prohibition of training), ^{F133}Article 8] (trade fairs) or ^{F134}Article 9] (advertising) commits an offence.

(3) A person who fails to comply with [^{F135}Article 15(1)] (authorisation requirement for certain services) or [^{F136}Article 19(1)] (authorisation requirement for certain services) commits an offence.

(4) A person who is knowingly concerned in an activity prohibited by [^{F130}Article 5(1)], [^{F131}Article 6], [^{F132}Article 7], [^{F133}Article 8], [^{F134}Article 9], [^{F137}Article 13] (prohibition of transit) or [^{F138}Article 18] (prohibition of transit) with intent to evade that prohibition commits an offence and may be arrested.

(5) A person who knowingly fails to comply with [^{F135}Article 15(1)] or [^{F136}Article 19(1)] with intent to evade the requirements in those Articles commits an offence and may be arrested.

(6) A person guilty of an offence under paragraph (2) or (3) is liable upon summary conviction to a fine not exceeding level 3 on the standard scale.

(7) A person guilty of an offence under paragraph (4) or (5) is liable—

(a) on summary conviction—

(i) in England and Wales, to a fine or to imprisonment for a term not exceeding three months, or to both;

(ii) in Scotland and Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, 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.]

Textual Amendments

F129 Art. 36A inserted (17.3.2017) by [The Export Control \(Amendment\) \(No. 2\) Order 2017 \(S.I. 2017/193\)](#), arts. 1, **2(4)**

F130 Words in art. 36A substituted (30.6.2019) by [The Export Control \(Amendment\) Order 2019 \(S.I. 2019/989\)](#), arts. 1, **2(4)(a)**

F131 Words in art. 36A substituted (30.6.2019) by [The Export Control \(Amendment\) Order 2019 \(S.I. 2019/989\)](#), arts. 1, **2(4)(b)**

F132 Words in art. 36A substituted (30.6.2019) by [The Export Control \(Amendment\) Order 2019 \(S.I. 2019/989\)](#), arts. 1, **2(4)(c)**

F133 Words in art. 36A substituted (30.6.2019) by [The Export Control \(Amendment\) Order 2019 \(S.I. 2019/989\)](#), arts. 1, **2(4)(d)**

F134 Words in art. 36A substituted (30.6.2019) by [The Export Control \(Amendment\) Order 2019 \(S.I. 2019/989\)](#), arts. 1, **2(4)(e)**

F135 Words in art. 36A substituted (30.6.2019) by [The Export Control \(Amendment\) Order 2019 \(S.I. 2019/989\)](#), arts. 1, **2(4)(g)**

F136 Words in art. 36A substituted (30.6.2019) by [The Export Control \(Amendment\) Order 2019 \(S.I. 2019/989\)](#), arts. 1, **2(4)(i)**

F137 Words in art. 36A substituted (30.6.2019) by [The Export Control \(Amendment\) Order 2019 \(S.I. 2019/989\)](#), arts. 1, **2(4)(f)**

F138 Words in art. 36A substituted (30.6.2019) by [The Export Control \(Amendment\) Order 2019 \(S.I. 2019/989\)](#), arts. 1, **2(4)(h)**

[^{F139}Misleading applications for licences ^{F140} ...]

37.—(1) Where for the purpose of obtaining a licence ^{F141}... a person (“the applicant”) either—

(a) makes a statement or furnishes a document or information which to the applicant's knowledge is false in a material particular; or

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

the applicant commits an offence and any licence ^{F141}... that has been granted in connection with the application for which the false statement was made or the false document or information was furnished is void as from the time it was granted.

- (2) A person guilty of an offence under paragraph (1) shall be liable—

- (a) on summary conviction—

- (i) in England and Wales or Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both;
- (ii) in Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, 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.

Textual Amendments

F139 Art. 37 heading substituted (10.8.2012) by [The Export Control \(Amendment\) \(No. 2\) Order 2012 \(S.I. 2012/1910\)](#), arts. 1, 2, **Sch. para. 11(a)**

F140 Words in art. 37 heading omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(25)**; 2020 c. 1, Sch. 5 para. 1(1)

F141 Words in art. 37 omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(26)**; 2020 c. 1, Sch. 5 para. 1(1)

Failure to comply with licence conditions

38.—(1) A person who, having acted under the authority of a licence or the [^{F142}general export authorisation], fails to comply with—

- (a) any of the requirements or conditions to which the licence or the [^{F142}general export authorisation] is subject; or
- (b) any obligation under article 28, 29 ^{F143}... or 31

commits an offence unless paragraph (2) applies.

- (2) This paragraph applies if—

- (a) the licence was modified after the completion of the act authorised; and
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified.

- (3) A person guilty of an offence under paragraph (1) shall be liable—

- (a) on summary conviction—

- (i) in England and Wales or Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both;
- (ii) in Scotland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding twelve months, 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.

Textual Amendments

- F142** Words in art. 38(1) substituted (31.12.2020) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/137), regs. 1, **4(27)** (as amended by S.I. 2020/1502, regs. 2(3), **7(8)**); 2020 c. 1, Sch. 5 para. 1(1)
- F143** Word in art. 38(1)(b) omitted (22.2.2017) by virtue of [The Export Control \(Amendment\) Order 2017](#) (S.I. 2017/85), arts. 1, **2(7)**

Customs powers to require evidence of destination

39.—(1) This article applies where a person (“the exporter”) has exported goods and required a licence to do so.

(2) The Commissioners may require the exporter to provide within such time as the Commissioners may determine evidence of the destination to which the goods in question were delivered.

(3) A person who fails to comply with a requirement imposed by the Commissioners under paragraph (2) commits an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Customs powers relating to dual-use goods

40.—(1) Goods in relation to which a licence has not been granted and which are brought to any place in the United Kingdom for the purpose of being exported may be detained by the proper officer of Her Majesty's Revenue and Customs as if they were liable to forfeiture, if and so long as that officer has reason to believe that [^{F144}the Secretary of State] (after, if necessary, having had the impending exportation brought to [^{F145}the Secretary of State's] attention) might inform the exporter—

(a) that the goods are or may be intended, in their entirety or in part, for WMD purposes; ^{F146} ...

[^{F147}(b) as provided in—

- (i) Article 4(2) (military end-use control) or (3) (end-use control relating to use in items exported or transferred without authorisation) of the retained dual-use Regulation; or
- (ii) Articles 4(1)(b) (military end-use control) or (c) (end-use control relating to use in items exported or transferred without authorisation), 5(1) (cyber-surveillance end-use control) or 10(1) (national control lists pursuant to Article 9) of the EU dual-use Regulation; or]

[^{F148}(c) that the goods are or may be intended, in their entirety or in part, for use by a relevant entity referred to in article 12A (military end-use control supplementing the dual-use Regulation).]

(2) Any goods listed in Annex I to the [^{F149}retained] dual-use Regulation in relation to which a licence has been granted which are brought to [^{F150}any place in Great Britain] for the purpose of being exported to a destination outside the [^{F151}United Kingdom] may be detained by a proper officer of Her Majesty's Revenue and Customs for a period of ten working days as if they were liable to forfeiture where that officer or the Secretary of State has grounds for suspicion that—

(a) relevant information was not taken into account when the licence was granted; or

(b) circumstances have materially changed since the issue of the licence ^{F152}....

[^{F153}(2A) Any dual-use goods in relation to which a licence has been granted which are brought to any place in Northern Ireland for the purpose of being exported to a destination outside the United

Kingdom may be detained by a proper officer of Her Majesty's Revenue and Customs for a period of ten working days as if they were liable to forfeiture where that officer or the Secretary of State has—

- (a) grounds for suspicion that—
 - (i) relevant information was not taken into account when the licence was granted;
 - (ii) circumstances have materially changed since the grant of the licence; or
- (b) relevant information regarding the potential application of measures under Article 4(1) of the EU dual-use Regulation.

(2B) For the purposes of paragraph (2A), the period of ten working days shall be extended to 30 working days where the Secretary of State certifies that a request for such an extension in accordance with Article 21(4) (consultation requirement) of the EU dual-use Regulation has been received from the member State which granted the licence.]

(3) In this article, “working day” means a day that is not a Saturday or Sunday, Christmas Day, Good Friday or any day that is a bank holiday under the Banking and Financial Dealings Act 1971 ^{M7} in the part of the United Kingdom where the goods referred to in paragraph (2) have been detained.

Textual Amendments

- F144** Words in art. 40(1) substituted (31.12.2020) by The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(28)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F145** Words in art. 40(1) substituted (31.12.2020) by The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(28)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F146** Word in art. 40(1)(a) omitted (19.5.2022) by virtue of The Export Control (Amendment) Order 2022 (S.I. 2022/491), arts. 1(1), **2(7)(a)**
- F147** Art. 40(1)(b) substituted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **10(a)**
- F148** Art. 40(1)(c) inserted (19.5.2022) by The Export Control (Amendment) Order 2022 (S.I. 2022/491), arts. 1(1), **2(7)(c)**
- F149** Word in art. 40(2) inserted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **10(b)(i)**
- F150** Words in art. 40(2) substituted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **10(b)(ii)**
- F151** Words in art. 40(2) substituted (31.12.2020) by The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(28)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F152** Words in art. 40(2)(b) omitted (31.12.2020) by virtue of The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(28)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F153** Art. 40(2A)(2B) inserted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **10(c)**

Marginal Citations

- M7** 1971 c. 80.

Application of CEMA in respect of offences

41.—(1) Where the Commissioners for Her Majesty's 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 has been committed by reason of a contravention of—
 - (i) article 3, 4 ^{F154} ..., [^{F155}4A,]^{F156} ... 6, ^{F157} ... 8, ^{F157} ... 11, 12, [^{F158}12A,] 19, 20, 21, 22, 23, 37, 38 or 39 of this Order;

- (ii) article 31 of this Order so far as it relates to the powers of the Commissioners;
 - (iii) the dual-use Regulation; or
 - (iv) the torture Regulation; or
- (b) whether a person should be prosecuted for such an offence, the matter shall be treated as an assigned matter.

(2) Section 77A of CEMA (provision as to information powers) ^{M8} shall apply to a person concerned in an activity which, if not authorised by a licence, would contravene—

- (a) article 3, 4 ^{F159} ..., [^{F160}4A,]^{F161} ... 6, ^{F162} ... 8, ^{F162} ... 11, 12, [^{F163}12A,]19, 20, 21, 22 or 23 of this Order;
- (b) the dual-use Regulation; or
- (c) the torture Regulation,

and accordingly references in section 77A of CEMA to exportation shall be read as including any such activity.

(3) Section 138 of CEMA (provision as to arrest of persons) ^{M9} shall apply to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 145 ^{M10}, 146 ^{M11}, 146A ^{M12}, 147 ^{M13}, 148, 150 ^{M14}, 151 ^{M15}, 152 ^{M16}, 154 ^{M17}, and 155 ^{M18} of CEMA (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) For the purposes of the application of section 145 of CEMA to this Order, only offences related to contraventions of the provisions referred to in paragraph (1)(a) are offences under the customs and excise Acts.

Textual Amendments

- F154** Word in art. 41(1)(a)(i) omitted (27.1.2010) by virtue of [The Export Control \(Amendment\) Order 2010 \(S.I. 2010/121\)](#), arts. 1(1), 2(7)
- F155** Word in art. 41(1)(a)(i) inserted (16.4.2012) by [The Export Control \(Amendment\) Order 2012 \(S.I. 2012/929\)](#), arts. 1, 3(4)
- F156** Word in art. 41(1)(a)(i) inserted (temp.) (2.3.2011 at 7 p.m. until it expires on 1.3.2012 in accordance with art. 1(3) of the amending S.I.) by [The Export Control \(Amendment\) \(No. 2\) Order 2011 \(S.I. 2011/580\)](#), arts. 1(2), 3(3)
- F157** Words in art. 41(1)(a)(i) omitted (31.12.2020) by virtue of [S.I. 2019/137](#), regs. 1, 4(28A)(a) (as inserted by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1502\)](#), regs. 2(3), 7(9)); 2020 c. 1, Sch. 5 para. 1(1)
- F158** Word in art. 41(1)(a)(i) inserted (19.5.2022) by [The Export Control \(Amendment\) Order 2022 \(S.I. 2022/491\)](#), arts. 1(1), 2(8)(a)
- F159** Word in art. 41(2)(a) omitted (27.1.2010) by virtue of [The Export Control \(Amendment\) Order 2010 \(S.I. 2010/121\)](#), arts. 1(1), 2(7)
- F160** Word in art. 41(2)(a) inserted (16.4.2012) by [The Export Control \(Amendment\) Order 2012 \(S.I. 2012/929\)](#), arts. 1, 3(4)
- F161** Word in art. 41(2)(a) inserted (temp.) (2.3.2011 at 7 p.m. until it expires on 1.3.2012 in accordance with art. 1(3) of the amending S.I.) by [The Export Control \(Amendment\) \(No. 2\) Order 2011 \(S.I. 2011/580\)](#), arts. 1(2), 3(3)

- F162** Words in art. 41(2)(a) omitted (31.12.2020) by virtue of S.I. 2019/137, regs. 1, **4(28A)(b)** (as inserted by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1502), regs. 2(3), **7(9)**); 2020 c. 1, Sch. 5 para. 1(1)
- F163** Word in art. 41(2)(a) inserted (19.5.2022) by [The Export Control \(Amendment\) Order 2022](#) (S.I. 2022/491), arts. 1(1), **2(8)(b)**

Marginal Citations

- M8** Section 77A was inserted by the [Finance Act 1987](#) (c. 16), **section 10** and amended by the [Customs and Excise \(Single Market etc.\) Regulations 1992](#) (S.I. 1992/3095), **Schedule 1**, paragraph 7.
- M9** Section 138 was amended by the [Police and Criminal Evidence Act 1984](#) (c. 60), **sections 114(1)** and 119, Schedule 6, paragraph 37 and Schedule 7, Part 1; by the [Finance Act 1988](#) (c. 39), **section 11**; by the [Police and Criminal Evidence \(Northern Ireland\) Order 1989](#) (S.I. 1989/1341), **article 90(1)** and Schedule 6, paragraph 9; and by the [Serious Organised Crime and Police Act 2005](#) (c. 15), **Schedule 7**, paragraph 54.
- M10** Section 145 was amended by the [Police and Criminal Evidence Act 1984](#), section 114(1); and by the [Commissioners for Revenue and Customs Act 2005](#) (c. 11), **Schedule 4**, paragraphs 20 and 23.
- M11** Section 146 was modified by the [Channel Tunnel \(Customs and Excise\) Order 1990](#) (S.I. 1990/2167), **article 4** and the Schedule, paragraph 22.
- M12** Section 146A was inserted by the [Finance Act 1989](#) (c. 26), **section 16(1)** and amended by the [Commissioners for Revenue and Customs Act 2005](#), Schedule 4, paragraphs 20 and 24.
- M13** Section 147 was amended by the [Magistrates' Courts Act 1980](#) (c. 43), **section 154** and Schedule 7, paragraph 176; by the [Criminal Justice Act 1982](#) (c. 48), **sections 77** and 78, Schedule 14, paragraph 42 and Schedule 16; and by the [Finance Act 1989](#), section 16(2).
- M14** Section 150 was amended by the [Commissioners for Revenue and Customs Act 2005](#), Schedule 4, paragraphs 20 and 25.
- M15** Section 151 was amended by the [Magistrates' Courts Act 1980](#), section 154 and Schedule 7, paragraph 177.
- M16** Section 152 was amended by the [Commissioners for Revenue and Customs Act 2005](#), section 52, Schedule 4, paragraphs 20 and 26 and Schedule 5.
- M17** Section 154 was modified by the [Channel Tunnel \(Customs and Excise\) Order 1990](#) (S.I. 1990/2167), **article 4** and the Schedule, paragraph 23.
- M18** Section 155 was amended by the [Commissioners for Revenue and Customs Act 2005](#), Schedule 4, paragraphs 20, 21 and 27.

Increase of maximum penalty for prohibited exportation provided for in CEMA

42. In the case of an offence committed in connection with a prohibition or restriction on exportation in Part 2 of this Order, the dual-use Regulation or the torture Regulation, sections 68(3)(b) and 170(3)(b)^{M19} of CEMA shall have effect as if for the words “7 years” there were substituted the words “10 years”.

Marginal Citations

- M19** Sections 68(3)(b) and 170(3)(b) were amended by the [Finance Act 1988](#) (c. 39), **section 12(1)**, (6).

[^{F164}PART 6A

Provisions relating to the Protocol on Ireland/ Northern Ireland in the EU withdrawal agreement

Textual Amendments

F164 Pt. 6A inserted (31.12.2020) by S.I. 2019/137, regs. 1, 4(**28B**) (as inserted by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1502\)](#), regs. 2(3), 7(**9**) (as amended by [The Export Control \(Amendment\) \(EU Exit\) \(No. 2\) Regulations 2020 \(S.I. 2020/1510\)](#), regs. 1, 2)); 2020 c. 1, Sch. 5 para. 1(1)

Interpretation

42A. In this Part,—

“certificate” means a certificate granted by the Secretary of State in accordance with article 42D;

“the EU customs Regulation” means Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code as it has effect in EU law;

“the EU customs territory” means the customs territory described in Article 4 of the EU customs Regulation;

“the EU defence-related products Directive” means Directive [2009/43/EC](#) of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;

^{F165} ...

“EU-listed military item” means an item listed in the Annex to the EU defence-related products Directive;

“the EU torture Regulation” means Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;

“Northern Ireland recipient” means a person in Northern Ireland who is responsible for the receipt of an EU-listed military item.

Textual Amendments

F165 Words in art. 42A omitted (7.12.2022) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), 11

Provisions relating to the EU defence-related products Directive

Record-keeping requirement: EU-listed military item supplier

42B.—(1) Article 29 (requirement to keep detailed registers or records) applies in relation to a person who acts under the authority of an individual licence to export or transfer from Northern

Ireland to the EU customs territory an EU-listed military item as it applies in relation to a person who acts under the authority of a general licence granted by the Secretary of State but as if,—

- (a) in paragraph (2),—
 - (i) in the words before subparagraph (a), the reference to each act carried out under the authority referred to in paragraph (1) were a reference to the export or transfer carried out under the authority of the individual licence;
 - (ii) in subparagraphs (a) to (d) and (f) to (h), the reference to the act were a reference to the export or transfer;
 - (iii) in subparagraphs (e), (g), and (h), the reference to the person referred to in paragraph (1) were a reference to the person who acts under the authority of the individual licence; and
 - (iv) in subparagraph (i), the reference to the licence or authorisation referred to in paragraph (1) were a reference to the individual licence; and
- (b) in paragraph (3), the reference to the licence or authorisation referred to in paragraph (1) were a reference to the individual licence.

(2) Article 31 (inspection of records) applies in relation to a person who is required by virtue of paragraph (1) to keep registers or records as it applies in relation to a person who is required under article 29 to keep registers or records.

Offence to contravene article 42B

42C.—(1) Article 38 (failure to comply with licence conditions) applies in relation to a person who, having acted under the authority of an individual licence, fails to comply with any obligation by virtue of article 42B as it applies to a person who, having acted under the authority of a licence or the general export authorisation, fails to comply with any obligation under article 29.

(2) Article 41 (application of CEMA in respect of offences) applies in relation to paragraph (1) as it applies in relation to article 38.

Secretary of State may certify Northern Ireland recipient undertaking

42D. The Secretary of State may certify an undertaking of a Northern Ireland recipient for the purposes of Article 9(1) of the EU defence-related products Directive by granting a certificate in relation to the recipient.

Applying for certificate

42E.—(1) A person may apply to the Secretary of State for a certificate .

(2) The applicant must provide the Secretary of State with the information necessary for the Secretary of State to assess the criteria set out in article 42G.

Secretary of State may grant certificate

42F.—(1) The Secretary of State may grant a certificate only if the Secretary of State, in accordance with article 42G, establishes the reliability of the Northern Ireland recipient undertaking.

(2) A certificate must contain the following—

- (a) the name of the Secretary of State;
- (b) the name and address of the recipient;
- (c) a statement that the recipient conforms with the criteria set out in article 42G; and
- (d) the date of issue and the period of validity of the certificate.

- (3) The period of validity of a certificate must not exceed five years.
- (4) A certificate may be subject to conditions relating to—
 - (a) the provision of information necessary to verify compliance by the recipient with the criteria set out in article 42G;
 - (b) the suspension or revocation of the certificate.
- (5) If the Secretary of State decides not to grant a certificate, the Secretary of State must provide the applicant with written notification setting out the reason for the decision.

Establishing reliability of Northern Ireland recipient undertaking

42G.—(1) The Secretary of State, to establish the reliability of a Northern Ireland recipient undertaking, must assess the following criteria in relation to the recipient—

- (a) its capacity to observe limitations on the export of an EU-listed military item received under authorisation granted by a competent authority;
- (b) its proven experience in defence activities, in particular,—
 - (i) the record of compliance by the undertaking with export restrictions, including any relevant court decisions;
 - (ii) any authorisation held by the undertaking to produce or market an EU-listed military item;
 - (iii) the employment of experienced management staff by the recipient;
- (c) its relevant industrial activity in Northern Ireland or the EU customs territory relating to an EU-listed military item, with, in particular, capacity for system or sub-system integration;
- (d) the appointment of a senior executive as the dedicated officer personally responsible for exports and transfers;
- (e) the provision of a written commitment, signed by the senior executive referred to in subparagraph (d), that—
 - (i) the undertaking will take all necessary steps to observe and enforce any specific condition of an authorisation granted by a competent authority relating to end-use and re-export of any specific component or product received;
 - (ii) the undertaking will provide to the Secretary of State, on request, detailed information concerning the end-user or end-use of the EU-listed military item exported, transferred, or received under an authorisation granted by a competent authority; and
- (f) the provision of a written description, signed by the senior executive referred to in subparagraph (d), of the internal compliance programme or export and transfer management system of the undertaking, including details of—
 - (i) the organisational, human, and technical resources allocated to the management of exports and transfers;
 - (ii) the chain of responsibility within the undertaking;
 - (iii) internal audit procedures;
 - (iv) awareness-raising
 - (v) staff-training;
 - (vi) physical and technical security arrangements;
 - (vii) record-keeping; and
 - (viii) traceability of exports and transfers.

(2) In this article, “competent authority” means an authority in a member State responsible for carrying out the obligations of that member State under the EU defence-related products Directive.

Secretary of State may amend, suspend, and revoke certificate

42H.—(1) Article 32 (amendment, suspension, and revocation of licences) applies in relation to a certificate as it applies in relation to a licence.

(2) The notification requirements under article 33(2) to (4) (licence refusals) apply in relation to a decision by the Secretary of State to amend, suspend, or revoke a certificate as they apply in relation to a decision by the Secretary of State to amend, suspend, or revoke a licence.

Appeal of Secretary of State decision

42I. Article 33(5) to (7) (licence appeals) applies in relation to a person who has a right under article 42F(5) or by virtue of article 42H(2) to a written notification in respect of a decision made by the Secretary of State as it applies in relation to a person who has a right under paragraphs (1) to (4) to a written notification in respect of a decision made by the Secretary of State.

Offence relating to misleading application for certificate

42J.—(1) Article 37 (misleading applications for licences) applies in relation to a misleading application for a certificate as it applies in relation to a misleading application for a licence.

(2) Article 41 (application of CEMA in respect of offences) applies in relation to paragraph (1) as it applies in relation to article 37.

Provisions relating to the EU firearms Directive

Exception in relation to Northern Ireland: European firearms pass holders

42K.—(1) Articles 3 (military goods, etc.) and 4 (movement of UK controlled dual-use goods, etc. to certain destinations) do not apply in relation to a person who exports a firearm from Northern Ireland to a member State if—

- (a) the firearm is a part of the personal effects of the person;
- (b) the person is in possession of—
 - (i) a European firearms pass issued to the person under section 32A of the Firearms Act 1968; or
 - (ii) a document that has been issued to the person under the provisions of the law of a member State corresponding to the provisions of that section; and
- (c) paragraph (2) or (3) applies.

(2) This paragraph applies if the person, on request, satisfies the appropriate officer of Revenue and Customs at the place of export that—

- (a) the exportation of the firearm is necessary to enable the person to participate in one of the activities specified in [F166Article 17(2)] of the EU firearms Directive (hunting, target shooting, and re-enactment activities);
- (b) the firearm is within the category of firearms appropriate to that activity in accordance with that Article; and
- (c) the export or passage of the firearm is not to or through a member State that prohibits or requires an authorisation for the acquisition or possession of the firearm.

(3) This paragraph applies if the document referred to in paragraph (1)(b)(ii) contains authorisation for the possession of the firearm issued by—

- (i) the destination member State; and
- (ii) any other member State through which the person who possesses the firearm intends to pass through on the way to that destination member State.

(4) In this article, “the EU firearms Directive” means [^{F167}Directive (EU) 2021/555 of the European Parliament and of the Council of 24 March 2021 on control of the acquisition and possession of weapons (codification)] as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

Textual Amendments

F166 Words in art. 42K(2)(a) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **12(a)**

F167 Words in art. 42K(4) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **12(b)**

Provisions relating to the EU dual-use Regulation

Export and transfer control in relation to Northern Ireland: dual-use goods, software, and technology

42L.—(1) A person must not, unless the person has a UK licence authorising the act, export or transfer dual-use goods, software, or technology from Northern Ireland to the EU customs territory if the person knows—

- (a) the final destination of the dual-use goods, software, or technology is a country or territory other than the EU customs territory; and
- (b) no processing or working is to be performed on the dual-use goods, software, or technology in the EU customs territory.

(2) Article 17 (transit or transshipment exception) applies in relation to paragraph (1) as it applies in relation to article 8(1) (transit control supplementing the dual-use Regulation).

(3) Subject to paragraph (4), the export or transfer of dual-use goods, software, or technology in contravention of this article is prohibited.

(4) This article does not prohibit the transfer of software or technology by non-electronic means .

(5) In this article, “dual-use goods, software, or technology” means goods, software, or technology—

- (a) not specified in Annex IV to the EU dual-use Regulation; and

[^{F168}(b) that, if the export or transfer were from Northern Ireland to a country or territory other than the EU customs territory, would require an authorisation granted by the Secretary of State under Article 3 (export control on specified dual-use items), Article 4 (export control on unspecified dual-use items), Article 5 (end-use control on cyber-surveillance items) or Article 10 (national control lists pursuant to Article 9) of the EU dual-use Regulation.]

Textual Amendments

F168 [Art. 42L\(5\)\(b\)](#) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **13**

Offence to contravene article 42L

- 42M.**—(1) Article 34 (offences relating to prohibition in Parts 2, 3, and 4) applies in relation to—
- (a) a person who contravenes the prohibition in article 42L as it applies in relation to a person who contravenes a prohibition in Part 2 (export and transfer controls);
 - (b) a person knowingly concerned in activity prohibited by article 42L as it applies in relation to a person knowingly concerned in activity prohibited by Part 2.
- (2) Article 41 (application of CEMA in respect of offences) applies in relation to article 42L as it applies in relation to article 8;
- (3) Article 42 (increase of maximum penalty for prohibited exportation provided for in CEMA) applies in the case of an offence committed in connection with a prohibition or restriction on exportation in article 42L as it applies in the case of an offence committed in connection with a prohibition or restriction on exportation in Part 2.

Exceptions in relation to Northern Ireland: dual-use goods, software, and technology

- 42N.**—(1) [^{F169}Articles 6 (WMD purposes end-use control supplementing the dual-use Regulation) and 12A (military end-use control supplementing the dual-use Regulation) do not] apply in relation to the export or transfer from Northern Ireland to the EU customs territory of dual-use goods, software, or technology not specified in Annex I to the EU dual-use Regulation.
- (2) Article 12 (transfer by non-electronic means for WMD purposes) does not apply in relation to a person who transfers from Northern Ireland to the EU customs territory by non-electronic means any software or technology to which that article applies if the person knows—
- (a) the final destination of the software or technology is the EU customs territory; or
 - (b) processing or working is to be performed on the software or technology in the EU customs territory.
- (3) Article 19(1) (end-use control on providing technical assistance from the United Kingdom) does not apply in relation to a person in Northern Ireland who directly or indirectly provides to a person or place in the EU customs territory any technical assistance to which that article applies.

Textual Amendments

F169 Words in art. 42N(1) substituted (19.5.2022) by [The Export Control \(Amendment\) Order 2022 \(S.I. 2022/491\)](#), arts. 1(1), **2(9)**

Exception in relation to Northern Ireland: EU goods in transit

42O.—(1) Article 8 (transit controls supplementing the dual-use Regulation) does not apply in relation to EU goods that are entering Northern Ireland from the EU customs territory and passing through Northern Ireland to a country or territory other than the United Kingdom.

[
^{F170}(1A) Article 40(2) (customs detainment power supplementing the dual-use Regulation) does not apply in relation to EU goods that are entering Northern Ireland from the EU customs territory and passing through Northern Ireland to the EU customs territory.]

(2) In this article, “EU goods” has the same meaning as “Union goods” in Article 5(23) of the EU customs Regulation.

Textual Amendments

F170 Art. 42O(1A) inserted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **14**

Authorisation requirement: [^{F171}Article 11(1)] of the EU dual-use Regulation

42P.—[^{F172}(1) The authorisation required by Article 11(1) of the EU dual-use Regulation is a licence granted by the Secretary of State.]

(2) A person may apply to the Secretary of State for a licence.

(3) Article 26(6) (conditions of licence) applies in relation to a licence granted in accordance with paragraph (1).

Textual Amendments

F171 Words in art. 42P heading substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **15(1)**

F172 Art. 42P(1) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **15(2)**

Record-keeping requirement: [^{F173}Article 27(4)] of the EU dual-use Regulation

42Q.—[^{F174}(1) The documents and records to be kept in accordance with Article 27(4) of the EU dual-use Regulation are the registers or records referred to in article 29(2)(a) to (i).]

(2) Article 31 (inspection of records) applies in relation to a person who is required under [^{F175}Article 27(4)] of the EU dual-use Regulation to keep documents and records as it applies in relation to a person who is required under Article 20 of the dual-use Regulation to keep registers or records.

Textual Amendments

F173 Words in art. 42Q heading substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **16(1)**

F174 Art. 42Q(1) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **16(2)(a)**

F175 Words in art. 42Q(2) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **16(2)(b)**

[^{F176}Offences relating to prohibitions and restrictions in the EU dual-use Regulation

42R.—(1) Subject to paragraph (8), a person who contravenes a prohibition or restriction in Article 3(1) (controls on listed goods), 4(1)(b) (military end-use control) or (c) (end-use control relating to use in items exported or transferred without authorisation), 5(1) (cyber-surveillance end-use control), 8(1) (technical assistance end-use control), 10(1) (national control lists) or 11(1) (control on certain dual-use items) of the EU 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)(a) (WMD purposes end-use control) or Article 6(1) (control on brokering services) of the EU dual-use Regulation; or
- (b) fails to comply with a requirement in Article 4(2), 5(2), 6(2) or 8(2) of the EU dual-use Regulation (requirements to notify)

commits an offence and may be arrested.

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

- (a) on summary conviction in Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, 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), 6(1) or 11(1) of the EU 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—

- (a) on summary conviction in Northern Ireland, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, 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 Article 12(4) or 13(3) of the EU dual-use Regulation (requirements to provide all relevant information for authorisation application) 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.

(7) A person who fails to comply with Article 11(9) or 27 of the EU dual-use Regulation (record-keeping requirements for export or transfer of certain dual-use items) 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).]

Textual Amendments

F176 Art. 42R substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022](#) (S.I. 2022/1300), regs. 1(1), **17**

Provisions relating to the EU torture Regulation

Export control in relation to Northern Ireland: leg irons, gang chains, and portable electric shock devices

42S.—(1) A person must not, unless the person has a UK licence authorising the act, export from Northern Ireland to the EU customs territory any goods described in—

- (a) item 2.1 in Annex II to the EU torture Regulation (electric shock devices worn on the body);
- (b) item 2.3 in Annex II to the EU torture Regulation (bar fetters, weighted leg restraints, and gang chains);
- (c) item 2.1 in Annex III to the EU torture Regulation (portable electric discharge weapons).

(2) The export of leg irons, gang chains, or portable electric shock devices in contravention of this article is prohibited.

Offence to contravene article 42S

42T.—(1) Article 34 (offences relating to prohibition in Parts 2, 3, and 4) applies in relation to—

- (a) a person who contravenes a prohibition in article 42S as it applies in relation to a person who contravenes a prohibition in Part 2;
- (b) a person knowingly concerned in activity prohibited by article 42S as it applies in relation to a person knowingly concerned in activity prohibited by Part 2.

(2) Article 41 (application of CEMA in respect of offences) applies in relation to article 42S as it applies in relation to article 8.

(3) Article 42 (increase of maximum penalty for prohibited exportation provided for in CEMA) applies in the case of an offence committed in connection with a prohibition or restriction on exportation in article 42S as it applies in the case of an offence committed in connection with a prohibition or restriction on exportation in Part 2.

Exception in relation to Northern Ireland: category A and C goods

42U. Articles 21 (supplying or delivering category A goods) and 23 (supplying or delivering category C goods) do not apply in relation to a person in Northern Ireland carrying out activities prohibited or restricted by those articles if the goods to which those activities relate are—

- (a) Category A goods specified in Annex II to the EU torture Regulation; or
- (b) Category C goods specified in Annex III to the EU torture Regulation.]

PART 7

GENERAL

Use and disclosure of information

43.—(1) This article applies to information which is held from time to time by the Secretary of State or the Commissioners in connection with the operation of controls imposed by

- (a) this Order; or
- (b) any [^{F177}retained EU law or] directly applicable [^{F178}EU] provision on the export of goods, the transfer of software or technology, participation in the provision of technical assistance, or activities which facilitate, or are otherwise connected with, the acquisition, disposal or movement of goods.

(2) Information to which this article applies may be used for the purposes of, or for any purposes connected with—

- (a) the exercise of functions in relation to any control imposed by this Order or by any other order made under the Export Control Act 2002;
- (b) giving effect to any [^{F178}EU] provision or other international obligation of the United Kingdom;
- (c) facilitating the exercise by an authority or international organisation outside the United Kingdom of functions which correspond to functions conferred by or in connection with any activity subject to control by this Order or any other order made under the Export Control Act 2002,

and may be disclosed to any person for use for these purposes.

(3) No disclosure of information shall be made by virtue of this article unless the making of the disclosure is proportionate to the object of the disclosure.

(4) For the purposes of this article, “information” is any information that relates to a particular business or other activity carried on by a person.

(5) Nothing in this article shall affect any power to disclose information that exists apart from this article.

(6) The information that may be disclosed by virtue of this article includes information obtained before this Order came into force.

Textual Amendments

F177 Words in art. 43(1)(b) inserted (31.12.2020) by S.I. 2019/137, regs. 1, **4(29)** (as substituted by The Export Control (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1502), regs. 2(3), **7(10)**); 2020 c. 1, Sch. 5 para. 1(1)

F178 Words in Order substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3-6**

Service of notices

44. Any notice to be given to the Secretary of State by a person under this Order may be given by an agent of that person; and shall be sent by post or delivered to the Secretary of State at the Export Control Organisation, [^{F179}Department for Business and Trade].

Textual Amendments

F179 Words in art. 44 substituted (3.5.2023) by The Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport and the Transfer of Functions (National Security and Investment Act 2021 etc) Order 2023 (S.I. 2023/424), art. 1(2), **Sch. para. 50(b)** (with art. 17)

Revocations and transitional arrangements

45.—(1) Subject to paragraphs (2) and (3), the legislation specified in column (1) of Schedule 6 is revoked to the extent specified in column (3) of that Schedule.

(2) This Order does not apply to—

- (a) any export of goods, transfer of technology or participation in the provision of technical assistance; or
- (b) any activity which facilitates, or is otherwise connected with, the acquisition, disposal or movement of goods

that takes place in accordance with the terms of a licence granted before 6th April 2009 under the legislation referred to in paragraph (1), the dual-use Regulation or the torture Regulation or to any such licence.

(3) To the extent that, owing to paragraph (2), this Order does not apply, the legislation referred to in paragraph (1) continues to apply.

Review of the implementation of the defence-related products Directive

^{F180}46.

Textual Amendments

F180 Art. 46 omitted (31.12.2020) by virtue of The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, 4(30); 2020 c. 1, Sch. 5 para. 1(1)

Department for Business, Enterprise and
Regulatory Reform

Ian Pearson
Economic and Business Minister

Changes to legislation:

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