
STATUTORY INSTRUMENTS

2008 No. 3231

The Export Control Order 2008

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 military goods also authorises the export or transfer of the minimum technology required for the installation, operation, maintenance and repair of the goods to the same destination as the goods.

(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.

(4) For the purposes of [^{F1}Article 9] (rules about authorisations) of the dual-use Regulation, the Secretary of State is empowered to grant authorisations.

(5) The authorisation required by [^{F2}Article 22(1)] (exportation or transfer of sensitive items within the customs territory) of the dual-use Regulation for exportation or transfer of goods, software or technology from the United Kingdom is a licence granted by the Secretary of State.

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

(a) either general or granted to a particular person (except that a licence granted under the torture Regulation may not be a general licence);

(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

F1 Words in art. 26(4) substituted (27.8.2009) by [The Export Control \(Amendment\) \(No. 3\) Order 2009 \(S.I. 2009/2151\)](#), art. 1, [Sch. para. 3\(a\)](#)

F2 Words in art. 26(5) substituted (27.8.2009) by [The Export Control \(Amendment\) \(No. 3\) Order 2009 \(S.I. 2009/2151\)](#), art. 1, [Sch. para. 3\(b\)](#)

Status: Point in time view as at 27/08/2009.

Changes to legislation: There are currently no known outstanding effects for the The Export Control Order 2008, PART 5. (See end of Document for details)

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 customs territory 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; and
- (b) the licence holder is established within the customs territory 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 customs territory, 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 customs territory and pursuant to which the goods are to be, are being or have been exported from the customs territory.

(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.

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 Community 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) or 30(3) of this Order or [^{F3}Article 20(1)] (record-keeping) 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.

Textual Amendments

F3 Words in art. 28(1) substituted (27.8.2009) by [The Export Control \(Amendment\) \(No. 3\) Order 2009](#) (S.I. 2009/2151), art. 1, [Sch. para. 4](#)

Record keeping – general

29.—(1) A person who—

- (a) acts under the authority of a general licence granted by the Secretary of State; or
- (b) acts under the authority of the Community General Export Authorisation whilst established in the United Kingdom

shall keep detailed registers or records.

(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).

(4) The documents and records to be kept in accordance with [^{F4}Article 22(8)] (records of exportation and transfer of listed items within the customs territory) of the dual-use Regulation are the registers or records referred to in paragraph (2)(a) to (i).

Textual Amendments

F4 Words in [art. 29\(4\)](#) substituted (27.8.2009) by [The Export Control \(Amendment\) \(No. 3\) Order 2009](#) (S.I. 2009/2151), [art. 1](#), [Sch. para. 5](#)

Registration and record keeping – information security items

30.—(1) Not later than 30 days after the first exportation or transfer of information security items not specified in Schedule 5 to this Order from the United Kingdom under the authority of the Community General Export Authorisation by any person, that person shall (in addition to any notice given under article 28(1)) give to the Secretary of State in relation to those goods or that software or technology written notice of such of the information specified in Schedule 5 to this Order as is in their possession and such other of that information as they can reasonably be expected to obtain within that time.

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

(3) A person who exports or transfers information security items not specified in Annex IV to the dual-use Regulation to a destination within the customs territory shall maintain registers or records in relation to each such exportation or transfer that contain such of the information specified in Schedule 5 to this Order as they can reasonably be expected to obtain and such other of that information as comes into their possession.

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Changes to legislation: There are currently no known outstanding effects for the The Export Control Order 2008, PART 5. (See end of Document for details)

(4) The registers or records referred to in paragraph (3) shall be kept for at least three years from the end of the calendar year in which the exportation or transfer took place.

Inspection of records

31.—(1) A person (“a relevant person”) who is required under article 29 or 30 of this Order or [^{F5}under Article 20 (record-keeping) or 22(8) (records of exportation and transfer of listed items within the customs territory) of the 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 or 30 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 [^{F6}under Article 20 or 22(8)] of the 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

- F5** Words in art. 31(1) substituted (27.8.2009) by [The Export Control \(Amendment\) \(No. 3\) Order 2009 \(S.I. 2009/2151\)](#), art. 1, [Sch. para. 6\(a\)](#)
- F6** 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\(b\)](#)

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), [^{F7}under Article 13(1) (suspension, revocation, etc. of export authorisations) or (4) (suspension, revocation, etc. of authorisations for brokering services) of the dual-use Regulation] or under Article 9(4) (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

- F7** 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](#)

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, Department for Business, Enterprise and Regulatory Reform.

(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.

Status:

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Changes to legislation:

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