

2017 No. 697

CUSTOMS

The Export Control (Amendment) (No. 3) Order 2017

Made - - - - 21st June 2017

Laid before Parliament 22nd June 2017

Coming into force - - 13th July 2017

The Secretary of State makes this Order in exercise of the powers conferred by sections 1, 2, 4 and 5 of the Export Control Act 2002(a).

Citation and commencement

1. This Order may be cited as the Export Control (Amendment) (No. 3) Order 2017 and comes into force on 13th July 2017.

Amendments to the Export Control Order 2008

2.—(1) Schedule 2 to the Export Control Order 2008(b) is amended as follows.

(2) Under the Definitions heading—

(a) at the appropriate place, insert—

““airship” means a power-driven airborne vehicle that is kept buoyant by a body of gas (usually helium, formerly hydrogen) which is lighter than air;”;

(b) for the definition of “laser”, substitute—

““laser” means an item that produces spatially and temporally coherent light through amplification by stimulated emission of radiation;”;

(c) for the definition of “lighter-than-air vehicles”, substitute—

““lighter-than-air vehicles” means balloons and “airships” that rely on hot air or on lighter-than-air gases such as helium or hydrogen for their lift;”;

(d) for “pyrotechnic(s)” at the definition of that word, substitute “pyrotechnics”;

(e) omit the definition of “software”.

(3) For entry ML1.d., including the note to that entry, substitute—

“d. Sound suppressors or moderators, “special gun-mountings”, optical weapon-sights and flash suppressors, for firearms specified in ML1.a., ML1.b. or ML1.c.

Note: ML1.d. does not control:

a. *Optical weapon-sights without electronic image processing (i.e. using only lenses to view the target), with*

(a) 2002 c.28.

(b) S.I. 2008/3231, amended by S.I. 2017/85. There are other amending instruments but none is relevant.

a magnification of 9 times or less, provided they are not specially designed or modified for military use.”.

(4) After entry ML8.a.39., insert—

- “40. BTNEN (Bis(2,2,2-trinitroethyl)-nitramine) (CAS 19836-28-3);
Note: ML8.a. includes ‘explosive co-crystals’.
Technical Note: An ‘explosive co-crystal’ is a solid material consisting of an ordered three dimensional arrangement of two or more explosive molecules, where at least one is specified in ML8.a.”.

(5) For entry ML8.c.1., excluding the note to that entry, substitute—

- “1. “Aircraft” fuels specially formulated for military purposes;”.

(6) For entry ML8.c.5., including the notes to that entry, substitute—

- “5. Metal fuels, fuel ‘mixtures’ or “pyrotechnic” mixtures, in particle form whether spherical, atomised, spheroidal, flaked or ground, manufactured from material consisting of 99% or more of any of the following:
- a. Metals as follows and ‘mixtures’ thereof:
 1. Beryllium (CAS 7440-41-7) in particle sizes of less than 60µm;
 2. Iron powder (CAS 7439-89-6) with particle size of 3µm or less produced by reduction of iron oxide with hydrogen;
 - b. ‘Mixtures’ containing any of the following:
 1. Zirconium (CAS 7440-67-7), magnesium (CAS 7439-95-4) or alloys of these in particle sizes of less than 60µm;
 2. Boron (CAS 7440-42-8) or boron carbide (CAS 12069-32-8) fuels of 85% purity or higher and particle sizes of less than 60µm;
- Note 1:* ML8.c.5.b.2 does not control boron and boron carbide enriched with boron-10 (20% or more of total boron-10 content).
Note 2: ML8.c.5.b. only controls metal fuels in particle form when they are mixed with other substances to form a ‘mixture’ formulated for military purposes such as liquid “propellant” slurries, solid “propellants” or “pyrotechnic” mixtures.
Note 3: ML8.c.5. controls “explosives” and fuels, whether or not the metals or alloys are encapsulated in aluminium, magnesium, zirconium or beryllium.
NB: See also IC of Annex I to “the dual-use Regulation”.”.

(7) For entry ML10.c., substitute—

- “c. Unmanned “aircraft” and related equipment, as follows, and specially designed components therefor:
1. “UAVs” Remotely Piloted Air Vehicles (RPVs), autonomous programmable vehicles and unmanned “lighter-than-air vehicles”;
 2. Launchers, recovery equipment and ground support equipment;
 3. Equipment designed for command and control;”.

(8) For entry ML10.e.2., substitute—

- “2. Unmanned “aircraft” specified by ML10.c;”.

(9) For entry ML10.f., excluding the notes to that entry, substitute—

“f. ‘Ground equipment’ specially designed for “aircraft” specified by ML10.a. or aero-engines specified by ML10.d.”.

(10) For entry ML10.h.1., substitute—

“l. Parachutes, other than those which form part of items controlled elsewhere in this Schedule;”.

(11) For entry ML17.o., substitute—

“o. “Laser” protection equipment (e.g. eye and sensor protection) specially designed for military use;”.

(12) For entry ML17.p., substitute—

“p. “Fuel cells”, other than those which form components of items controlled elsewhere in this Schedule, specially designed or modified for military use.”.

Mark Garnier

Parliamentary Under Secretary of State for International Trade
Department for International Trade

21st June 2017

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 2 to the Export Control Order 2008 (S.I. 2008/3231) (“the 2008 Order”), which schedule lists military goods, software and technology subject to export controls (“the UK list”). The content of the UK list reflects both domestic controls and an international export regime known as the Wassenaar Arrangement. This regime is given effect to in the European Union through the Common Military List (OJ L 88, 29.3.2007, p.58), adopted by the Council of the European Union on 19 March 2007 (“the CML”).

Most of the amendments to Schedule 2 to the 2008 Order are being made to implement Commission Directive (EU) 2017/433 of 7 March 2017 amending Directive 2009/43/EC of the European Parliament and of the Council as regards the list of defence-related products (OJ L 70, 15.3.2017, p.1) (“the amending Directive”). Directive 2009/43/EC (OJ L 146, 10.6.2009, p.1) simplifies the terms and conditions of transfers within the European Union of defence-related products listed in the annex to that Directive, which annex corresponds to the CML. The CML was updated in 2016 and the amending Directive makes the necessary changes to the annex to Directive 2009/43/EC to bring it into line with the updated CML. The amendments being made to Schedule 2 to the 2008 Order which do not relate to the implementation of the amending Directive are those made by articles 2(2)(a), 2(2)(c), 2(2)(d), 2(10) and 2(12) of this Order.

An Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. An Explanatory Memorandum and a transposition note are available from the Export Control Organisation, 3 Whitehall Place, London SW1A 2AW and, also, are published alongside the instrument on the www.legislation.gov.uk website. In addition, copies have been placed in the Libraries of both Houses of Parliament.

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