
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) and section 1(5) and 2(5) of the Export Control Act 2002 (c. 28). The powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 are exercised in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under paragraph (a), (c), (d) and (g) of section 8(2) of that Act) arising from the withdrawal of the UK from the European Union.

These Regulations make amendments to legislation in the field of customs and in particular in relation to export and other trade controls on military and dual-use goods (goods which have both a civilian and a military use). Part 2 amends subordinate legislation. The provisions include provisions within secondary legislation which relate to reciprocal arrangements between the UK and the EU or a Member State of the EU and contain EU references which are no longer appropriate. Upon the withdrawal of the United Kingdom from the EU, these reciprocal arrangements will no longer exist.

Regulation 3 amends provisions of the Export of Radioactive Sources (Control) Order 2006 to remove EU references which are no longer appropriate upon withdrawal of the United Kingdom from the EU.

Regulation 4 amends provisions of the Export Control Order 2008. Regulation 4(2) omits various EU related definitions which will have no practical application once the United Kingdom withdraws from the EU. Amendments are also made to remove other EU references from the Export Control Order 2008 which will no longer be appropriate once the United Kingdom has withdrawn from the EU. Regulations 4(12) and 4(13) omit provisions which relate to reciprocal arrangements concerning exceptions for the movement of firearms within the EU. In order that controls provided for by the retained EU law continue to operate effectively, regulation 4(29) makes amendments to ensure that use and disclosure of information provisions will continue to apply to retained EU law as those provisions applied to directly applicable EU provision prior to withdrawal of the United Kingdom from the EU.

Regulation 4(31) comes into force in advance of exit day to ensure a reference to an EU instrument is up to date upon exit day. Regulation 4(31) is made in exercise of the powers conferred by section 1(5) and 2(5) of the Export Control Act 2002.

Regulation 5 amends domestic instruments which make provision for penalties and enforcement in respect of certain restrictive measures or sanctions targeted at Somalia, the Taliban, Sudan and Central African Republic laid down in various EU Regulations which will form part of domestic law after exit day as added to or otherwise modified by or under the European Union (Withdrawal) Act 2018. The domestic instruments contained references in connection with arrangements dependent upon the United Kingdom's membership of the EU namely reference to the Common Military List of the EU. These Regulations mitigate the consequent deficiencies by replacing references to the EU Common Military List with references to Schedule 2 (Military Goods, Software and Technology) to the Export Control Order 2008 to ensure operability and enforcement of the applicable sanctions measures continues.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Export Control (Amendment) (EU Exit) Regulations 2019.