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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force in accordance with regulation 2, amend legislation implementing the strategic export controls of the United Kingdom.

*Part 2* amends the Export Control Order 2008 (S.I. 2008/3231, as amended) to amend two cross-references to 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 (OJ No. L 30, 31.1.2019, p .1, as amended; “the torture Regulation”).

*Part 3* amends the Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regulation 4 of which, for the most part, amends the Export Control Order 2008 on IP completion day (31<sup>st</sup> December 2020 at 11pm), in consequence of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement. In summary, in *regulation 7*, in relation to the Export Control Order 2008,—

— *paragraphs (2) and (11)* provide for certain definitions,—

in relation to England and Wales and Scotland, to reference retained EU law;

in relation to Northern Ireland, to reference EU law as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;

— *paragraph (4)* provides for an exception to certain export prohibitions to continue in relation to a certified person who is a part of the armed forces, a police force, or a public authority of the United Kingdom, who is a hunter or sport shooter, or who holds a Manx firearms certificate;

— *paragraph (9)* provides for a new Part 6A (provisions relating to the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement), which comprises the regulations—

necessary to implement or supplement the provisions in EU instruments relating to strategic export controls, which on and after IP completion day, as in accordance with the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement, have effect in the United Kingdom under section 7A of the European Union (Withdrawal) Act 2018 (c. 16, as amended); and

for which there is no equivalent provision required in relation to retained EU law;

— *paragraph (10)* authorises the use, for prescribed purposes, of information which is otherwise held by the Secretary of State or the Commissioners for Revenue and Customs in connection with the operation of strategic export controls imposed by—

retained EU law; or

a directly applicable provision of an EU instrument as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

All other paragraphs in *regulation 7* make minor or technical amendments in consequence of the amendments set out above.

*Part 4* amends the Trade etc. in Dual-Use Items and Firearms etc. (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/771), which amends the Export Control Act 2002 (c. 28) and certain retained EU law relating to strategic export controls, in consequence of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement. In summary,—

— *regulation 9* provides for regulation-making powers in the Export Control Act 2002, which authorise the Secretary of State, by order, to make provision in connection with any controls imposed by a directly applicable provision of an EU directive or regulation, to continue to

**Changes to legislation:** There are currently no known outstanding effects for the The Export Control (Amendment) (EU Exit) Regulations 2020. (See end of Document for details)

be available in connection with any controls imposed by a directly applicable provision of an EU instrument as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;

— *regulation 10* provides for certain authorisations granted by the Secretary of State under 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 (OJ No. L 134, 29.5.2009, p. 1, as amended; “the dual-use Regulation”) that have effect immediately before IP completion day to continue to have effect on and after IP completion day as if they were corresponding authorisations granted by the Secretary of State under the dual-use Regulation,—

in relation to England and Wales and Scotland, as it forms part of domestic law;

in relation to Northern Ireland, as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;

— *regulation 11* provides for a firearms export authorisation granted by the Secretary of State under 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 (OJ No. L 94, 30.3.2012, p. 1; “the firearms Regulation”) that has effect immediately before IP completion day to continue to have effect on and after IP completion day as if it were a corresponding authorisation granted by the Secretary of State under the firearms Regulation,—

in relation to England and Wales and Scotland, as it forms part of domestic law;

in relation to Northern Ireland, as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

*Part 5* amends the Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), which amends, and includes transitional provisions in relation to, the torture Regulation. In summary,—

— *regulation 13* aligns the commencement of the principal Regulations with the incorporation into domestic law of the torture Regulation under section 3 of the European Union (Withdrawal) Act 2018;

— *regulation 14* provides for amendment of the torture Regulation to insert references to the tariff of the United Kingdom;

— *regulation 15* amends a heading and provides for certain authorisations granted by the Secretary of State under the torture Regulation that have effect before IP completion day to continue to have effect after IP completion day as if they were corresponding authorisations granted by the Secretary of State under the torture Regulation,—

in relation to England and Wales and Scotland, as it forms part of domestic law;

in relation to Northern Ireland, as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

Authorisation, if required under retained EU law or EU law as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement, may be obtained by application to the Export Control Joint Unit (a part of the Department for International Trade) using the SPIRE online licensing system. Further information may be found online at:

— <https://www.gov.uk/government/organisations/export-control-organisation> (the Export Control Joint Unit);

— <https://www.spire.trade.gov.uk/> (the SPIRE online licensing system).

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

**Changes to legislation:**

There are currently no known outstanding effects for the The Export Control (Amendment) (EU Exit) Regulations 2020.