

**EXPLANATORY MEMORANDUM TO**  
**THE EXPORT CONTROL (AMENDMENT) (NO. 2) ORDER 2022**  
**2022 No. 1042**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by Department for International Trade and is laid before Parliament by Command of His Majesty.

**2. Purpose of the instrument**

- 2.1 The Export Control (Amendment) (No. 2) Order 2022 amends Schedule 2 to the Export Control Order 2008 (“the 2008 Order”), which lists the military goods, software and technology subject to strategic export controls (“the UK list”), to reflect changes to the UK’s international export control commitments.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

**4. Extent and Territorial Application**

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the whole of the United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the whole of the United Kingdom.

**5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**6. Legislative Context**

- 6.1 This Order amends the 2008 Order. The amendments in this Order reflect recent amendments to the Wassenaar Arrangement munitions list. The Wassenaar Arrangement is an international export control regime in respect of which the UK has international commitments.
- 6.2 The Order in parallel implements changes to the European Common Military List, in accordance with the UK’s commitments under the Protocol on Ireland/Northern Ireland in the European Union withdrawal agreement (“the NI Protocol”). These changes reflect the recent amendments to Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 (“the 2009 Directive”) made by Commission Delegated Directive (EU) 2021/1047 of 5 March 2021 (“the 2021 Delegated Directive”). The 2009 Directive, as amended, applies to and in the United Kingdom in respect of Northern Ireland by virtue of Articles 5(4), 13(3) of, and Annex 2 to, the NI Protocol.

## **7. Policy background**

### *What is being done and why?*

- 7.1 Article 3 of this Order amends the UK list in Schedule 2 to the 2008 Order which lists military goods, software and technology subject to export controls.
- 7.2 The changes to the UK list are of a technical nature and seek to clarify and amend existing controls. They derive from changes made to the Wassenaar Arrangement munitions list – most recently in December 2021 – and the need to keep the control lists up to date and relevant. In addition, and in accordance with the UK’s NI Protocol commitments, they implement the changes to the 2009 Directive made by the 2021 Delegated Directive. Specifically, they include changes to the control entries ML1, ML5, ML6, ML8, ML9, ML10, ML13, ML17, ML18 and ML21.
- 7.3 Two further changes to ML6 and ML8 are made to address typographical errors.

### *Explanations*

#### What did any law do before the changes to be made by this instrument?

- 7.4 The Export Control Order 2008 consolidated the main Orders made under the Export Control Act 2002. It rationalised and enhanced trade controls (controls on activities relating to the movement of goods and technology between third countries). It enhanced transit controls (goods passing through the UK) on goods including small arms and light weapons.

#### Why is it being changed?

- 7.5 To uphold the UK’s international commitment to align its export control lists with changes agreed at the Wassenaar Arrangement.

#### What will it now do?

- 7.6 The Export Control Order 2008 will continue to do everything listed above. This amending Order makes minor technical adjustments to Schedule 2.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the UK from the EU because of the continued application in Northern Ireland of the 2009 Directive.
- 8.2 Articles 5(4) and 13(3) of, and Annex 2 to, the NI Protocol provide that the 2009 Directive, as amended, continues to apply to and in the UK in respect of Northern Ireland. In March 2021, the EU amended the 2009 Directive with the 2021 Delegated Directive. The amendments to the UK list in this Order reflect amendments to the European Common Military list that were in turn reflected in the 2021 Delegated Directive.

## **9. Consolidation**

- 9.1 This is not considered to be required. The limited changes made by this Order do not warrant a complete consolidation.

## **10. Consultation outcome**

- 10.1 This is not considered to be required. The changes made by this Order are few and technical.

## **11. Guidance**

- 11.1 Comprehensive guidance on strategic export controls is already available on the GOV.UK website. A Notice to Exporters will be published giving details of these latest changes. These notices are circulated automatically to those organisations and individuals registered with the Export Control Joint Unit within the Department for International Trade.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because of the low level of impact on any business.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is only to make changes required to implement the changes to the Wassenaar Agreement munitions list and the parallel changes to the 2009 Directive.

## **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is to monitor closely any representations that are received in the Export Control Joint Unit. Any issues that are raised will be fully considered with a view to finding an acceptable solution.
- 14.2 As indicated above, the changes made to the scope of existing export controls by this Order are minimal. In the circumstances, it would not be appropriate to make a provision for a review which would be disproportionate given the absence of any discernible economic impact on activities carried out by businesses for the purposes of their businesses.

## **15. Contact**

- 15.1 Peter Monday at the Department for International Trade. Telephone: 073 9186 4808 or email: peter.monday@trade.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Ros Lynch, Deputy Director for Export Control Joint Unit at the Department for International Trade, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 James Duddridge, Minister for International Trade at the Department for International Trade, can confirm that this Explanatory Memorandum meets the required standard.