

2023 No. 302

CUSTOMS

TRADE

**The Export Control (Military and Dual-Use Lists) (Amendment)
Regulations 2023**

<i>Made</i>	- - - -	<i>9th March 2023</i>
<i>Laid before Parliament</i>		<i>10th March 2023</i>
<i>Coming into force</i>		<i>31st March 2023</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1, 2, 4, 5 and 7 of the Export Control Act 2002(a), and Article 15(1) of 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 (Recast)(b).

Citation, commencement and extent

1. These Regulations may be cited as the Export Control (Military and Dual-Use Lists) (Amendment) Regulations 2023 and come into force on 31st March 2023.

2.—(1) Regulations 1 to 4 extend to England and Wales, Scotland and Northern Ireland.

(2) Regulation 5 extends to England and Wales, and Scotland.

Amendments to the Export Control Order 2008

3.—(1) Schedule 2 (military goods, software and technology) to the Export Control Order 2008(c) is amended as follows.

(2) For entry ML4.a., substitute—

- “a. Bombs, torpedoes, grenades, smoke canisters, rockets, mines, missiles, depth charges, demolition-charges, demolition-devices, demolition-kits, “pyrotechnic” devices, cartridges, submunitions therefor and simulators (i.e., equipment simulating the characteristics of any of these items), specially designed for military use;

N.B.: For grenade or canister ammunition for weapons or projectors

(a) 2002 c. 28; see section 11 of the Act for defined terms used in these provisions. Sections 1(5), 2(5), 5(2) and 7(2) were amended by article 6(2)(c) of S.I. 2011/1043; section 5(3) was revoked by regulation 2(2) of S.I. 2019/771, as amended by regulation 9(a) of S.I. 2020/1502; section 11 was amended by regulation 2(3) of S.I. 2019/771, as amended by regulation 9(b) of S.I. 2020/1502.

(b) EUR 2009/428; Article 15 was substituted by S.I. 2019/771.

(c) S.I. 2008/3231; relevant amending instruments are S.I. 2017/85, S.I. 2017/697, S.I. 2018/165, S.I. 2018/939, S.I. 2019/137, S.I. 2019/989, S.I. 2019/1159, S.I. 2021/586 and S.I. 2022/1042.

specified in ML1. or ML2. and submunitions specially designed for ammunition, see ML3.”.

(3) In entry ML4.c., for “(AMPS).” substitute “(AMPS) not specified in ML4.b.1..”.

(4) For entry ML10.f., including the Note, substitute—

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

Note 1: ML10.f. includes pressure refuelling equipment and equipment designed to facilitate operations in confined areas, including equipment located on board a ship.

Note 2: ML10.f. does not control:

- 1. Towbars;*
- 2. Protective mats and covers;*
- 3. Ladders, steps and platforms;*
- 4. Chocks, lashings and tie-down equipment.”.*

(5) After entry ML11.a., insert—

“Note: ML11.a. controls all electronic guidance and navigation equipment.”.

(6) For entry ML11.b., including the Note, substitute—

“b. Jamming equipment designed or modified to hinder the reception, operation or effectiveness of positioning, navigation or timing services provided by “satellite navigation systems”, and specially designed components therefor;”.

(7) Omit the Note after entry ML11.b..

(8) In entry ML13.d.1., for the Note, substitute—

“Note 1: For the purposes of ML13.d.1., military standards or specifications include, at a minimum, specifications for fragmentation protection.

Note 2: ML13.d.1. does not control protective eyewear.

N.B.: For “laser” protective eyewear, see ML17.o.”.

(9) In entry ML21.c., in the N.B., for “specified by ML21.c.” substitute “specified in ML21.c.”.

4.—(1) Schedule 3 (UK controlled dual-use goods, software and technology) to the Export Control Order 2008 is amended as follows.

(2) In the heading to PL9012, for “Vessels” substitute “Vehicles”.

Amendments to Council Regulation (EC) No 428/2009

5.—(1) 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 (Recast)(a) is amended as follows.

(2) In Annex I (list of dual-use items)—

(a) EUR 2009/428. Annex I was amended by S.I. 2022/410. There are other amending instruments but none is relevant.

- (a) in the section headed “definitions of terms used in this Annex”, after the definition of “Fusible”, insert—

““Gate-All-Around Field-Effect Transistor” (“GAAFET”) (3) means a device having a single or multiple semiconductor conduction channel element(s) with a common gate structure that surrounds and controls current in all of the semiconductor conduction channel elements.

Note: This definition includes nanosheet or nanowire field-effect and surrounding gate transistors and other “GAAFET” semiconductor channel element structures.”;

- (b) in the section headed “Category 1 – special materials and related equipment”, for entry 1C006.b., substitute—

“b. Lubricating materials containing, as their principal ingredients, phenylene or alkylphenylene ethers or thio-ethers, or their mixtures, containing more than two ether or thio-ether functions or mixtures thereof;”;

- (c) in the section headed “Category 2 – materials processing”—

(i) in Note 2 to entry 2B352.f.2., for “abovementioned characteristics” substitute “characteristics specified in 2B352.f.2.”;

- (ii) after entry 2D351, insert—

“2D352 “Software” designed for nucleic acid assemblers and synthesisers, specified in 2B352.i., that is capable of designing and building functional genetic elements from digital sequence data.”;

- (iii) for entry 2E003.b., including the Technical Notes, substitute—

“b. Other “technology”, as follows:
1. “Technology” for the design of tools, dies or fixtures specially designed for any of the following processes:
a. “Superplastic forming”;
b. “Diffusion bonding”; or
c. ‘Direct-acting hydraulic pressing’;

Technical Note:

‘Direct-acting hydraulic pressing’ is a deformation process which uses a fluid-filled flexible bladder in direct contact with the workpiece.

2. Not used;

N.B. For “technology” for metal-working manufacturing processes for gas turbine engines and components, see 9E003. SEE ALSO MILITARY GOODS CONTROLS.”;

- (iv) in the Notes to the table (Deposition techniques), in paragraph 10, for “airfoils” substitute “aerofoils”;

- (d) in the section headed “Category 3 – electronics”—

(i) under the heading “3A Systems, Equipment and Components”, in Note 1, for “or 3A001.a.12. to 3A001.a.14.,” substitute “3A001.a.12. to 3A001.a.14., or 3A001.b.12.”;

(ii) in entry 3A001.b.4.b.1., for “(48,54 dBm)” substitute “(48,45 dBm)”;

(iii) in entry 3A001.b.11.e., for “90 GHz; or” substitute “75 GHz;”;

(iv) for entry 3A001.b.11.f., substitute—

“f. Less than 100 μ s for any frequency change exceeding 5,0 GHz within the synthesised frequency range exceeding 75 GHz but not exceeding 90 GHz; or”;

(v) in entry 3A002.c.2., before “Displayed Average Noise Level” insert “a”;

(vi) in entry 3A002.d.3.d., omit “or”;

(vii) in entry 3A002.d.3.e., for “90 GHz;” substitute “75 GHz; or”;

(viii) after entry 3A002.d.3.f., insert—

“g. Less than 100 μ s for any frequency change exceeding 5,0 GHz within the frequency range exceeding 75 GHz but not exceeding 90 GHz;”;

(ix) in entry 3A002.d.4., for “Single” substitute “A single”;

(x) in entry 3A002.d.5.c., for “90 GHz; or” substitute “75 GHz”;

(xi) after entry 3A002.d.5.c., before the Technical Note, insert—

“d. Exceeding 5,0 GHz within the frequency range exceeding 75 GHz but not exceeding 90 GHz; or”;

(xii) in entry 3C001.c., omit “or”;

(xiii) after the Note to entry 3C001.d., insert—

“e. Gallium oxide (Ga₂O₃); or

f. Diamond (C);”;

(xiv) in entry 3C005.a., for “(AlN) or aluminium gallium nitride (AlGaN) semiconductor” substitute “(AlN), aluminium gallium nitride (AlGaN), gallium oxide (Ga₂O₃) or diamond semiconductor”;

(xv) in entry 3C005.b., for “(AlN), or aluminium gallium nitride (AlGaN) on” substitute “(AlN), aluminium gallium nitride (AlGaN), gallium oxide (Ga₂O₃) or diamond on”;

(xvi) in entry 3C006, for “aluminium nitride or aluminium gallium nitride” substitute “aluminium nitride, aluminium gallium nitride, gallium oxide (Ga₂O₃) or diamond”;

(xvii) after entry 3D005, insert—

“3D006 ‘Electronic Computer-Aided Design’ (‘ECAD’) ‘software’ specially designed for the “development” of integrated circuits having any “Gate-All-Around Field-Effect Transistor” (“GAAFET”) structure, and having any of the following:

a. Specially designed for implementing ‘Register Transfer Level’ (‘RTL’) to ‘Geometrical Database Standard II’ (‘GDSII’) or equivalent standard; or

b. Specially designed for optimisation of power or timing rules.

Technical Notes

1. ‘Electronic Computer-Aided Design’ (‘ECAD’) is a category of “software” tools used for designing, analysing, optimising, and validating the performance of integrated circuit or printed circuit board.

2. ‘Register Transfer Level’ (‘RTL’) is a design abstraction which models a synchronous digital circuit in terms of the flow of digital signals between hardware registers, and the logical

- operations performed on those signals.*
3. *'Geometrical Database Standard II' ('GDSII') is a database file format for data exchange of integrated circuit or integrated circuit layout artwork.';*

(xviii) for entry 3E003.d., substitute—

“d. Substrates of diamond for electronic components;”;

(xix) in entry 3E003.g., for “higher.” substitute “higher;”;

(xx) after entry 3E003.g., insert—

“h. Substrates of gallium oxide for electronic components.”;

(e) in the section headed “Category 4 – computers”, in entry 4A003.b., for “29” substitute “70”;

(f) in the section headed “Category 5 – telecommunications and information security”, in Part 2 (information security), in entry 5A003.a., for “using” substitute “to use”;

(g) in the section headed “Category 6 – sensors and lasers”—

(i) in entry 6A005.d.1.b.1., for “15W” substitute “25W”;

(ii) in entry 6A008—

(aa) omit the Note to entry 6A008.1.4.;

(bb) in paragraph 1 of the Technical Notes immediately before entry 6A102, for “*used*” substitute “*designed*”;

(cc) after the Technical Notes, insert—

“Note: *6A008.1. does not control systems, equipment and assemblies designed for 'vessel traffic services'.*”;

(iii) in entry 6D003.h.1., omit “application “programs””;

(h) in the section headed “Category 7 – navigation and avionics”—

(i) in entry 7D003.e., for “circulation controlled” substitute “circulation-controlled”;

(ii) in entry 7E004.c.3., including the Technical Note, in each instance, for “airfoils” substitute “aerofoils”;

(i) in the section headed “Category 9 – aerospace and propulsion”—

(i) in entry 9A004, for “and air-launch platforms” substitute “air-launch platforms and “sub-orbital craft””;

(ii) in entry 9A004.g., after “vehicles” insert “or “sub-orbital craft””;

(iii) in entry 9A115.a., immediately before the Technical Note, insert—

“Note: *Apparatus and devices specified in 9A115.a. include those installed on a manned aircraft or an unmanned aerial vehicle.*”.

(iv) for entry 9B001.c., substitute—

“c. Directional-solidification or single-crystal additive-manufacturing equipment designed for “superalloys””;

(v) in entry 9B004, for “airfoil” substitute “aerofoil”;

(vi) in entry 9E003.a.2.c., after “shells;”, omit “or”;

- (vii) in entry 9E003.a.2.d., after “9E003.c.”, insert “or”;
- (viii) after entry 9E003.a.2.d.—
 - (aa) before the Note, insert—
 - “e. Utilisation of ‘pressure gain combustion’”;
 - (bb) after the Technical Notes, insert—
 - “3. *In ‘pressure gain combustion’ the bulk average stagnation pressure at the combustor outlet is greater than the bulk average stagnation pressure at the combustor inlet due primarily to the combustion process, when the engine is running in a “steady state mode” of operation.*”;
- (ix) in entry 9E003.a.6., for “Airfoil” substitute “Aerofoil”;

Signed by authority of the Secretary of State

9th March 2023

Nigel Huddleston
Minister of State
Department for Business and Trade

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Export Control Order 2008 (S.I. 2008/3231, as amended by S.I. 2017/85, S.I. 2017/697, S.I. 2018/165, S.I. 2018/939, S.I. 2019/137, S.I. 2019/989, S.I. 2019/1159, S.I. 2021/586 and S.I. 2022/1042) (“the 2008 Order”) and 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 (Recast) (EUR 2009/428, amended by S.I. 2019/771, as amended by S.I. 2019/806 and S.I. 2022/410) (“the retained Dual-Use Regulation”).

Regulation 3 amends Schedule 2 to the 2008 Order, which lists military goods, software and technology subject to export controls. The content of that list reflects both domestic controls and an international export regime known as the Wassenaar Arrangement. Amendments to the Wassenaar Arrangement munitions list were most recently agreed in December 2022. The amendments to Schedule 2 reflect those changes. Regulation 4 makes a minor typographical amendment to Schedule 3 to the 2008 Order, which lists dual-use goods, software and technology subject to export controls.

Regulation 5 amends Annex I to the retained Dual-Use Regulation, which also lists dual-use goods, software and technology subject to export controls. These changes reflect amendments to the Wassenaar Arrangement dual-use list as well as changes to the control lists administered by other multilateral export control regimes, including the Australia Group and the Missile Technology Control Regime. Regulation 5 brings the retained Dual-Use Regulation up to date with these international arrangements up until December 2021. The new text also addresses minor drafting errors and preferences.

In relation to the Protocol on Ireland/Northern Ireland in the European Union Withdrawal Agreement (“the Protocol”), the amendments made by regulation 5 to Annex I of the retained Dual-Use Regulation are closely aligned with control list amendments introduced by Commission Delegated Regulation (EU) 2023/66 of 21 October 2022 amending Regulation (EU) 2021/821 of the European Parliament and of the Council as regards the list of dual-use items. Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 continues to apply to and in the United Kingdom in respect of Northern Ireland by virtue of the Protocol.

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 is available from the Export Control Joint Unit, Old Admiralty Building, London SW1A 2DY. The Explanatory Memorandum has also been published alongside the instrument on the www.legislation.gov.uk website, and a copy has been placed in the Libraries of both Houses of Parliament.

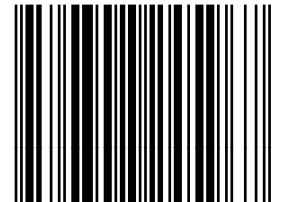
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