

EXPORT CONTROL ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 3: Technical assistance controls

22. *Subsection (1)* provides the Secretary of State with order-making powers to introduce technical assistance controls on the provision outside the UK of technical assistance of any description and to make provision about matters connected with the imposition of such controls.
23. *Subsection (2)* defines “technical assistance controls” as the prohibition or regulation of participation in provision of technical assistance outside the UK, and “technical assistance” as services provided, used, or capable of use, in connection with development, production or use of goods or technology. For example, technical assistance might take the form of maintenance of or repairs to equipment used in connection with a weapons of mass destruction programme overseas.
24. *Subsection (3)* allows controls to be placed on the provision of technical assistance wholly or partly on the grounds of the uses to which the technical assistance itself, or the goods or technology in connection with which it is provided, may be put. This power will enable the implementation of the European Union Joint Action as described above.
25. *Subsection (4)* provides that the power to impose controls on provision of technical assistance overseas may only be exercised for the purpose of imposing controls corresponding to or connected with export or transfer controls imposed under sections (1) or (2), or in connection with any directly applicable European Community provision on the export of goods or technology transfer. The power is also subject to [section 5](#), which places general restrictions on the imposition of control orders.
26. *Subsection (5)* defines the type of “participation” that falls within the scope of subsection (1).
27. *Subsection (6)* allows the Secretary of State by an order to make provision for giving effect to a directly applicable Community provision on participation in the provision of technical assistance.
28. *Subsection (7)* provides that controls may be imposed under this section on things done outside the UK where the activity subject to control is conducted by a UK person or a person acting under the control of a UK person, for example assistance abroad provided by a UK company through a foreign employee.
29. It is envisaged that the Secretary of State will, for example, use the powers conferred by subsection (1) to make an order prohibiting or regulating the provision outside the EC of technical assistance where the provider of the technical assistance knows or is informed by Government that the activity in question is intended for use in connection with a weapons of mass destruction (WMD) or related missile programme. Powers given under this section will allow implementation of the European Union Joint Action (mentioned in paragraph 18 under section 2 above). The Joint Action commits Member States to bring forward legislation to control the provision of technical assistance

*These notes refer to the Export Control Act 2002
(c.28) which received Royal Assent on 24 July 2002*

outside the EU which is intended or which the provider is aware is intended for use for WMD or missiles capable of their delivery. The Joint Action requires controls to be introduced only in respect of activities undertaken outside the EU.