

---

STATUTORY INSTRUMENTS

---

**1995 No. 271**

**The Dual-Use and Related Goods  
(Export Control) Regulations 1995**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Dual-Use and Related Goods (Export Control) Regulations 1995 and shall come into force for the purposes of issuing general licences on 14th February 1995 and for all other purposes on 1st March 1995.

(2) In these Regulations, unless the context otherwise requires—

“aircraft” means a fixed wing, swivel wing, rotary wing (helicopter), tilt rotor or tilt wing airborne vehicle;

“the Commissioners” means the Commissioners of Customs and Excise;

“Community Licence” means an authorisation granted by a competent authority for the export of dual-use goods from the European Community under or for the purposes of the Regulation;

“competent authority” means the Secretary of State or any other competent authority empowered by a Member State to issue export authorisations for dual-use goods for the purposes of the Regulation;

“country” includes territory;

“the Decision” means Council Decision No. 94/942/CFSP of 20th December 1994 on the joint action adopted by the Council of the European Union on the basis of Article J3 of the Treaty on European Union concerning the control of exports of dual-use goods<sup>(1)</sup>;

“dual-use goods”, shall have the same meaning as in the Regulation;

“export” means export from the United Kingdom, and “exporter” and other cognate expressions shall be construed accordingly;

“goods” means both used and unused goods;

“import” and “export” in relation to a vessel, submersible vehicle or aircraft includes the taking into or out of the United Kingdom of the vessel, submersible vehicle or aircraft notwithstanding that the vessel, submersible vehicle or aircraft is conveying goods or passengers, and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“Member State” means a Member State of the European Community;

“normal commercial journey” means a journey providing transport services in the ordinary course of business;

“proper” shall have the same meaning as in the Customs and Excise Management Act 1979<sup>(2)</sup>;

“the Regulation” means Council Regulation (EC) No. 3381/94<sup>(3)</sup>;

---

<sup>(1)</sup> O.J. No. L367, 31.12.94.

<sup>(2)</sup> 1979 c. 2.

<sup>(3)</sup> O.J. No. L367, 31.12.94.

“scheduled journey” means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service operated in such manner that the benefits thereof are available to members of the public from time to time seeking to take advantage of it;

“surface effect vehicle” means any air cushion vehicle (whether side wall or skirted) and any vehicle using the wing-in-ground effect for positive lift;

“transit or transshipment” means transit or transshipment through the United Kingdom with a view to the re-exportation of the goods in question;

“vessel” includes any ship, surface effect vehicle, small waterplane area vessel and hydrofoil, and the hull or part of the hull of a vessel.

(3) In these Regulations numerical references in Schedule 1 hereto to standards and recommendations are references to the relevant standards and recommendations so numbered with such amendments (if any) thereto as may have been published before the making of these Regulations.

### **Granting and Revocation etc. of Licences**

2.—(1) The Secretary of State may

- (a) grant licences and Community Licences, and
- (b) give notice for the purposes of Article 4 of the Regulation.

(2) Any licence or Community Licence granted by the Secretary of State in pursuance of these Regulations or having effect as if so granted may be either general, or special, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the Secretary of State.

(3) Any licence or Community Licence referred to in paragraph (2) above may be subject to or without conditions and any such condition may require or prohibit any act before or after the exportation of goods under that licence.

### **Dual-Use and Related Goods**

3.—(1) As provided in these Regulations,

- (a) a Community Licence shall be the authorisation required by Article 3 of the Regulation for the export from the European Community of all goods of a description specified in Schedule 1 hereto (which reproduces the list of dual-use goods in Annex I to the Decision); and
- (b) a licence granted by the Secretary of State shall be the authorisation required by Articles 19.1(b) and 21 of the Regulation for the export to another Member State of all goods specified in Schedule 2 hereto (which reproduces the list of dual-use goods in Annex IV to the Decision).

(2) Subject to the provisions of these Regulations,

- (a) all the following goods are prohibited to be exported to any destination:
  - (i) all goods of a description specified in Schedule 3 hereto;
  - (ii) any dual-use goods which have been imported into the United Kingdom for transit or transshipment;
  - (iii) any goods other than dual-use goods which
    - (aa) the exporter has been informed by a competent authority are or may be intended, wholly or in part, to be used in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear

weapons or the development, production, maintenance or storage of missiles capable of delivering such weapons; or

(bb) the exporter knows are intended, wholly or in part, to be used in connection with one of the activities referred to in sub-paragraph (aa) above; or

(iv) any goods which the exporter has grounds for suspecting might be used, wholly or in part, in connection with an activity referred to in sub-paragraph (aa) above unless he has made all reasonable enquiries as to their proposed use and satisfied himself that they will not be so used; and

(b) all the following goods are prohibited to be exported to any destination in a Member State:

(i) all goods specified in Schedule 4 hereto; and

(ii) any goods of a description specified in Schedule 1 hereto in respect of which the exporter knows at the time of export that the final destination of those goods is outside the European Community and no processing or working is to be performed on those goods in any Member State to which they are exported, and in this sub-paragraph, “processing or working” has the same meaning as in Article 24 of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code(4).

(3) Subject to the provisions of these Regulations, paragraph (2) above shall not prohibit the export of any goods in relation to which a licence has been granted by the Secretary of State or a Community Licence has been granted by a competent authority, provided that all conditions attaching to the said licence or Community Licence are complied with.

(4) Paragraph (3) shall not apply to permit the export of any goods to any destination outside the European Community in relation to which a Community Licence has been granted where the Secretary of State has given notice to the proper officer of Customs and Excise that he considers that such an export would be contrary to the essential foreign policy or security interests or to the fulfilment of the international obligations or commitments of the United Kingdom.

(5) Any goods referred to in paragraph (1) above in relation to which a Community Licence has been granted which are brought to any place in the United Kingdom for the purpose of being exported to a destination outside the European Community may be detained by the proper officer of Customs and Excise for a period of ten working days as if they were liable to forfeiture where the proper officer of Customs and Excise or the Secretary of State has grounds for suspicion that

(i) relevant information was not taken into account when the authorisation was granted; or

(ii) circumstances have materially changed since the issue of the authorisation.

## **Exceptions**

**4.** Nothing in these Regulations shall prohibit the export of:

### *Aircraft*

(a) (i) any aircraft which is being exported after temporary import into the United Kingdom provided that there has been no change of ownership or registration since such import;

(ii) any aircraft on a scheduled journey;

### *Vessels*

(b) (i) any vessel registered or constructed outside the United Kingdom which is being exported after temporary import into the United Kingdom;

---

(4) O.J. No. L302, 19.10.92.

- (ii) any vessel which is departing temporarily from the United Kingdom on trials;
- (iii) any vessel proceeding on a normal commercial journey.

### **Goods in Transit**

5.—(1) Nothing in these Regulations shall prohibit the export of any goods, other than goods to which sub-paragraph 2(a)(iii) or (iv) of regulation 3 above applies, which have been imported into the United Kingdom for transit or transhipment to any destination other than a destination in Iran, Iraq, Libya, North Korea, Serbia, Montenegro, the United Nations Protected Areas in Croatia or those areas of Bosnia-Herzegovina under the control of the Bosnian-Serb forces, provided that the conditions in paragraph (2) below are met.

(2) The conditions are that

- (a) the goods remain on board a ship or aircraft for the period that they remain in the United Kingdom or are goods on a through bill of lading or through air waybill and in any event are exported within 30 days of their import;
- (b) the destination for those goods following export has been determined in the country from which they were originally exported prior to their original export in connection with the transaction which has given rise to transit or transhipment and has not been changed prior to their export, or the goods are being returned to that country; and
- (c) the goods in question were exported from that country in accordance with any laws or regulations relating to the export of goods applying therein at the time of export therefrom of those goods.

### **Customs powers to demand evidence of destination which goods reach**

6. Any exporter of goods shall, if so required by the Commissioners, furnish within such time as they may allow proof to their satisfaction that the goods have reached either—

- (a) a destination to which they were authorised to be exported by a licence granted for the purposes of these Regulations, or
- (b) a destination to which their export was not prohibited by these Regulations;

and, if he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

### **Misleading applications for licences etc.**

7. For the purpose of obtaining any licence from the Secretary of State or any Community Licence from any competent authority no person shall—

- (a) make a statement or furnish any document or information which to his knowledge is false in a material particular; or
- (b) recklessly make any statement or furnish any document or information which is false in a material particular;

and any licence or Community Licence which may have been granted by the Secretary of State in connection with the application for which the false statement was made or the false document or information was furnished shall be void as from the time it was granted.

### **Failure to comply with licence conditions**

8.—(1) Subject to paragraph (2) below, any person who

- (a) has exported goods from the the United Kingdom or from the European Community under the authority of a licence or Community Licence, as the case may be, granted by the Secretary of State, or from the European Community under the authority of a Community Licence sought by or on behalf of a person in, or established in, the United Kingdom; and
- (b) fails to comply with any condition attaching to that licence or Community Licence, as the case may be;

shall be guilty of an offence and liable

- (i) on summary conviction to a fine not exceeding the statutory maximum, and
  - (ii) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both.
- (2) No person shall be guilty of an offence under paragraph (1) above where he proves—
- (a) that the condition with which he failed to comply was modified, otherwise than with his consent,
    - (i) in the case of a licence, by the Secretary of State, or
    - (ii) in the case of a Community Licence, by the Secretary of State or other competent authority who granted that Community Licence; and
  - (b) that the goods in relation to which he failed to comply with the condition had, at the time the condition was modified, been exported from the United Kingdom in the case of a licence or from the European Community in the case of a Community Licence.

### **Registration with the Secretary of State**

**9.**—(1) Before or within 30 days after the first export of any goods from the United Kingdom or from the European Community by a person under the authority of any licence or Community Licence, as the case may be, granted by the Secretary of State that does not provide otherwise, that person shall give written notice to the Secretary of State of the following particulars—

- (i) the name of the person; and
- (ii) the address at which copies of the records referred to in regulation 10 below may be inspected by any person authorised by the Secretary of State or the Commissioners under regulation 10.

(2) After any change in any of the said particulars, before or within 30 days after the first export from the United Kingdom or the European Community, as the case may be, of any goods under the authority of any such licence that does not provide otherwise, the said person shall give written notice to the Secretary of State of that change.

(3) Any notice to be given by a person under paragraph (1) or (2) above, may be given by the agent of that person and shall be sent by post or delivered to the Secretary of State at The Export Control Compliance Unit, DTI, Kingsgate House, 66-74 Victoria Street, London SW1E 6SW.

(4) Paragraph (3) above shall apply for the provision of details to the competent authorities in accordance with Article 19(2) of the Regulation; and paragraph (2) above shall apply in respect of any change in any of those details as it applies in respect of any change in any of the particulars of which notice is given in accordance with paragraph (1) above.

### **Record keeping and inspection**

**10.**—(1) Any person established in the United Kingdom who exports any goods from the European Community under the authority of a Community Licence shall maintain records in relation to each such export that contain the following information:

- (a) a description of the goods;
- (b) the quantity of the goods;

- (c) his name and address;
- (d) the name and address of any consignee of the goods;
- (e) in so far as it is known to him, the end-use of the goods and the name and address of the end-user;
- (f) in the case of goods exported from the United Kingdom or the European Community under the authority of a licence or a Community Licence, as the case may be, any further information required by the licence or Community Licence to be kept;

and any such records shall be kept for at least 3 years from the end of the calendar year in which the export took place; and he shall permit any such records to be inspected, and copied, by any person authorised by the Secretary of State or the Commissioners.

(2) Any person who has been granted a licence or Community Licence under these Regulations in relation to the export from the United Kingdom or the European Community, as the case may be, of any goods shall, upon request in writing, by the Secretary of State or the Commissioners, produce any documents or other records he may hold that relate to his application for that licence or Community Licence; and any such documents or records shall be kept for at least 3 years from the end of the calendar year in which such application was made; and he shall permit any such documents or records to be inspected, and copied, by any person authorised by the Secretary of State or the Commissioners.

(3) Any person authorised by the Secretary of State or the Commissioners shall, on producing, if required to do so, a duly authenticated document showing his authority, have the right at all reasonable hours to enter the premises for the purpose of paragraph (1) above the address of which has most recently been notified to the Secretary of State under regulation 9, or, for the purpose of paragraph (2) above, any address notified for this purpose by the exporter to a competent authority when applying for a licence.

(4) Where any documents or records referred to in paragraph (1) or (2) above are kept in a form which is not legible the exporter shall at the request of the person authorised by the Secretary of State or the Commissioners, as the case may be, reproduce such documents or records in a legible form.

(5) The documents and records to be kept in accordance with Article 19(2) of the Regulation shall be the records referred to in paragraph (1) above; and paragraphs (3) and (4) above and the provision in paragraph (1) above relating to inspection and copying shall apply for the production of such documents and records to the competent authorities in accordance with the said Article 19(2) as they apply in respect of records referred to in paragraph (1) above or (as the case may be) in respect of entry into premises for the purpose of paragraph (1) above.

### **Penalties for failure to comply with these Regulations**

**11.**—(1) Any person who fails to comply with regulation 3(2) above shall be guilty of an offence under these Regulations and may be arrested, and for these purposes section 68(2) of the Customs and Excise Management Act 1979(5) shall not apply.

- (2) A person guilty of an offence under paragraph (1) above shall be liable—
  - (a) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both; or
  - (b) on summary conviction to a fine not exceeding the statutory maximum.

(3) Any person who fails to comply with regulation 7, 9 or 10 above or Article 19(1)(a) or (2) of the Regulation shall be guilty of an offence under these Regulations and shall be liable—

- (a) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both; or

---

(5) 1979 c. 2.

(b) on summary conviction to a fine not exceeding the statutory maximum.

(4) In England and Wales, subsection (2) of section 24 of the Police and Criminal Evidence Act 1984<sup>(6)</sup> shall apply to the offence in paragraph (1) above, which is not an arrestable offence by virtue of the term of imprisonment for which a person may be sentenced in respect of it, as if it was mentioned in that subsection; and accordingly such offence shall be an arrestable offence within the meaning of that Act.

(5) In Northern Ireland, paragraph (2) of Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989<sup>(7)</sup> shall apply to the offence in paragraph (1) above, which is not an arrestable offence by virtue of the term of imprisonment for which a person may be sentenced in respect of it, as if it was mentioned in that paragraph; and accordingly such offence shall be an arrestable offence within the meaning of that Order.

### Customs and Excise

**12.**—(1) Section 138 of the Customs and Excise Management Act 1979 (provision as to arrest of persons) shall apply to the arrest of any person for any offence under regulation 11 above in the event of contravention of regulation 3(2) above as it applies to arrest of any person for any offence under the customs and excise Acts.

(2) Sections 145 to 148 and 150 to 155 of the Customs and Excise Management Act 1979<sup>(8)</sup> (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under these Regulations and proceedings for such offences above as they apply in relation to offences and penalties and proceedings for offences under the customs and excise Acts.

(3) Nothing in subsections (1) to (4) of section 145 of the said Act (institution of proceedings for offences under the customs and excise Acts to be by order of the Commissioners) shall prevent the institution of proceedings by the Secretary of State for an offence of failing to comply with regulation 7, 8, 9 or 10 of these Regulations.

(4) In this regulation, “customs and excise Acts” has the same meaning as in section 1 of the said Act.

### Amendments to the Export of Goods (Control) Order 1994

**13.** The Export of Goods (Control) Order 1994<sup>(9)</sup> shall be further amended as follows:

(a) in article 1(2), after the definition of “software” there shall be inserted the following:

“‘stores’ shall not include any goods to which the Dual-Use and Related Goods (Export Control) Regulations 1995 apply;”;

(b) the following shall be deleted:

(i) in article 1(2), the following definitions: “normal commercial journey” and “scheduled journey”;

(ii) article 1(3)(b);

---

<sup>(6)</sup> 1984 c. 60.

<sup>(7)</sup> S.I. 1989/1341 (N.I. 12).

<sup>(8)</sup> Section 145(6) was amended by the Police and Criminal Evidence Act 1984 (c. 60), section 114(1); section 146(1) was modified by S.I. 1990/2167; section 146A was inserted by the Finance Act 1989 (c. 26), section 16(1) and (4); section 147(1) was repealed by the Finance Act 1989 (c. 26), section 16(2) and (4), section 187(1) and Schedule 17, Part I; section 147(2) was amended by the Magistrates' Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 176; section 147(5) was repealed by the Criminal Justice Act 1982 (c. 48), section 77 and Schedule 14, paragraph 42 and section 78 and Schedule 16; section 148 was extended by S.I. 1993/1813; section 151 was amended by the Magistrates' Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 177; section 153(4) was inserted by the Finance Act 1981 (c. 35), section 11(1) and Schedule 8, Part I, paragraph 9; section 154(2) was modified by S.I. 1990/2167.

<sup>(9)</sup> S.I. 1994/1191, as amended by S.I. 1994/1632, 2518 and 2711.

---

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

---

- (iii) in article 3, sub-paragraphs (b), (c)(ii) and (d)(iii); and
- (iv) in Schedule 1, in the Contents the references to Part II and Groups 2 and 3 of Part III, Part II and Groups 2 and 3 of Part III.

**Saving for export licences for dual use goods granted under the Export of Goods (Control) Order 1994**

**14.** Nothing in these Regulations shall affect any licence for the export of dual-use goods granted by the Secretary of State in pursuance of article 3(a) of the Export of Goods (Control) Order 1994 or having effect as if so granted and which is in force on the date these Regulations come into force.

*Ian Taylor*  
Parliamentary Under Secretary of State for Trade  
and Technology  
Department of Trade and Industry

4th February 1995