

**EXPLANATORY MEMORANDUM TO
THE EXPORT OF GOODS, TRANSFER OF TECHNOLOGY AND
PROVISION OF TECHNICAL ASSISTANCE (CONTROL)(AMENDMENT)
ORDER 2008**

2008 No. 1281

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty.

2. Description

2.1. The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control)(Amendment) Order 2008 (“the Order”) amends the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (“the 2003 Order”). The principal change is the substitution of Schedule 1 as a consequence of changes agreed by the United Kingdom as a member State of the Wassenaar Arrangement, which is an international non-proliferation regime.

2.2 Other amendments include the removal of the transit exemption that currently applies in relation to the export of “sting sticks” and the adoption of controls on the export of submersible vehicles to Iran.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None.

4. Legislative Background

4.1 Article 11 of the 2003 Order contains a general transit exemption. Where goods enter the UK temporarily en route to somewhere else, they do not normally need an export licence to leave. However, there are exceptions to this, covering in particular certain equipment used for torture. We have decided that, logically, the transit exemption should not apply to the “sting sticks” brought under control by the Export Control (Security and Para-military Goods) Order 2008 (“the 2008 Order”). Article 2(1) of the Order makes the appropriate amendment.

4.2 Schedule 1 to the 2003 Order contains definitions and a schedule of goods, software and technology. The schedule is based on internationally agreed control lists but a number of items have been added to satisfy domestic public policy or national security concerns. Following changes agreed by Member States of the non-proliferation regimes it is necessary, in order to meet our international obligations as a Member State of the regimes, to amend the entries in Schedule 1. Article 2(2) of the Order substitutes Schedule 1 to the 2003 Order.

4.3 Schedule 2 to the 2003 Order prohibits the export or transfer of certain dual-use goods, software and technology to certain countries. Article 2(3) of the Order makes amendments to Schedule 2 to the 2003 Order to strengthen controls on Iran.

4.4 Schedule 5 to the 2003 Order contains a list of amendments to the EC Council Regulation governing the export of goods which can be used for civilian or military purposes. The list is updated to ensure that national export control legislation works by reference to the updated text of the Regulation. Article 2(4) of the Order updates the list. The 2007 amending Regulation referred to there contains an amended list of controlled items.

5. Extent

5.1. This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 The Government's policy is to make provisions for the control of goods and technology agreed by the UK as a member State of the international non-proliferation regimes by means of national legislation in a timely and appropriate manner.

7.2 As regards the changes to national controls:

(a) The Government considers that "sting sticks" are, by their nature, designed for the purposes of torture or similar inhumane acts and have no other legitimate use. The Government therefore believes that, in common with other equipment of a similar nature, the UK should apply the most stringent level of controls on the export and trading of "sting sticks". Most of this policy has already been implemented by the 2008 Order. The Order completes the process;

(b) The changes to Schedule 2 strengthen controls on Iran in line with current national policy.

7.3 Although there would normally be public and media interest shown in relation to Government policy on military exports, there is little or no public interest in these amendments which merely implement a series of minor changes already agreed internationally or are minor and technical and are neither politically or legally important.

7.4 There have been numerous amendments to the 2003 Order and it is intended to consolidate when we legislate in response to the 2007 review of export controls (this is expected to be in late autumn 2008).

8. Impact

8.1. A Regulatory Impact Assessment has not been prepared for this instrument as it has no or minimal impact on business, charities or voluntary bodies.

8.2. There is no or minimal impact on the public sector.

9. Contact

9.1. Jim Bouttell at the Department for Business, Enterprise and Regulatory Reform, Tel: 020 7215 4648, or email: jim.bouttell@berr.gsi.gov.uk can answer any queries regarding this instrument.

DEPARTMENT FOR BUSINESS, ENTERPRISE AND REGULATORY REFORM