

**EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (AMENDMENT) ORDER 2009**

2009 No. 1305

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 Control (Amendment) Order 2009 (“the Order”) amends the Export Control Order 2008 (“the 2008 Order”). The principal change is the substitution of entry ML9 of Schedule 2 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 addition of certain weapons sights into the trade controls for Category B in Part 2 of Schedule 1 and the addition of Angola and Namibia to the list of destinations in Part 4 of Schedule 4 .

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

3.1. None.

4. Legislative Background

4.1 Schedule 2 to the 2008 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 ML9 of Schedule 2. Article 4 of the Order substitutes ML9 to the 2008 Order.

4.2 The 2008 Order introduced stricter controls on trading in light weapons. However, the coverage for weapon sights was only partial. In particular, certain weapon sights designed to fit a wide range of small arms and light weapons fall within entry ML5 on the Military List, and were not previously covered. Article 3 of the Order deals with this potential loophole by amending the list of “category B goods” in Part 2 of Schedule 1 to the 2008 Order.

4.3 Changes are also made to Part 4 of Schedule 4 to the 2008 Order. Where goods enter the UK temporarily en route to somewhere else, they do not normally need a licence to leave. However, a licence is required for some destinations and Part 4 of Schedule 4 is a list of destinations for which a licence is required where certain sensitive goods (including small arms and light weapons) are being moved. Article 5 of the Order adds Angola and Namibia to this list as they are countries of concern for small arms and light weapons.

4.4 The remaining amendment (in article 2 of the Order) relates to article 35 of the 2008 Order, which creates offences relating to breach of Council Regulation (EC) No 1334/2000. It corrects a misleading description of a provision of that Regulation.

5. Territorial Extent and Application

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

- *What is being done and why*

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, the Government considers that it is necessary to:

- (a) extend trade controls to include certain additional weapon sights which are designed for small arms and light weapons for consistency purposes; and
- (b) add additional countries to the list of those subject to enhanced transit controls, because they are already treated, in issuing export licences, as destinations of concern for small arms and light weapons.

- *Consolidation*

7.3 No consolidation of the 2008 Order is planned.

8. Consultation outcome

8.1. This is set of purely technical amendments so no consultation was necessary.

9. Guidance

9.1. As these are technical amendments no guidance is necessary, although a Notice to Exporters explaining the amendments will be published.

10. Impact

10.1. The impact on business, charities or voluntary bodies is minimal.

10.2. The impact on the public sector is minimal.

10.3. An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1. This legislation applies to small business.

12. Monitoring & Review

12.1. None.

13. Contact

13.1. 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

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