
STATUTORY INSTRUMENTS

2018 No. 578

The Enterprise Act 2002 (Share of
Supply Test) (Amendment) Order 2018

Relevant enterprises

4. After section 23 insert—

“Relevant enterprises

23A.—(1) In section 23 “relevant enterprise” means an enterprise the activities of which consist in or include—

- (a) developing or producing restricted goods;
- (b) holding information (including but not limited to information comprised in software and documents such as blueprints, manuals, diagrams and designs) that—
 - (i) is capable of use in connection with the development or production of restricted goods; and
 - (ii) is responsible for achieving or exceeding the performance levels, characteristics or functions of the restricted goods that are specified in the relevant export control legislation;
- (c) owning, creating or supplying intellectual property relating to the functional capability of—
 - (i) computer processing units;
 - (ii) the instruction set architecture for such units;
 - (iii) computer code that provides low level control for such units;
- (d) designing, maintaining or providing support for the secure provisioning or management of—
 - (i) roots of trust of computer processing units;
 - (ii) computer code that provides low level control for such units;
- (e) research into—
 - (i) quantum computing or simulation;
 - (ii) quantum imaging, sensing, timing or navigation;
 - (iii) quantum communications; or
 - (iv) quantum resistant cryptography;
- (f) developing or producing anything designed for use in—
 - (i) quantum computing or simulation;
 - (ii) quantum imaging, sensing, timing or navigation;
 - (iii) quantum communications; or

- (iv) quantum resistant cryptography;
- (g) supplying services employing—
 - (i) quantum computing or simulation;
 - (ii) quantum imaging, sensing, timing or navigation;
 - (iii) quantum communications; or
 - (iv) quantum resistant cryptography.
- (2) In this section—
 - “intellectual property” means—
 - (a) any patent, trade mark, registered design, copyright or design right,
 - (b) any right under the law of a country or territory outside the United Kingdom corresponding to, or similar to, a right within paragraph (a), or
 - (c) any information or technique not protected by a right within paragraph (a) or (b) but having industrial, commercial or other economic value;
 - “quantum communications”—
 - (a) means the transmission of information, utilising the properties of quantum mechanics, in particular superposition or entanglement, and
 - (b) includes the establishment of cryptographic keys and the generation of true random numbers using a quantum physical process;
 - “quantum computing or simulation” means the study, simulation or realisation of systems that utilise certain properties of quantum mechanics, in particular superposition or entanglement, to process information, run algorithms or perform operations on data;
 - “quantum imaging” means utilising certain properties of quantum mechanics, in particular superposition or entanglement, to create images of objects with a resolution or other imaging criteria that is beyond what is possible in non-quantum optics;
 - “quantum navigation” means utilising certain properties of quantum mechanics, including measurements of suspensions of atoms or ions, to establish the location or movement of objects with a resolution or sensitivity that is beyond what is possible in non-quantum devices or systems;
 - “quantum resistant cryptography” means methods of securing information or data being transmitted or stored, including by non-quantum means, with a view to resisting attack by a quantum computer;
 - “quantum sensing” means utilising certain properties of quantum mechanics, including measurements of suspensions of atoms or ions, to determine a property or rate of change in the property of an object, or the effect of an object on a measurable quantity, with a resolution or sensitivity that is beyond what is possible in non-quantum devices or systems;
 - “quantum timing” means utilising certain properties of quantum mechanics, including measurements of suspensions of atoms or ions, to provide a timing signal with a resolution or sensitivity that is beyond what is possible in non-quantum devices or systems;
 - “relevant export control legislation” means—
 - (a) Schedules 2 and 3 to the Export Control Order 2008(1);

(1) S.I. 2008/3231; Schedule 2 was substituted by S.I. 2017/85 and subsequently amended by S.I. 2017/697 and Schedule 3 was substituted by S.I. 2010/2007 and subsequently amended by S.I. 2012/1910, S.I. 2014/1069, S.I. 2015/940 and S.I. 2017/85.

- (b) the Schedule to the Export of Radioactive Sources (Control) Order 2006⁽²⁾;
- (c) Annex I to Council Regulation (EC) No. 428/2009⁽³⁾;

“restricted goods” means goods, software or information the export or transfer of which is controlled by virtue of their being specified in the relevant export control legislation but excluding any goods, software or information which are controlled only to the extent that they are prohibited from being exported or transferred to one country only;

“roots of trust”—

- (a) means hardware, firmware, or software components that are inherently trusted to perform critical security functions, and
- (b) includes cryptographic key material bound to a device that can identify the device or verify a digital signature to authenticate a remote entity.”.

⁽²⁾ S.I. 2006/1846.

⁽³⁾ OJ No L 134, 29.5.2009, p. 1, as last amended by Commission Delegated Regulation (EU) 2017/2268 (OJ No L 334, 15.12.2017, p. 1).