
STATUTORY INSTRUMENTS

2003 No. 2764

**Export of Goods, Transfer of Technology and Provision
of Technical Assistance (Control) Order 2003**

PART V

LICENCES AND PERMITS

Licences

12.—(1) The Secretary of State may grant licences and Community Licences.

(2) Subject to Article 6(1) of the Regulation, a Community Licence is the authorisation required by—

- (a) Article 3(1) of the Regulation for the exportation or transfer from the European Community of any goods, software or technology specified in Annex I to the Regulation; or
- (b) Article 4(1), (2) and (3) of the Regulation for the exportation or transfer from the European Community, in the circumstances respectively described in those paragraphs, of any goods, software or technology not listed in Annex I to the Regulation.

(3) A licence granted by the Secretary of State is the authorisation required by Article 21(1) of the Regulation for the exportation or transfer from the United Kingdom to another Member State of any goods, software or technology specified in Annex IV to the Regulation.

(4) Any licence or Community Licence granted or issued by the Secretary of State in pursuance of this Order, may be—

- (a) either general or individual,
- (b) limited so as to expire on a specified date unless renewed, and
- (c) subject to, or without, conditions and any such condition may require any act or omission before or after the doing of the act authorised under that licence or Community Licence.

(5) Any licence or Community Licence granted under this Order, may be amended, suspended or revoked by the Secretary of State at any time and in such circumstances and on such terms as he thinks fit by serving notice to that effect on the holder of the licence or Community Licence.

(6) For the purposes of articles 3(2), (3), 4(5) and 5(2) of this Order but subject to paragraph (7) below, the exportation of goods to any destination outside the European Community shall be regarded as being under the authority of a licence granted by the Secretary of State to, or for the benefit of, a particular person only if—

- (a) he is the person on whose behalf the exportation declaration is made; and
- (b) he is established within the European Community and either—
 - (i) he is the owner of the goods or has a similar right of disposal over them; or
 - (ii) if no person who is the owner of the goods or has a similar right of disposal over them, is established within the European Community, he is a party to one or more

contracts under which ownership of the goods or a similar right of disposal over them has passed to a person not established within the European Community and pursuant to which the goods are to be, are being or have been exported from the European Community.

(7) Paragraph (6) does not apply if no person falls within sub-paragraph (b) of that paragraph or if the exportation is of goods imported into the United Kingdom for transit or transshipment in respect of which the conditions in article 11(12) of this Order are met.

Registration with the Secretary of State

13.—(1) Not later than 30 days after—

- (a) any person first does any act under the authority of—
 - (i) any general licence or Community Licence granted by the Secretary of State that does not provide otherwise,
 - (ii) any individual licence granted under article 4 or 5 by the Secretary of State that does not provide otherwise, or
- (b) any person established in the United Kingdom first does any act under the authority of the Community General Export Authorisation,

the person in question shall give to the Secretary of State written notice of his name and the address at which copies of the records referred to in article 14(1) of this Order may be inspected by any person authorised by the Secretary of State or the Commissioners under article 14(4) of this Order.

(2) A person who has given to the Secretary of State written notice of particulars under paragraph (1) shall, not later than 30 days after any change in those particulars, give to the Secretary of State written notice of the changed particulars.

(3) Not later than 30 days after the first exportation or transfer of any goods, software or technology specified in Part 2 of category 5 in Annex I to the Regulation but not specified in Part I of Schedule 4 to this Order from the United Kingdom under the authority of the Community General Export Authorisation by any person, he shall (in addition to any notice given under paragraph (1)) give to the Secretary of State in relation to those goods or that software or technology written notice of such of the information specified in Part II of Schedule 4 to this Order as is in his possession and such other information as he can reasonably be expected to obtain within that time.

(4) A person who has given to the Secretary of State written notice of information under paragraph (3) shall, not later than 30 days after any change in that information, give to the Secretary of State written notice of the changed information.

Record keeping and inspection

14.—(1) Any person acting under the authority of any general licence granted under this Order shall keep detailed registers or records.

(2) The registers or records shall contain sufficient detail as may be necessary to allow the following information, where appropriate, to be identified—

- (a) a description of the goods that have been exported or the software or technology that has been transferred;
- (b) the date of the exportation or transfer;
- (c) the quantity of the goods;
- (d) the name and address of the person referred to in paragraph (1);
- (e) the name and address of any consignee of the goods;

- (f) in so far as it is known to the person referred to in paragraph (1) the name and address of the end-user of the goods, software or technology; and
- (g) any further information required to be kept by the competent authority who has authorised the exportation or transfer.

(3) Any person established in the United Kingdom who exports any goods or transfers any software or technology from the European Community under the authority of a Community Licence, and any such person who exports any goods or transfers any software or technology from the United Kingdom under the authority of the Community General Export Authorisation shall keep detailed registers or records to allow the information specified in paragraph (2) to be identified.

(4) The register or records referred to in paragraphs (1) and (3) shall be kept for at least 3 years from the end of the calendar year in which the authorised act took place and the person referred to in paragraphs (1) and (3) shall permit any such registers or records to be inspected and copied by any person authorised by the Secretary of State or the Commissioners.

(5) Any person who has been granted a Community Licence under this Order in relation to the exportation or transfer from the European Community of any goods, software or technology shall, upon request in writing by the Secretary of State or the Commissioners, produce any registers or records he may hold that relate to the application for that Community Licence and any such register or records shall be kept for at least 3 years from the end of the calendar year in which the authorised act took place and he shall permit any such registers or records to be inspected or copied by any person authorised by the Secretary of State or the Commissioners.

(6) Any person authorised by the Secretary of State or the Commissioners shall have the right, on producing, if required to do so, a duly authenticated document showing his authority, at any reasonable hour to enter—

- (a) for the purpose of paragraph (4), the premises of the address which has most recently been notified to the Secretary of State under article 13; or
- (b) for the purpose of paragraph (5), any premises the address of which has been notified for this purpose by the licence holder to a competent authority when applying for a licence.

(7) Where the registers or records required to be maintained under this article are kept in a form which is not legible the exporter or transferor shall at the request of the person authorised by the Secretary of State or the Commissioners, reproduce such registers or records in a legible form.

(8) The documents and the records to be kept in accordance with Article 21(5) of the Regulation shall be the registers or records referred to in paragraph (2)(a) to (g). Paragraphs (6) and (7) and the provision in paragraph (4) relating to inspection and copying shall apply for the production of such documents and records to the competent authorities in accordance with Article 21(5) of the Regulation as they apply in respect of the inspection and copying of records referred to in paragraph (4) or (as the case may be) in respect of entry into premises for the purpose of paragraph (4).

(9) Any person who exports or transfers to another Member State any goods, software or technology listed in Part 2 of category 5 in Annex I to the Regulation but not listed in Annex IV to the Regulation shall maintain registers or records in relation to each such exportation or transfer that contain such of the information specified in Part II of Schedule 4 to this Order as he can reasonably be expected to obtain and such other of that information as comes into his possession. These registers or records shall be kept for at least 3 years from the end of the calendar year in which the authorised act took place, and he shall permit any such registers or records to be inspected and copied by any person authorised by the Secretary of State or the Commissioners. Paragraphs (6) and (7) and the provision in paragraph (4) relating to inspection and copying, shall apply to the production of such documents or records as they apply in respect of registers or records referred to in paragraph (4) or (as the case may be) in respect of entry into premises for the purpose of paragraph (4).

Licence refusals etc. and appeals

15.—(1) In the event that the Secretary of State decides not to grant a licence under this Order to any person who has applied for a licence, he shall be provided with a written notification setting out the reason or reasons for the decision.

(2) In the event that the Secretary of State decides to suspend a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.

(3) In the event that the Secretary of State decides to revoke a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.

(4) Any person who has a licence application refused under this Order or who has a licence suspended or revoked under article 12 of this Order shall have 28 calendar days from the date of the written notification in which to submit an appeal in writing to the Secretary of State, Export Control Organisation, Department of Trade and Industry, 4 Abbey Orchard Street, London SW1P 2HT.

(5) Any appeal submitted under paragraph (4) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(6) Pending determination of any appeal submitted under paragraph (4), any decision taken by the Secretary of State shall continue to have effect.