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STATUTORY INSTRUMENTS

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**2003 No. 2764**

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

**PART VI  
GENERAL**

**Application of the Customs and Excise Management Act 1979**

**21.**—(1) It shall be the duty of the Commissioners to take such action as they consider appropriate to secure the enforcement of the provisions of this Order described in paragraph (3).

(2) It shall be the duty of the Commissioners to take such action as they consider appropriate to secure the enforcement of the Regulation in respect of the export of dual-use goods, software and technology [<sup>F1</sup>and the 2005 Regulation in respect of the export of goods, and the provision of technical assistance as defined in the 2005 Regulation].

(3) The provisions referred to in (1) are articles 3, 4, 5, 6, 7, 8, 9, 10, 17, 18 and 19 but excluding articles 8(1) and 9(3). Article 14 of this Order shall be enforced only insofar as the obligation relates to the powers of the Commissioners.

(4) Sections 145 to 148 and 150 to 152(b) and 153 to 155 of the Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties created under this Order and proceedings for such offences as they apply in relation to offences and penalties and proceedings for offences under the customs and excise Acts.

(5) For the purposes of this Order, offences other than those in respect of which a duty is imposed upon the Commissioners by virtue of paragraph (3) shall not be offences under the customs and excise Acts for the purposes of section 145 of the Customs and Excise Management Act 1979.

[<sup>F2</sup>(6) In the case of any person who is guilty of any offence related to any prohibition or restriction in articles 3, 4 or 5 of this Order, Article 3(1), 4(1), (2), (3) or 21(1) of the Regulation, or Article 3(1) or 5(1) of the 2005 Regulation, sections 68(3)(b) and 170(3)(b) of the Customs and Excise Management Act 1979 shall have effect as if for the words “7 years” there shall be substituted “10 years”.]

(7) Paragraph 6 does not apply in respect of prohibitions or restrictions on the exportation of firearms falling within section 5 of the Firearms Act 1968.

[<sup>F3</sup>(8) Section 138 of the Customs and Excise Management Act 1979 (provision as to arrest of persons) shall apply to any person who has committed, or in respect of whom there are reasonable grounds to suspect of having committed, an offence for which he is liable to be arrested under [<sup>F4</sup>article 16(4), (5) or (5A)] of this Order as that section applies to the arrest of any person for offences for which he is liable to be arrested under the customs and excise Acts.]

[<sup>F5</sup>(9) Section 77A of the Customs and Excise Management Act 1979 (provision as to information powers) shall apply to any person concerned in an activity requiring—

- (a) a licence under this Order for the transfer of software or technology or the provision of technical assistance <sup>F6</sup>...; or
- (b) an authorisation required by Article 3(1) of the 2005 Regulation in respect of technical assistance, as defined in that Regulation;

as it applies to any person who is concerned in the exportation of goods for which an entry is required by or under that Act and accordingly references in section 77A of the Customs and Excise Management Act to goods shall, as the context requires, be read as including software, technology and technical assistance, and references to exportation shall as the context requires, be read as including the transfer of technology or software or the provision of technical assistance.]

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| <b>F1</b> | Words in art. 21(2) inserted (30.7.2006) by <a href="#">The Export Control (Security and Para-military Goods) Order 2006 (S.I. 2006/1696)</a> , arts. 1, <b>8</b>   |
| <b>F2</b> | Art. 21(6) substituted (30.7.2006) by <a href="#">The Export Control (Security and Para-military Goods) Order 2006 (S.I. 2006/1696)</a> , arts. 1, <b>9</b>   |
| <b>F3</b> | Art. 21(8)(9) added (28.3.2005) by <a href="#">The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment) Order 2005 (S.I. 2005/468)</a> , arts. 1, <b>5</b> |
| <b>F4</b> | Words in art. 21(8) substituted (30.7.2006) by <a href="#">The Export Control (Security and Para-military Goods) Order 2006 (S.I. 2006/1696)</a> , arts. 1, <b>10</b>                                     |
| <b>F5</b> | Art. 21(9) substituted (30.7.2006) by <a href="#">The Export Control (Security and Para-military Goods) Order 2006 (S.I. 2006/1696)</a> , arts. 1, <b>11</b>  |
| <b>F6</b> | Words in art. 21(9)(a) repealed (23.8.2006) by <a href="#">The Export Control (Amendment) Order 2006 (S.I. 2006/2271)</a> , arts. 1, <b>5</b>   |

**Changes to legislation:**

There are currently no known outstanding effects for the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003, Section 21.