
STATUTORY INSTRUMENTS

2003 No. 2765

The Trade in Goods (Control) Order 2003

GENERAL

Offences and penalties

9.—(1) Any person who contravenes a prohibition in article 3 or 4 shall be guilty of an offence and liable on summary conviction to a penalty not exceeding level 3 on the standard scale.

(2) Any person knowingly concerned in the supply, delivery, transfer, acquisition or disposal of any restricted or controlled goods with intent to evade any prohibition or restriction in article 3(1) or 4 shall be guilty of an offence.

(3) Any person knowingly concerned in the supply or delivery of any restricted goods with intent to evade any prohibition or restriction in article 3(2) shall be guilty of an offence.

(4) A person guilty of an offence under paragraph (2) or (3) shall be liable—

- (a) on summary conviction to a fine of the prescribed sum or to imprisonment for a term not exceeding 6 months, or to both; or
- (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding 10 years, or to both.

Misleading applications for licences etc.

10.—(1) Where for the purpose of obtaining a licence under this Order any person either—

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

he shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) shall be liable—

- (a) on summary conviction to a fine of the prescribed sum; or
- (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding 2 years, or to both,

and any licence which may have been granted by the Secretary of State in connection with the application for which the false statement was made or the false document or information was furnished shall be void as from the time it was granted.

Failure to comply with licence conditions

11.—(1) Subject to paragraph (3), any person who—

- (a) has done any act under the authority of a licence granted by the Secretary of State under this Order, and
- (b) fails to comply with—

- (i) any conditions attaching to that licence,
 - (ii) any obligation under article 6, or
 - (iii) any obligation under article 7,
- shall be guilty of an offence.
- (2) A person guilty of an offence under paragraph (1) shall be liable—
- (a) on summary conviction to a fine of the prescribed sum; or
 - (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding 2 years, or both.
- (3) No person shall be guilty of an offence under paragraph (1) where—
- (a) the licence condition in question had been previously modified by the Secretary of State; and
 - (b) the alleged failure to comply would not have been a failure had the licence not been so modified; and
 - (c) the condition with which he failed to comply was modified by the Secretary of State after the doing of the act authorised by the licence.

Application of the Customs and Excise Management Act 1979

12.—(1) It shall be the duty of the Commissioners to take such action as they consider appropriate to secure the enforcement of article 3, 4, 10, 11 or any obligation arising under article 7 insofar as the obligation relates to the powers of the Commissioners.

(2) 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 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.

(3) 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 (1) shall not be offences under the customs and excise Acts for the purposes of section 145 of the Customs and Excise Management Act 1979.

Use and disclosure of information

13.—(1) This article applies to information which is held by—

- (a) The Secretary of State, or
- (b) the Commissioners,

in connection with the operation of controls imposed by this Order or by any directly applicable Community provision, on activities which facilitate or are otherwise connected with the supply or delivery of restricted goods or the transfer, acquisition or disposal of controlled goods.

(2) Information to which this article applies may be used for the purposes of, or for any purposes connected with—

- (a) the exercise of functions in relation to any control imposed by this Order or by any other order made under the Act;
- (b) giving effect to any European Community or other international obligation of the United Kingdom;
- (c) facilitating the exercise by an authority or international organisation outside the United Kingdom of functions which correspond to functions conferred by or in connection with any activity subject to control by this Order or any other order made under the Act; and

may be disclosed to any person for use for these purposes.

(3) No disclosure of information shall be made by virtue of this article unless the making of the disclosure is proportionate to the object of the disclosure.

(4) For the purposes of this article, “information” is any information that relates to a particular business or other activity carried on by a person.

(5) Nothing in this article shall be taken to affect any power to disclose information that exists apart from this article.

(6) The information that may be disclosed by virtue of this article includes information obtained before the commencement of this Order.

Service of notices

14. Any notice to be given by any person under this Order may be given by an agent of that person and shall be sent by post or delivered to the Secretary of State at the Export Control Organisation, Department of Trade and Industry, 4 Abbey Orchard Street, London SW1P 2HT.