

2005 No. 3257

CUSTOMS

The Export Control (Uzbekistan) Order 2005

Made - - - - *23 November 2005*

Laid before Parliament *25 November 2005*

Coming into force - - *26 November 2005*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002(a):

1.—(1) This Order may be cited as the Export Control (Uzbekistan) Order 2005 and shall come into force on 26th November 2005.

(2) In this Order—

“the 2003 Order” means the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (b);

“the Regulation” means Council Regulation (EC) No 1859/2005 of 14 November 2005(c); and

“the customs and excise Acts”, “assigned matter” and “prescribed sum” have the same meanings as in section 1 of the Customs and Excise Management Act 1979(d).

2. Any person who, except under the authority of a licence granted under this Order, infringes any of the following prohibitions in the Regulation:

- (a) Article 2(a), prohibiting the sale, supply, transfer or export of equipment, directly or indirectly, as listed in Annex I to the Regulation, whether or not originating in the Community, to any person, entity or body in, or for use in, Uzbekistan;
- (b) Article 2(b), prohibiting the provision of technical assistance, related to the equipment listed in Annex I to the Regulation, directly or indirectly to any person, entity or body in, or for use in Uzbekistan;
- (c) Article 2(c), prohibiting the provision of financing or financial assistance related to the equipment listed in Annex I to the Regulation, directly or indirectly to any person, entity or body in, or for use in Uzbekistan;
- (d) Article 2(d), prohibiting the participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to in Articles 2 (a), (b) or (c) of the Regulation;
- (e) Article 3(a), prohibiting the provision of technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related materials of all types, directly or indirectly to any person, entity or body in, or for use in, Uzbekistan;

(a) 2002 c. 28.

(b) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561, 2004/2741, 2005/232 and 2005/468.

(c) OJ No. L299/23, 16.11.2005

(d) 1979 c.2

- (f) Article 3(b), prohibiting the provision of financing or financial assistance related to military activities for any sale, supply, transfer or export of arms and related materials, or for any provision of related technical assistance and other services, directly or indirectly to any person, body or entity in, or for use in, Uzbekistan; or
- (g) Article 3(c), prohibiting the participation, knowingly or intentionally, in activities the object or effect of which is to promote the transactions referred to in Article 3(a) and (b) of the Regulation,

shall be guilty of an offence and may be arrested.

3. Any person who is knowingly concerned in the transactions set out in article 2 of this Order with intent to evade any prohibition in that article shall be guilty of an offence and may be arrested.

4.—(1) Authorisation for the transactions set out in article 2 shall in the United Kingdom be by way of a licence in writing granted by the Secretary of State.

(2) If, for the purpose of obtaining a licence, any person—

- (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; and any licence granted in connection with the application for which the false statement was made or the false document or information furnished shall be void as from the time it was granted.

(3) Any person who, having acted under the authority of a licence granted under this Order, fails to comply with any of the requirements or conditions to which the licence is subject shall be guilty of an offence, unless—

- (a) the licence had been previously modified by the Secretary of State without that person's consent, and
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified.

5.—(1) A person guilty of an offence under article 2, or article 4(2) or (3) of this Order 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 2 years, or to both.

(2) A person guilty of an offence under article 3 of this Order 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 ten years, or to both.

6.—(1) Where the Commissioners of Revenue and Customs investigate or propose to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under this Order has been committed; or
 - (b) whether a person should be prosecuted for such an offence,
- the matter shall be treated as an assigned matter.

(2) Section 138 of the Customs and Excise Management Act 1979 (provision as to arrest of persons) shall apply to the arrest of any person for any offences under article 2 or 3 of this Order as it applies to the arrest of any person for offences under the customs and excise Acts.

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

(4) Section 77A of the Customs and Excise Management Act (provision as to information powers)(a) shall apply to any person concerned in an activity requiring a licence under this Order as it applies to any person concerned in 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 1979 to exportation shall be read as including any activity requiring a licence under this Order.

7. In Schedule 3 to the 2003 Order, Uzbekistan shall be added, at the appropriate place, to the list of countries and destinations.

8. In the Trade in Controlled Goods (Embargoed Destinations) Order 2004(b), Uzbekistan shall be added at the appropriate place to the list of embargoed destinations in the Schedule.

23 November 2005

Malcolm Wicks
Minister of State for Energy
Department of Trade and Industry

(a) Section 77A was inserted by section 10 of the Finance Act 1987 (c.16) and amended by S.I. 1992/3095.
(b) S.I. 2004/318 as amended by S.I. 2004/1049, 2004/2741 and 2005/232.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in respect of Uzbekistan in consequence of Council Regulation (EC) No 1859/2005 of the 14th November 2005 (“the Regulation”) and the EU Common Position 2005/792/CFSP (OJ L299/72, 16.11.2005) adopted on the 14th November 2005.

The Order provides that breaches of certain provisions of the Regulation are to be criminal offences. Articles 2 and 3 of this Order create offences in respect of the provisions of Articles 2 and 3 of the Regulation. Article 4 provides for the licensing of transactions set out in article 2 of the Order. Articles 5 and 6 provides penalties in respect of criminal offences created by the Order and for their enforcement.

Article 7 adds Uzbekistan to the list of countries and destinations in Schedule 3 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003.

Article 8 adds Uzbekistan to the list of embargoed destinations in the Trade in Controlled Goods (Embargoed Destinations) Order 2004.

A full regulatory impact assessment has not been produced for this instrument as it has minimal impact on the costs of business.

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