
STATUTORY INSTRUMENTS

2008 No. 3231

The Export Control Order 2008

PART 6

OFFENCES, ENFORCEMENT AND PENALTIES

Customs powers relating to dual-use goods

40.—(1) Goods in relation to which a licence has not been granted and which are brought to any place in the United Kingdom for the purpose of being exported may be detained by the proper officer of Her Majesty's Revenue and Customs as if they were liable to forfeiture, if and so long as that officer has reason to believe that [^{F1}the Secretary of State] (after, if necessary, having had the impending exportation brought to [^{F2}the Secretary of State's] attention) might inform the exporter—

(a) that the goods are or may be intended, in their entirety or in part, for WMD purposes; ^{F3}...

[^{F4}(b) as provided in—

(i) Article 4(2) (military end-use control) or (3) (end-use control relating to use in items exported or transferred without authorisation) of the retained dual-use Regulation; or

(ii) Articles 4(1)(b) (military end-use control) or (c) (end-use control relating to use in items exported or transferred without authorisation), 5(1) (cyber-surveillance end-use control) or 10(1) (national control lists pursuant to Article 9) of the EU dual-use Regulation; or]

[^{F5}(c) that the goods are or may be intended, in their entirety or in part, for use by a relevant entity referred to in article 12A (military end-use control supplementing the dual-use Regulation).]

(2) Any goods listed in Annex I to the [^{F6}retained] dual-use Regulation in relation to which a licence has been granted which are brought to [^{F7}any place in Great Britain] for the purpose of being exported to a destination outside the [^{F8}United Kingdom] may be detained by a proper officer of Her Majesty's Revenue and Customs for a period of ten working days as if they were liable to forfeiture where that officer or the Secretary of State has grounds for suspicion that—

(a) relevant information was not taken into account when the licence was granted; or

(b) circumstances have materially changed since the issue of the licence ^{F9}....

[^{F10}(2A) Any dual-use goods in relation to which a licence has been granted which are brought to any place in Northern Ireland for the purpose of being exported to a destination outside the United Kingdom may be detained by a proper officer of Her Majesty's Revenue and Customs for a period of ten working days as if they were liable to forfeiture where that officer or the Secretary of State has—

(a) grounds for suspicion that—

(i) relevant information was not taken into account when the licence was granted;

(ii) circumstances have materially changed since the grant of the licence; or

(b) relevant information regarding the potential application of measures under Article 4(1) of the EU dual-use Regulation.

(2B) For the purposes of paragraph (2A), the period of ten working days shall be extended to 30 working days where the Secretary of State certifies that a request for such an extension in accordance with Article 21(4) (consultation requirement) of the EU dual-use Regulation has been received from the member State which granted the licence.]

(3) In this article, “working day” means a day that is not a Saturday or Sunday, Christmas Day, Good Friday or any day that is a bank holiday under the Banking and Financial Dealings Act 1971^{M1} in the part of the United Kingdom where the goods referred to in paragraph (2) have been detained.

Textual Amendments

- F1** Words in art. 40(1) substituted (31.12.2020) by The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(28)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in art. 40(1) substituted (31.12.2020) by The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(28)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Word in art. 40(1)(a) omitted (19.5.2022) by virtue of The Export Control (Amendment) Order 2022 (S.I. 2022/491), arts. 1(1), **2(7)(a)**
- F4** Art. 40(1)(b) substituted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **10(a)**
- F5** Art. 40(1)(c) inserted (19.5.2022) by The Export Control (Amendment) Order 2022 (S.I. 2022/491), arts. 1(1), **2(7)(c)**
- F6** Word in art. 40(2) inserted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **10(b)(i)**
- F7** Words in art. 40(2) substituted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **10(b)(ii)**
- F8** Words in art. 40(2) substituted (31.12.2020) by The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(28)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in art. 40(2)(b) omitted (31.12.2020) by virtue of The Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137), regs. 1, **4(28)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Art. 40(2A)(2B) inserted (7.12.2022) by The Export Control (Amendment) (EU Exit) Regulations 2022 (S.I. 2022/1300), regs. 1(1), **10(c)**

Marginal Citations

- M1** 1971 c. 80.

Changes to legislation:

There are currently no known outstanding effects for the The Export Control Order 2008, Section 40.