
STATUTORY INSTRUMENTS

2008 No. 3231

The Export Control Order 2008

PART 1 U.K.

INTRODUCTORY

Citation and commencement U.K.

1. This Order may be cited as the Export Control Order 2008 and shall come into force on 6th April 2009.

Interpretation U.K.

2.—(1) In this Order, the following expressions have the meanings given below, save where an expression is also defined in a Schedule where it has, for the purposes of that Schedule, that meaning—

“aircraft” means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing vehicle or helicopter;

“category A goods” means goods specified in Part 1 of Schedule 1;

“category B goods” means goods specified in Part 2 of Schedule 1;

“category C goods” means—

- (a) military goods other than goods specified in Schedule 1;
- (b) portable devices for the purpose of riot control or self-protection by the administration or dissemination of an incapacitating chemical substance;
- (c) pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4);
- (d) oleoresin capsicum (OC) (CAS 8023-77-6);

“CEMA” means the Customs and Excise Management Act 1979 ^{M1};

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“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

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“contract promotion activity” means any act calculated to promote the arrangement or negotiation of a contract for the acquisition, disposal or movement of goods or any agreement to do such an act;

“country” includes territory;

“the customs and excise Acts” has the same meaning as in section 1 of CEMA;

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“dual-use” in relation to goods, software or technology, means usable for both civil and military purposes;

[^{F6}“the dual-use Regulation”, in relation to—

- (a) England and Wales and Scotland, means the retained dual-use Regulation;
- (b) Northern Ireland, means the EU dual-use Regulation;]

“embargoed destination” means a country listed in Part 1 or 2 of Schedule 4;

^{F7} ...

[^{F8}“the EU dual-use Regulation” means Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast) as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;]

[^{F8}“exportation” shall be construed as follows—

- (a) unless the context otherwise requires, it only includes removal from the United Kingdom to a destination outside the United Kingdom and the Isle of Man;
- (b) it includes shipment as stores;
- (c) in relation to a vessel, vehicle, submersible vehicle or aircraft, it includes taking it out of the United Kingdom, notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power

and cognate expressions shall be construed accordingly;

^{F9} ...

“general” in relation to a licence, means not granted to a particular person but available for use generally;

[^{F10}“general export authorisation” means—

- (a) in relation to England and Wales and Scotland, a retained general export authorisation within the meaning given in Article 2(9) of the retained dual-use Regulation;
- (b) in relation to Northern Ireland, a Union general export authorisation within the meaning given in Article 2(15) of the EU dual-use Regulation;]

“goods subject to trade controls” means goods that are category A goods, category B goods or category C goods.

“importation” in relation to a vessel, vehicle, submersible vehicle or aircraft means taking it into the United Kingdom, notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power and cognate expressions shall be construed accordingly;

[^{F11}“individual” in relation to a licence, means granted to a particular person;]

^{F12} ...

“licence” except in article 45(2), means a UK licence or an authorisation granted under the dual-use Regulation or the torture Regulation;

“licence user” means a person who is registered under article 28 to use a general licence or who is entitled to use a general licence without registration owing to the terms of that general licence;

“microprogramme” means a sequence of elementary instructions, maintained in a special storage, the execution of which is initiated by the introduction of its reference instruction into an instruction register;

“military” in relation to goods, software and technology, means listed in Schedule 2;

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“payment” includes a payment in money or money's worth or in kind whether referable to a particular act or made from time to time but does not include a payment made by way of wages or salary;

“programme” means a sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer;

“proper” has the same meaning as in CEMA;

“in the public domain” means available without restriction upon further dissemination (no account being taken of restrictions arising solely from copyright);

[^{F14}“the retained dual-use Regulation” means Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (Recast);]

“scheduled journey” means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service operated in such a manner that its benefits are available to members of the public from time to time seeking to take advantage of it;

“shipment” (and cognate expressions) and “stores” have the same meanings as in CEMA;

“software” means one or more programmes or microprogrammes fixed in any tangible medium of expression;

“surface effect vehicle” means any air cushion vehicle (whether side wall or skirted) and any vehicle using the wing-in-ground effect for positive lift;

“technical assistance” means any technical support related to repairs, development, manufacture, assembly, testing, use, maintenance or any other technical service;

“technology” means information (including but not limited to information comprised in software and documents such as blueprints, manuals, diagrams and designs) that is capable of use in connection with the development, production or use of any goods;

“a third country” means any country that is not the United Kingdom or the Isle of Man except that, for the purposes of Part 4 of this Order, goods that are goods in transit are considered to be located in a third country;

[^{F15}“the torture Regulation”, in relation to—

- (a) England and Wales and Scotland, means Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment;
- (b) Northern Ireland, means Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;]

“transfer”, in relation to software or technology, means transfer by electronic or non-electronic means (or any combination of electronic and non-electronic means) from a person or place within the United Kingdom to a person or place outside the United Kingdom, except in articles 10 and 11 where the limitations as to the origin and destination of the transfer do not apply, and cognate expressions shall be construed accordingly;

[^{F16}“transfer by electronic means”, in relation to software and technology, means transmission by facsimile, telephone or other electronic media, and includes the transmission of technology by describing it orally over the telephone;]

“transfer by non-electronic means”, in relation to software or technology, means disclosure of software or technology by any means (or combination of means), including oral communication, other than as the exportation of goods or the transfer by electronic means;

“in transit” means imported into the United Kingdom for transit or transhipment;

“transit or transhipment”, in relation to goods, means transit through the United Kingdom or transhipment with a view to re-exportation of the goods or transhipment of the goods for use as stores;

“UK controlled” in relation to dual-use goods, software and technology, means listed in Schedule 3;

“UK licence” means a licence in writing granted by the Secretary of State that authorises an act or acts that would otherwise be prohibited by this Order;

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“vehicle” includes a railway carriage;

“vessel” includes any ship, surface effect vehicle, vessel of small waterplane area or hydrofoil, and the hull or part of the hull of a vessel;

“WMD purposes” means use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons.

(2) Except in the definition of category C goods, tangible storage media on which military or dual-use software or technology is recorded are taken to be military or dual-use goods respectively.

(3) Any reference in this Order to time after an event is a reference to a period of that length of time beginning on the day of that event.]

Textual Amendments

- F1** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(2)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in art. 2(1) omitted (10.8.2012) by virtue of [The Export Control \(Amendment\) \(No. 2\) Order 2012 \(S.I. 2012/1910\)](#), arts. 1, 2, **Sch. para. 1(b)**
- F3** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(2)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(2)(a)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(2)(a)(iv)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in art. 2(1) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **3(a)**
- F7** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(2)(a)(v)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in art. 2(1) inserted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **3(b)**
- F9** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/137\)](#), regs. 1, **4(2)(a)(vi)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in art. 2(1) substituted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1300\)](#), regs. 1(1), **3(c)**
- F11** Words in art. 2(1) inserted (10.8.2012) by [The Export Control \(Amendment\) \(No. 2\) Order 2012 \(S.I. 2012/1910\)](#), arts. 1, 2, **Sch. para. 1(e)**

- F12** Words in art. 2 omitted (5.3.2018) by virtue of [The Export Control \(Amendment\) Order 2018](#) (S.I. 2018/165), arts. 1, 2
- F13** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/137), regs. 1, **4(2)(a)(vii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in art. 2(1) inserted (7.12.2022) by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2022](#) (S.I. 2022/1300), regs. 1(1), **3(d)**
- F15** Words in art. 2(1) substituted (31.12.2020) by S.I. 2019/137, regs. 1, **4(2)(d)** (as substituted by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1502), regs. 2(3), **7(2)(b)**); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in art. 2(1) substituted (27.8.2009) by [The Export Control \(Amendment\) \(No. 3\) Order 2009](#) (S.I. 2009/2151), art. 1, **Sch. para. 1(d)**
- F17** Words in art. 2(1) omitted (31.12.2020) by virtue of [The Export Control \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/137), regs. 1, **4(2)(a)(viii)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M1** 1979 c. 2.

[^{F18}Crown application **U.K.**

2A.—(1) The following articles bind the Crown—

- (a) article 4 (movement of UK controlled dual-use goods, etc. to certain destinations);
 - (b) article 6 (WMD purposes end-use control supplementing the dual-use Regulation);
 - [^{F19}(c) article 8 (transit controls supplementing the dual-use Regulation);
 - (d) article 42L (export and transfer control in relation to Northern Ireland: dual-use goods, software, and technology); and
 - (e) article 42S (export control in relation to Northern Ireland: leg irons, gang chains, and portable electric shock devices).]
- (2) The Crown is not criminally liable as a result of a contravention of any of those articles.
- (3) Paragraph (2) does not affect the application of those articles to persons in the public service of the Crown.]

Textual Amendments

- F18** [Art. 2A](#) inserted (10.8.2012) by [The Export Control \(Amendment\) \(No. 2\) Order 2012](#) (S.I. 2012/1910), arts. 1, 2, **Sch. para. 2**
- F19** [Art. 2A\(1\)\(c\)-\(e\)](#) substituted (31.12.2020) by S.I. 2019/137, regs. 1, **4(3)** (as substituted by [The Export Control \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1502), regs. 2(3), **7(3)**); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the The Export Control Order 2008, PART 1.