

2022 No. 1042

CUSTOMS

TRADE

The Export Control (Amendment) (No. 2) Order 2022

<i>Made</i> - - - -	<i>12th October 2022</i>
<i>Laid before Parliament</i>	<i>13th October 2022</i>
<i>Coming into force</i> - -	<i>3rd November 2022</i>

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

Citation, commencement and extent

1. This Order may be cited as the Export Control (Amendment) (No. 2) Order 2022 and comes into force on 3rd November 2022.

2. This Order extends to England and Wales, Scotland and Northern Ireland.

Amendments to the Export Control Order 2008

3.—(1) Schedule 2 (military goods, software and technology) to the Export Control Order 2008(b) is amended as follows.

(2) Under the heading “Definitions”, omit the definition of “special gun-mounting”.

(3) For entry ML1.d., substitute—

“d. Accessories designed for firearms specified in ML1.a., ML1.b. or ML1.c., as follows:

1. Detachable cartridge magazines;
2. Sound suppressors or moderators;
3. ‘Gun-mountings’;

Technical Note: For the purposes of ML1.d.3., a ‘gun-mounting’ is a fixture designed to mount a gun onto a ground “vehicle”, “aircraft”, “vessel” or structure.

4. Flash suppressors;

(a) 2002 c. 28; see section 11 of this Act for defined terms used in these provisions. Sections 1(5), 2(5), 5(2) and 7(2) were amended by article 6(2)(c) of S.I. 2011/1043; section 5(3) was amended by regulation 2(2) of S.I. 2019/771, as amended by regulation 9(a) of S.I. 2020/1502; section 11 was amended by regulation 2(3) of S.I. 2019/771, as amended by regulation 9(b) of S.I. 2020/1502.

(b) S.I. 2008/3231; relevant amending instruments are S.I. 2017/85, S.I. 2017/697, S.I. 2018/165, S.I. 2018/939, S.I. 2019/137, S.I. 2019/989 and S.I. 2021/586.

5. Optical weapon-sights with electronic image processing;
6. Optical weapon-sights specially designed for military use.”.

(4) In entry ML5, for the words before paragraph a., substitute—

“Fire control, surveillance and warning equipment, and related systems, test and alignment and countermeasure equipment, as follows, specially designed for military use, and specially designed components and accessories therefor:”.

(5) For entry ML5.b., substitute—

- “b. Other fire control, surveillance and warning equipment, and related systems, as follows:
1. Target acquisition, designation, range-finding, surveillance or tracking systems;
 2. Detection, recognition or identification equipment;
 3. Data fusion or sensor integration equipment;”.

(6) In entry ML6, before paragraph a., for “*N.B.*” substitute “*N.B.:*”.

(7) In entry ML6.a.,—

- (a) omit the Technical Note;
- (b) for the Note, substitute—

“Note 1: ML6.a. includes trailers.

Note 2: In ML6.a. modification of a ground “vehicle” for military use entails a structural, electrical or mechanical change involving one or more specially designed military components.”.

(8) In entry ML8.a.6., for “FOX7” substitute “FOX-7”.

(9) After entry ML8.a.42., before the Note, insert—

“43. TKX-50 (Dihydroxylammonium 5,5’-bistetrazole-1,1’-diolate).”.

(10) Before entry ML8.d., insert—

“Note: ML8.c.12. includes thermites.”.

(11) After entry ML9.a.1., insert—

“Note: ML9.a.1. includes vehicles specially designed or modified for delivery of divers.”.

(12) In entry ML9.a.2., for “other than those” substitute “not”.

(13) After entry ML10.a., insert—

“Note: ML10.a. does not control “aircraft” or “lighter-than-air vehicles” meeting all of the following descriptions:

- a. were first manufactured before 1946;*
- b. do not incorporate items specified in this Schedule unless the items are required to meet safety or airworthiness standards; and*
- c. do not incorporate weapons specified in this Schedule,*

unless they have been rendered inoperable and incapable of being returned to operation, including:

1. *in the case of firearms to which the “Deactivation Regulation” applies, by having been deactivated and marked in accordance with the technical specifications set out in Annexes I and II to that Regulation;*
2. *in the case of firearms to which the “Deactivation Regulation” does not apply, by bearing a mark and being certified as having been rendered incapable of discharging any shot, bullet or other missile in accordance with section 8 of the Firearms (Amendment) Act 1988.(a)”.*

(14) After entry ML10.d., insert—

“Note: ML10.d. does not apply to propulsion aero-engines that were first manufactured before 1946.”.

(15) For the Technical Note to entry ML10.f., substitute—

“Note: ML10.f. includes pressure refuelling equipment and equipment designed to facilitate operations in confined areas, including equipment located on board a ship.”.

(16) Omit the Note after entry ML10.i..

(17) In entry ML13, in the words before paragraph a., for “goods and constructions”, substitute “goods, constructions, components and accessories”.

(18) In entry ML13.a.2., for the N.B., substitute—

“N.B.: For body armour plates, see ML13.d.2..”.

(19) For entry ML13.c., including the Note and the N.B., substitute—

“c. Helmets and specially designed components and accessories therefor, as follows:

1. Helmets manufactured according to military standards or specifications, or comparable national standards;
2. Shells, liners, or comfort pads, specially designed for helmets specified in ML13.c.1.;
3. Add-on ballistic protection elements, specially designed for helmets specified in ML13.c.1..

Note 1: ML13.c. does not control helmets that meet all of the following:

- a. *Were first manufactured before 1970;*
- b. *Are neither designed or modified to accept, nor equipped with items specified in this Schedule.*

Note 2: ML13.c. does not control individual helmets when accompanying their users.

N.B.: Military high altitude parachutists’ protective headgear is controlled in ML10.h.3..”.

(20) For entry ML17.g., substitute—

- “g. Nuclear power generating equipment or propulsion equipment, not specified elsewhere in this Schedule, specially designed for military use and components therefor, specially designed or modified for military use;
Note: ML17.g. includes “nuclear reactors”.”

(21) In entry ML17.h., for “other than those” substitute “not”.

(22) In entry ML17.m., for “other than those” substitute “not”.

(23) In entry ML18.b., after “therefor,”, insert “not specified elsewhere in this Schedule.”

(24) In entry ML21.c., for “*N.B.*” substitute “*N.B.:*”.

Signed by authority of the Secretary of State for International Trade

James Duddridge
Minister of State

12th October 2022

Department for International Trade

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Export Control Order 2008 (S.I. 2008/3231) (“the 2008 Order”).

Article 3 amends Schedule 2 to the 2008 Order, which lists military goods, software and technology subject to export controls (“the UK list”). The content of the UK list reflects both domestic controls and an international export regime known as the Wassenaar Arrangement. Amendments to the Wassenaar Arrangement munitions list were most recently agreed in December 2021. The amendments to Schedule 2 reflect those changes, including by inserting a new definition and notes.

The amendments also implement the changes to Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1) (“Directive 2009/43/EC”) by Commission Delegated Directive (EU) 2021/1047 of 5 March 2021 amending Directive 2009/43/EC of the European Parliament and of the Council as regards the updating of the list of defence-related products in line with the updated Common Military List of the European Union of 17 February 2020 (OJ L 225, 25.6.2021, p. 69). Directive 2009/43/EC continues to apply to and in the United Kingdom in respect of Northern Ireland by virtue of Articles 5(4) and 13(3) of, and Annex 2 to, the Protocol on Ireland/Northern Ireland in the European Union withdrawal agreement.

The amendments also address minor drafting errors and preferences.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. An Explanatory Memorandum is available from the Export Control Joint Unit, Old Admiralty Building, London SW1A 2DY; it is also published alongside the instrument at www.legislation.gov.uk. In addition, a copy has been placed in the Libraries of both Houses of Parliament.

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