
STATUTORY INSTRUMENTS

2022 No. 491

The Export Control (Amendment) Order 2022

Amendments to the Export Control Order 2008

- 2.—(1) The Export Control Order 2008⁽¹⁾ is amended as follows.
- (2) In article 9A, after “3 to 9” insert “or 12A”.
- (3) After article 12, insert—

“Military end-use control supplementing the dual-use Regulation

12A.—(1) This article applies where a person (“a relevant person”)—

- (a) has been informed by the Secretary of State that dual-use goods, software or technology are, or may be intended, in their entirety or in part, for use by a relevant entity, and
- (b) the dual-use goods, software or technology in question are not specified in Annex I to the dual-use Regulation.
- (2) Subject to articles 12B, 18 and 26, a relevant person shall not—
- (a) export the goods in question, or
- (b) transfer the software or technology in question by electronic means to a destination outside the United Kingdom.
- (3) In this article, “relevant entity” means—
- (a) any military forces, para-military forces, police forces, security services or intelligence services of a country that is one or more of the following—
- (i) an embargoed destination,
- (ii) subject to an arms embargo imposed by a decision of the Organization for Security and Co-operation in Europe, or
- (iii) subject to an arms embargo imposed by a binding resolution of the Security Council of the United Nations, or
- (b) any person involved in the procurement, research, development, production or use of dual-use goods, software or technology on behalf, or at the direction, of any of the entities mentioned in subparagraph (a).

Exceptions to military end-use control supplementing the dual-use Regulation

12B.—(1) Nothing in article 12A shall be taken to prohibit—

- (a) the export of medical goods, including medicines and medical devices, for the benefit of the civilian population of a country;
- (b) the export of consumer goods generally available to the public, or

⁽¹⁾ S.I. 2008/3231, amended by S.I. 2009/1852, S.I. 2010/615, S.I. 2011/825, S.I. 2011/1304, S.I. 2011/2010, S.I. 2011/2925, S.I. 2014/2357, S.I. 2015/1546, S.I. 2016/503, S.I. 2017/83, S.I. 2018/108, S.I. 2019/989; there are other amendments to the Order but none is relevant.

- (c) the transfer of software or technology generally available to the public.
- (2) For the purposes of paragraph (1), goods, software or technology are generally available to the public if they are—
 - (a) sold from stock at retail selling points without restriction, by means of—
 - (i) over the counter transactions,
 - (ii) mail order transactions,
 - (iii) electronic transactions, or
 - (iv) telephone order transactions, and
 - (b) designed for installation by the user without further substantial support by the supplier.”.
- (4) In article 18(2), for “11 or 12” substitute “11, 12 or 12A”.
- (5) In article 34, after paragraph (3), insert—

“(3A) A person who contravenes a prohibition in Part 2 of this Order that is engaged because the person has been informed by the Secretary of State that dual-use goods, software or technology 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), commits an offence and may be arrested.”.
- (6) In article 34, in paragraph (4), after “paragraph (3)” insert “or (3A)”.
- (7) In article 40—
 - (a) in paragraph (1)(a), after “purposes;” omit “or”,
 - (b) in paragraph (1)(b), for “Regulation.” substitute “Regulation; or”, and
 - (c) after paragraph (1)(b), insert—

“(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).”.
- (8) In article 41,—
 - (a) in paragraph (1)(a)(i), after “12,” insert “12A,” and
 - (b) in paragraph (2)(a), after “12,” insert “12A,”.
- (9) In article 42N, in paragraph (1), for “Article 6 (WMD purposes end-use control supplementing the dual-use Regulation) does not” substitute “Articles 6 (WMD purposes end-use control supplementing the dual-use Regulation) and 12A (military end-use control supplementing the dual-use Regulation) do not”.
- (10) In Part 2 of Schedule 4, at the appropriate places,—
 - (a) insert “China (People’s Republic other than the Special Administrative Regions)”,
 - (b) insert “Hong Kong Special Administrative Region”, and
 - (c) insert “Macao Special Administrative Region”.
- (11) In Part 3 of Schedule 4—
 - (a) omit “China (People’s Republic other than the Special Administrative Regions)”, and
 - (b) omit “Macao Special Administrative Region”.
- (12) In Part 4 of Schedule 4, omit “Hong Kong Special Administrative Region”.