

1994 No. 1191

CUSTOMS AND EXCISE

The Export of Goods (Control) Order 1994

Made 24th April 1994

*Coming into force in accordance with
article 1*

The Secretary of State, in exercise of powers conferred by section 1 of the Import, Export and Customs Powers (Defence) Act 1939^[313] and now vested in him^[314], and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Export of Goods (Control) Order 1994 and shall come into force for the purpose of issuing general licences on 4th May 1994 and for all other purposes on 25th May 1994.

(2) In this Order, unless the context otherwise requires—

"aircraft" means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing airborne vehicle or helicopter;

"basic scientific research" means experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts and not primarily directed towards a specific practical aim or objective;

"country" includes territory;

"development" means any activity or phase prior to production and may include or relate to design, design research, design analysis, design concepts, design data, assembly and testing of prototypes, pilot production schemes, the process of transforming design data into a product, configuration design, integration design, or layout;

"document" includes any medium or device by means of which information is recorded or stored including a magnetic or optical disk or tape or a solid state memory;

"goods", unless otherwise specified, means both used and unused goods;

"importation" and "exportation" in relation to a vessel, submersible vehicle or aircraft includes the taking into or out of the United Kingdom of the vessel, submersible vehicle or aircraft notwithstanding that the vessel, submersible vehicle or aircraft is conveying goods or

passengers, and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

"isolated live cultures" includes live cultures in dormant form and in dried preparations;

"Member State" means a Member State of the European Communities;

"microorganisms" means bacteria, viruses, mycoplasmas, rickettsiae, chlamydiae or fungi, whether natural, enhanced or modified, either in the form of isolated live cultures or as material including living material which has been deliberately inoculated or contaminated with such cultures;

"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;

"normal commercial journey" means a journey providing transport services in the ordinary course of business;

"production" includes all production phases, including construction, production engineering, manufacture, integration, assembly (which includes mounting), inspection, testing and quality assurance;

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

"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 manner that the benefits thereof are available to members of the public from time to time seeking to take advantage of it;

"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;

"technology" means any document including blueprints, plans, diagrams, models, formulae, tables, engineering designs or specification, manuals or instructions, necessary for the development, production or use of goods except:

(a) any document the information within which is generally available to the public or relates to basic scientific research;

(b) any application for the grant of a patent (or any other form of protection for an invention) or for the registration of a design, or a semiconductor topography, in each case under the law of the United Kingdom or of any other country or under any treaty or international convention;

(c) any document necessary to enable any such application to be filed, made or pursued;

"toxins" means toxins in the form of deliberately isolated preparations or mixtures, no matter how produced, other than toxins present as contaminants of other materials such as pathological specimens, crops, foodstuffs or seed stocks of microorganisms;

"use" means operation, installation (which includes on-site installation), maintenance, checking, repair, overhaul and refurbishing;

"vessel" includes any ship, surface effect vehicle, small waterplane area vessel and hydrofoil, and the hull or part of the hull of a vessel.

(3) In this Order—

(a) a prohibition on exportation is a prohibition on exportation from the United Kingdom including a prohibition on shipment as ships' stores; and

(b) numerical references in Schedule 1 hereto to standards and recommendations are references to the relevant standards and recommendations so numbered with such amendments (if any) thereto as may have been published before the making of this Order.

Prohibitions and restrictions on exportation

2. Subject to the provisions of this Order, all goods of a description specified in Schedule 1 hereto are prohibited to be exported to any destination.

Exceptions

3. Nothing in this Order shall be taken to prohibit the exportation of—
Licensed exports

(a) any goods under the authority of a licence granted by the Secretary of State, provided that all conditions attaching to the said licence are complied with;

Channel Islands

(b) any goods other than goods of a description specified in Group 1 of Part III of Schedule 1 hereto, to any destination in the Channel Islands;

Aircraft

(c)
(i) any aircraft which is being exported after temporary importation into the United Kingdom provided that there has

been no change of ownership or registration since such importation;

(ii) any aircraft on a scheduled journey;

Vessels

(d)

(i) any vessel registered or constructed outside the United Kingdom which is being exported after temporary importation into the United Kingdom;

(ii) any vessel which is departing temporarily from the United Kingdom on trials;

(iii) any vessel proceeding on a normal commercial journey;

Firearms and ammunition

(e)

(i) any firearm falling within category B, C or D of Annex 1 to Council Directive 91/477/EEC^[315], related ammunition and telescopic sight for use therewith to any destination in a Member State if

(aa) the firearm, ammunition and telescopic sight form part of the personal effects of a person who is in possession of

(i) a European firearms pass which has been issued to him under section 32A of the Firearms Act 1968^[316] or

(ii) a document which has been issued to him under the provisions of the law of a Member State corresponding to the provisions of that section

and which, in either case, relates to the firearm in question; and

(bb) either the said pass or document issued to him contains authorisation for the possession of the said firearm from the Member State of destination and any other Member State through which the holder intends that the firearm will pass on its way to that destination, or the holder of the firearm can on request satisfy the proper officer of Customs and Excise at the place of export

(i) that the export of the firearm is necessary to enable the holder to participate in one of the activities specified in Article 12.2 of the said Directive,

(ii) that the firearm falls within the category appropriate to that activity in accordance with the said Article 12.2 and

(iii) that the export or passage of the firearm is not to or, as the case may be, through a Member State which prohibits or requires an authorisation for the acquisition or possession of the said firearm; and

(ii) any firearm authorised to be possessed or, as the case maybe, purchased or acquired, by a valid firearm certificate or shot gun certificate granted under the Firearms Act 1968^[317] or by a visitor's firearm or shot gun permit granted under section 17 of the Firearms (Amendment) Act 1988^[318] or by a valid firearm certificate granted under the Firearms (Northern Ireland) Order 1981^[319] or granted in the Isle of Man under the Firearms Act 1947 (an Act of Tynwald)^[320] as amended by the Firearms Act 1968 (an Act of Tynwald)^[321] and the Air Guns and Shot Guns, etc. Act 1968 (an Act of Tynwald)^[322], related ammunition and telescopic sight for use therewith

(aa) to any destination in a Member State by any person or body specified in Article 2.2 of the said Directive, or by the holder of a firearm certificate granted under the said Act of 1947, or

(bb) to any other destination other than a destination in South Africa,

provided that the firearm, ammunition and telescopic sight form part of the personal effects of the holder of the certificate and, in a case to which (bb) applies, the certificate is produced by the holder, or his duly authorised agent, with the firearm and ammunition to the proper officer of Customs and Excise at the place of export;

Permitted ships' stores

or the shipment of any goods as ships' stores with the permission of the proper officer of Customs and Excise at the port of departure for use on board the ship provided that all conditions attaching to the said permission are complied with.

Customs powers to demand evidence of destination which goods reach

4. Any exporter or any shipper of goods which have been exported from the United Kingdom shall, if so required by the Commissioners of Customs and Excise, furnish within such time as they may allow proof to their satisfaction that the goods have reached either—

(a) a destination to which they were authorised to be exported by a licence granted for the purposes of this Order, or

(b) a destination to which their exportation was not prohibited by this Order;

and, if he fails to do so, he shall be liable to a customs penalty not exceeding two thousand pounds unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid. Offences in connection with applications for licences, conditions attaching to licences, etc

5.(1) If for the purpose of obtaining any licence or permission under this Order for the exportation or shipment as ships' stores of any goods any person

(i) makes any statement or furnishes any document or information which to his knowledge is false in a material particular; or

(ii) 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 or permission which may have been granted for the exportation or shipment as ships' stores of any goods 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.

(2) A person guilty of an offence under paragraph (1) above shall be liable—

(a) on summary conviction to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both.

(3) Any person who—

(a) has exported goods from the United Kingdom under the authority of a licence granted by the Secretary of State in pursuance of article 3(a); and

(b) fails to comply with any condition attaching to that licence, or fails to comply with article 8 of this Order;

shall be guilty of an offence and liable

(i) on summary conviction to a fine not exceeding the statutory maximum, and

(ii) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both:

Provided that no person shall be guilty of an offence under this paragraph where he proves—

(i) that the condition with which he failed to comply was modified, otherwise than with his consent, by the Secretary of State; and

(ii) that the goods in relation to which he failed to comply with the condition had, at the time the condition was modified, been exported from the United Kingdom.

Declaration as to goods: powers of search

6.—(1) Any person who, on any occasion, is about to leave the United Kingdom shall, if on that occasion he is required to do so by an officer of Customs and Excise—

(a) declare whether or not he has with him any goods the export of which from the United Kingdom is subject to any prohibition or restriction under this Order; and

(b) produce any such goods as aforesaid which he has with him;

and such officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence and liable to a customs penalty not exceeding one thousand pounds.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence and liable on summary conviction to a customs penalty not exceeding two thousand pounds and on conviction on indictment to a customs penalty of any amount or imprisonment for a term not exceeding 2 years, or to both.

Licences

7.—(1) A licence granted by the Secretary of State in pursuance of article 3(a) or having effect as if so granted may be either general, or special, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the Secretary of State at any time.

(2) A licence may be subject to or without conditions and any such condition may require any act or omission before or after the exportation of goods under the licence.

(3) Any permission granted by the proper officer of Customs and Excise for the shipment of any goods as ships' stores may be modified or revoked by such officer at any time.

(4) Subject to the provisions of Schedule 1, or any contrary provisions in a licence, a licence granted in relation to any goods specified in Part III of Schedule 1 shall also authorize the export of the minimum technology required for the installation, operation, maintenance and repair of the goods, to the same destination as the goods.

Use of General Licences

8.—(1) Before or within 30 days after the first exportation of any goods by a person under the authority of any general licence granted under this Order that does not provide otherwise, that person shall give written notice to the Secretary of State of the following particulars—

(i) the name of the person; and

(ii) the address at which copies of the records referred to in paragraph (3) below may be inspected by any person authorised by the Secretary of State under paragraph (3).

(2) After any change in any of the said particulars, before or within 30 days

after the first exportation of any goods under the authority of any general licence granted under this Order that does not provide otherwise, the said person shall give written notice to the Secretary of State of that change.

(3) Subject to the provisions of the particular general licence under which he has exported goods, any person who has exported goods under the authority of a general licence shall keep records of every such exportation including the following information:—

(a) in so far as it is known to him, the name and address of any consignee of the goods, and any person to whom the goods are to be, or have been, delivered;

(b) his address;

(c) the date of exportation;

(d) a description of the goods including the quantity of goods exported;

(e) any further information required by the licence to be kept; and any such records shall be kept for at least 4 years from the date of the relevant exportation; and he shall permit any such records to be inspected, and copied, by any person authorised by the Secretary of State; and for these purposes any such person shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable hours to enter the premises the address of which has been most recently notified to the Secretary of State under paragraph (1) or (2).

(4) Where any records referred to in paragraph (3) are kept in a form which is not legible the exporter shall at the request of the person authorised by the Secretary of State reproduce such records in a legible form.

(5) Any notice to be given by a person under paragraph (1) or (2) may be given by the agent of that person and shall be sent by post or delivered to the Secretary of State at The Compliance Unit, DTI, Kingsgate House, 66-74 Victoria Street, London, SW1E 6SW.

Revocations

9.—(1) The Order specified in Part 1 of Schedule 2 is hereby revoked except in so far as it applies to the exportation of antiques, as specified in column 3 of that Part of Schedule 2.

(2) The Orders specified in Part 2 of Schedule 2 are hereby revoked.

Richard Needham

Minister for Trade Department of Trade and Industry

April 1994

Notes:

[313] 1939 c. 69 back

[314] *See* S.I. 1970/1537 back

[315] O.J. No. L256, 13.9.91, p.51. back

[316] 1968 c. 27. Section 32A was inserted by the Firearms Acts (Amendment) Regulations 1992, S.I. 1992/2823. back

[317] 1968 c. 27. back

[318] 1988 c. 45. back

[319] S.I. 1981/155 (N.I. 2); relevant amending instruments are S.I. 1989/1338 (N.I. 10) and S.I. 1992/1723 (N.I. 4). back

[320] Acts of Tynwald 1947, p.586. back

[321] Acts of Tynwald 1968, p.464. back

[322] Acts of Tynwald 1968, p.509. back