



## CUSTOMS AND EXCISE ACT 1993

### EXPORT OF GOODS ETC (CONTROL) (APPLICATION) ORDER 2005

*Approved by Tynwald*

*17 May 2005*

*Coming into operation*

*28 March 2005*

In exercise of the powers conferred on the Treasury by section 1 of the Customs and Excise Act 1993<sup>(a)</sup>, and of all other powers enabling it in that behalf, the following Order is hereby made:-

#### **Citation and commencement**

1. (1) This Order may be cited as the Export of Goods Etc. (Control) (Application) Order 2005 and shall be construed as one with the Customs and Excise Acts (Application) Order 1979<sup>(b)</sup>.

(2) The applied legislation shall come into operation on 28<sup>th</sup> March 2005.

#### **Interpretation**

2. In this Order, “the applied legislation” means –

- (a) the Trade in Goods (Control) (Amendment) Order 2005<sup>(c)</sup>;
- (b) the Trade in Controlled Goods (Embargoed Destinations) (Amendment) Order 2005<sup>(d)</sup>; and
- (c) the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment) Order 2005<sup>(e)</sup>.

#### **Application**

3. The applied legislation shall apply in the Island, as part of the law of the Island, subject to the exceptions, modifications and adaptations specified in the Schedule to this Order.

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<sup>(a)</sup> 1993 c.7.

<sup>(b)</sup> G.C. No. 38/79.

<sup>(c)</sup> S.I. 2005 No. 443.

<sup>(d)</sup> S.I. 2005 No. 445.

<sup>(e)</sup> S.I. 2005 No. 468.

**SCHEDULE**

**PART 1**

**EXCEPTIONS, MODIFICATIONS AND ADAPTATIONS SUBJECT TO WHICH THE  
TRADE IN GOODS (CONTROL) (AMENDMENT) ORDER 2005 [S.I. 2005 No. 443]  
SHALL HAVE EFFECT IN THE ISLAND**

<u>Article</u>	<u>Subject matter</u>	<u>Exceptions, modifications or adaptations</u>
1.	Citation and commencement.	Omit the words from “and shall” onwards.
4.	Amendment of the Trade in Goods (Control) Order 2003 <sup>(f)</sup> .	(a) For “section 138” substitute “section 145”; (b) For “1979”, on each occasion it occurs, substitute “1986”; and (c) For “section 77A”, on both occasions it occurs, substitute “section 78A”.

**PART 2**

**EXCEPTIONS, MODIFICATIONS AND ADAPTATIONS SUBJECT TO WHICH THE  
TRADE IN CONTROLLED GOODS (EMBARGOED DESTINATIONS) (AMENDMENT)  
ORDER 2005 [S.I. 2005 No. 445] SHALL HAVE EFFECT IN THE ISLAND**

<u>Article</u>	<u>Subject matter</u>	<u>Exceptions, modifications or adaptations</u>
1.	Citation and commencement.	Omit the words from “and shall” onwards.
3.	Amendment of the Trade in Controlled Goods (Embargoed Destinations) (Amendment) Order 2004 <sup>(g)</sup> .	(a) For “section 138” substitute “section 145”; (b) For “1979”, on each occasion it occurs, substitute “1986”; and (c) For “section 77A”, on both occasions it occurs, substitute “section 78A”.

<sup>(f)</sup> S.I. 2003 No. 2765, applied in the Island by S.D. No. 89/04.

<sup>(g)</sup> S.I. 2004 No. 318, applied in the Island by S.D. No. 90/04.

### PART 3

**EXCEPTIONS, MODIFICATIONS AND ADAPTATIONS SUBJECT TO WHICH THE  
EXPORT OF GOODS, TRANSFER OF TECHNOLOGY AND PROVISION OF  
TECHNICAL ASSISTANCE (CONTROL) (AMENDMENT) ORDER 2005  
[S.I. 2005 No. 468] SHALL HAVE EFFECT IN THE ISLAND**

<u>Article</u>	<u>Subject matter</u>	<u>Exceptions, modifications or adaptations</u>
1.	Citation and commencement.	Omit the words from “and shall” onwards.
3.	Amendment of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment) Order 2005 <sup>(h)</sup> .	For “United Kingdom”, on both occasions it occurs, substitute “Island”.
4.	Amendment of the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment) Order 2005.	(a) For “section 138” substitute “section 145”; (b) For “1979”, on each occasion it occurs, substitute “1986”; (c) For “section 77A”, on both occasions it occurs, substitute “section 78A”.

Made this 22nd day of March 2005



Minister for the Treasury

<sup>(h)</sup> S.I. 2003 No. 2764, applied in the Island by S.D. No. 89/04.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order applies in Island law three United Kingdom Orders concerned with export control and export licensing –

- (a) the Trade in Goods (Control) (Amendment) Order 2005;
- (b) the Trade in Controlled Goods (Embargoed Destinations) (Amendment) Order 2005; and
- (c) the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment) Order 2005.

These applied Orders amend existing applied legislation providing that the provisions in section 145 of the Customs and Excise Management Act 1986<sup>(i)</sup> relating to arrest of persons shall apply to certain offences under each of the three original Orders, and that the information gathering powers in section 78A of that Act shall apply to persons concerned in any activity requiring a licence under any of the three original Orders.

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<sup>(i)</sup> 1986 c.34.

2005 No. 443

CUSTOMS AND EXCISE

**The Trade in Goods (Control) (Amendment) Order 2005**

<i>Made</i>	<i>2<sup>nd</sup> March 2005</i>
<i>Laid before Parliament</i>	<i>4<sup>th</sup> March 2005</i>
<i>Coming into force</i>	<i>28<sup>th</sup> March 2005</i>

The Secretary of State in exercise of the powers conferred upon her by sections 4, 5 and 7 of the Export Control Act 2002<sup>(1)</sup> hereby makes the following Order:

1. This Order may be cited as the Trade in Goods (Control) (Amendment) Order 2005 and shall come into force on 28<sup>th</sup> March 2005.
2. The Trade in Goods (Control) Order 2003<sup>(2)</sup> shall be amended as set out in this Order.
3. In article 9, in both paragraphs (2) and (3), after the words “shall be guilty of an offence” there shall be added “and may be arrested”.
4. In article 12 at the end there shall be added the following –

“(4) ~~Section 138~~ *Section 145* of the Customs and Excise Management Act ~~1979 1986~~<sup>(3)</sup> (provision as to arrest of persons) shall apply to any person who has committed, or in respect of whom there are reasonable grounds to suspect of having committed, an offence for which he is liable to be arrested under article 9(2) or (3) of this Order as that section applies to the arrest of any person for offences for which he is liable to be arrested under the customs and excise Acts.

(5) ~~Section 77A~~ *Section 78A* of the Customs and Excise Management Act ~~1979 1986~~<sup>(4)</sup> (provision as to information powers) shall apply to any person concerned (in whatever capacity) in an activity requiring a licence under this Order as it applies to any person (in whatever capacity) who is concerned in exportation of goods for which an entry is required by or under that Act, and accordingly references in ~~section 77A~~ *section 78A* of the Customs and Excise Management Act ~~1979 1986~~ to exportation shall be read as including any activity requiring a licence under this Order.”

*Nigel Griffiths*

Parliamentary Under Secretary of State for Small Business and Enterprise,  
Department of Trade and Industry

2<sup>nd</sup> March 2005

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<sup>(1)</sup> 2002 c.28.

<sup>(2)</sup> S.I. 2003/2765.

<sup>(3)</sup> 1986 c.34.

<sup>(4)</sup> 1986 c.34.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Trade in Goods (Control) Order 2003 (“the 2003 Order”).

It provides that the provisions relating to arrest of persons contained in section 138 of the Customs and Excise Management Act 1979 (“the 1979 Act”) allowing the arrest of any customs officer or a member of Her Majesty’s armed forces or coastguard apply to any person who has committed, or whom there are reasonable grounds to suspect of having committed an offence under article 9(2) or (3) of the 2003 Order.

The Order also provides that the provisions relating to customs officers’ information gathering powers contained in section 77A of the 1979 Act apply to persons concerned in any activity requiring a licence under the 2003 Order.

A full regulatory impact assessment has not been produced for this instrument as it has no or minimal impact on the costs of business.

2005 No. 445

CUSTOMS AND EXCISE

**The Trade in Controlled Goods (Embargoed Destinations)  
(Amendment) Order 2005**

<i>Made</i>	<i>2<sup>nd</sup> March 2005</i>
<i>Laid before Parliament</i>	<i>4<sup>th</sup> March 2005</i>
<i>Coming into force</i>	<i>28<sup>th</sup> March 2005</i>

The Secretary of State in exercise of the powers conferred upon her by sections 4, 5 and 7 of the Export Control Act 2002<sup>(1)</sup> hereby makes the following Order:

1. This Order may be cited as the Trade in Controlled Goods (Embargoed Destinations) (Amendment) Order 2005 and shall come into force on 28<sup>th</sup> March 2005.
2. The Trade in Controlled Goods (Embargoed Destinations) Order 2004<sup>(2)</sup> shall be amended as set out in this Order.
3. In article 11, at the end there shall be added the following –

“(4) ~~Section 138~~ *Section 145* of the Customs and Excise Management Act 1979 1986<sup>(3)</sup> (provision as to arrest of persons) shall apply to any person who has committed, or in respect of whom there are reasonable grounds to suspect of having committed, an offence for which he is liable to be arrested under article 8(2) of this Order as that section applies to the arrest of any person for offences for which he is liable to be arrested under the customs and excise Acts.

(5) ~~Section 77A~~ *Section 78A* of the Customs and Excise Management Act 1979 1986<sup>(4)</sup> (provision as to information powers) shall apply to any person concerned in an activity requiring a licence under this Order as it applies to any person who is concerned in exportation of goods for which an entry is required by or under that Act, and accordingly references in ~~section 77A~~ *section 78A* of the Customs and Excise Management Act 1979 1986 to exportation shall be read as including any activity requiring a licence under this Order.”

*Nigel Griffiths*

Parliamentary Under Secretary of State for Small Business and Enterprise,  
Department of Trade and Industry

2<sup>nd</sup> March 2005

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<sup>(1)</sup> 2002 c.28.

<sup>(2)</sup> S.I. 2004 No. 318 as amended by S.I. 2004/1049, 2004/2471 and 2005/232.

<sup>(3)</sup> 1986 c.34.

<sup>(4)</sup> 1986 c.34.

**EXPLANATORY NOTE**  
*(This note is not part of the Order)*

This Order amends the Trade in Controlled Goods (Embargoed Destinations) Order 2004 (“the 2004 Order”).

It provides that the provisions relating to arrest of persons contained in section 138 of the Customs and Excise Management Act 1979 (“the 1979 Act”) allowing the arrest by any customs officer or a member of Her Majesty’s armed forces or coastguard apply to any person who has committed, or whom there are reasonable grounds to suspect of having committed an offence under article 8(2) of the 2004 Order.

The Order also provides that the provisions relating to customs officers’ information gathering powers contained in section 77A of the 1979 Act apply to persons concerned in any activity requiring a licence under the 2004 Order.

A regulatory impact assessment has not been produced for this instrument as it has no or minimal impact on the costs of business.



2005 No. 468

**CUSTOMS AND EXCISE**

**The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment) Order 2005**

<i>Made</i>	<i>2<sup>nd</sup> March 2005</i>
<i>Laid before Parliament</i>	<i>4<sup>th</sup> March 2005</i>
<i>Coming into force</i>	<i>28<sup>th</sup> March 2005</i>

The Secretary of State in exercise of the powers conferred upon her by sections 1, 2, 3, 5 and 7 of the Export Control Act 2002<sup>(1)</sup> hereby makes the following Order:

1. This Order may be cited as the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment) Order 2005 and shall come into force on 28<sup>th</sup> March 2005.
2. The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003<sup>(2)</sup> shall be amended as set out in this Order.
3. In article 2, in the definition of “transfer”, after the words “from a person or place within the United Kingdom *Island*” there shall be added “except in articles 8 and 9 to the extent that those articles make provision in respect of transfers other than from a person or place within the United Kingdom *Island*”.
4. In article 16, in paragraphs (4) and (5), after the words “shall be guilty of an offence” there shall be added “and may be arrested”.
5. In article 21 at the end there shall be added the following –

“(8) ~~Section 138~~ *Section 145* of the Customs and Excise Management Act 1979 1986<sup>(3)</sup> (provision as to arrest of persons) shall apply to any person who has committed, or in respect of who there are reasonable grounds to suspect of having committed, an offence for which he is liable to be arrested under article 16(4) or (5) of this Order as that section applies to the arrest of any person for offences for which he is liable to be arrested under the customs and excise Acts.

(9) ~~Section 77A~~ *Section 78A* of the Customs and Excise Management Act 1979 1986<sup>(4)</sup> (provision as to information person) shall apply to any person concerned (in whatever capacity) in an activity requiring a licence under this Order for the transfer of software or technology or the provision of technical assistance as it applies to any person who is concerned (in whatever capacity) in the exportation of goods for which an entry is required by or under that Act, and accordingly references to ~~section 77A~~ *section 78A* of the Customs and Excise Management Act 1979 1986 to goods shall, as the context requires, be read as including software, technology and technical assistance and references to

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<sup>(1)</sup> 2002 c.28.

<sup>(2)</sup> S.I. 2003 No. 2764 as amended by S.I. 2004/1050, 2004/2561, 2004/2741 and 2005/232.

<sup>(3)</sup> 1986 c.34.

<sup>(4)</sup> 1986 c.34.

exportation shall, as the context requires, be read as including the transfer of technology or software or the provision of technical assistance.”

*Nigel Griffiths*

Parliamentary Under Secretary of State for Small Business and Enterprise,  
Department of Trade and Industry

2<sup>nd</sup> March 2005

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#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (“the 2003 Order”).

It provides that the provisions relating to arrest of persons contained in ~~section 138~~ *section 146* of the Customs and Excise Management Act 1979 (“the 1979 Act”), allowing the arrest by any customs officer or a member of Her Majesty’s armed forces or coastguard, shall apply to certain offences related to transfers of technology or the provision of technical assistance contained in the 2003 Order.

The Order also provides that the provisions relating to customs officers’ information gathering powers contained in section 77A of the 1979 Act apply to persons concerned in an activity requiring a licence under the 2003 Order for the transfer of software or technology and the provision of technical assistance.

Finally, the Order amends the definition of “transfer” in the 2003 Order to clarify its meaning.

A regulatory impact assessment has not been produced for this instrument as it has no or minimal impact on the costs of business.