

Statutory Document No. 2015/0161



*Customs and Excise Act 1993*

## **EXPORT CONTROL (AMENDMENT) (NO. 2) ORDER 2015 (APPLICATION) ORDER 2015**

*Approved by Tynwald: 16 June 2015*

*Coming into operation in accordance with article 2*

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The Treasury makes the following Order under sections 1 and 3 of the Customs and Excise Act 1993.

### **1 Title**

This Order is the Export Control (Amendment) (No. 2) Order 2015 (Application) Order 2015.

### **2 Commencement**

- (1) This Order comes into operation on the day it is approved by Tynwald<sup>1</sup>.
- (2) However, when it is approved it shall be deemed to have come into operation on 1 June 2015<sup>2</sup>.

### **3 Application of the Export Control (Amendment) (No 2) Order 2015**

- (1) The Export Control (Amendment) (No 2) Order 2015<sup>3</sup> applies to the Island, as part of the law of the Island, subject to the omission in article 1 (citation and commencement) of the words “and comes into force on 17<sup>th</sup> April 2015”.
- (2) The text of the applied legislation is annexed to this Order.

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<sup>1</sup> Section 3(1) of the Customs and Excise Act 1993 provides that an Order under section 1 of that Act shall be laid before Tynwald as soon as practicable after it is made (and in any case not later than the second sitting of Tynwald following the making of the Order) and if at the sitting at which it is laid Tynwald fails to approve the Order it shall cease to have effect.

<sup>2</sup> Section 3(3) of the Customs and Excise Act 1993 allows that an Order made under section 3 of that Act may be made retrospective and be deemed to have come into operation from such day or days as may be specified in the Order, not being earlier than the date on which the corresponding provision had effect in the United Kingdom. In this case the corresponding provision came into force on 17 April 2015.

<sup>3</sup> SI 2015 No. 940.

#### 4 Amendment of the Export Control Order 2008 (Application) Order 2009

In the Schedule (exceptions, adaptations and modifications subject to which the Export Control Order 2008<sup>4</sup> shall have effect in the Island) to the Export Control Order 2008 (Application) Order 2009<sup>5</sup>, in the entry relating to article 34 (offences relating to prohibitions in Parts 2, 3 and 4), in the third column, after paragraph (a) insert —

- 22(aa) Despite any provision in any Act prescribing the period within which summary proceedings may be commenced, proceedings for an offence under paragraph (1) may be commenced at any time —
- (i) within 12 months next after the date of the commission of the offence; or
  - (ii) the period of 3 months after the date on which evidence sufficient in the opinion of the Attorney General to justify a prosecution for the offence comes to the Treasury's knowledge. 22.

MADE 20<sup>TH</sup> MAY 2015

**W E TEARE**  
*Minister for the Treasury*

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<sup>4</sup> SI 2008 No 3231; which was applied by SD 104/09.

<sup>5</sup> SD 104/09; no subsequent amendments have been made in respect of article 34 of the Export Control Order 2008.

*EXPLANATORY NOTE*

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

This Order applies in Island law the Export Control (Amendment) (No 2) Order 2015 (“the 2015 Order”), which has the effect of amending the Export Control Order 2008<sup>6</sup> (“the 2008 Order”). The 2008 Order contains export, transfer, trade and technical assistance controls on military and dual-use and certain other goods and technology. The 2008 Order also contains licensing provisions and sets out offences and penalties for breach of the controls (except for offences relating to exportation out of the Island and United Kingdom without a licence which are dealt with in the Customs and Excise Management Act 1986).

Article 2(2) to (4) of the 2015 Order amend articles 4, 15 and 16 of the 2008 Order so that the exceptions for firearms contained in articles 15 and 16 will apply to the control of the movement of Isle of Man- and UK-controlled dual-use goods, etc. in article 4. Article 2(5) inserts a new paragraph into Part 2 of Schedule 1 to the 2008 Order, which sets out Category B goods, to introduce a new national control on firearms, their parts and essential components and ammunition. Article 2(6) makes some small corrections to Schedule 2 to the 2008 Order. Article 2(7) inserts the new national control into Schedule 3 to the 2008 Order, which contains the UK controlled dual-use goods and technology list

Article 4 of this Order amends article 34 of the 2008 Order, as applied by the Export Control Order 2008 (Application) Order 2009<sup>7</sup>. The amendment is to insert a new subparagraph (aa) into paragraph (1) of article 34, so as to increase the time limit for commencing summary proceedings for offences relating to prohibitions in Part 2 (export and transfer controls) and Part 4 (trade controls) of the 2008 Order to —

- within 12 months next after the date of the commission of the offence; or
- the period of 3 months after the date on which evidence sufficient in the opinion of the Attorney General to justify a prosecution for the offence comes to the Treasury’s knowledge.

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<sup>6</sup> SI 2008 No 3231, applied in the Island by SD 104/09. Relevant amendments were made by means of the following orders – SD 762/10, SD 50/12, SD 103/13, SD 2014/0127 and SD 2015/0124.

<sup>7</sup> SD 104/09.



Annex

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STATUTORY INSTRUMENTS

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**2015 No. 940**

**CUSTOMS**

**The Export Control (Amendment) (No. 2) Order 2015**

*Made - - - -* 26<sup>th</sup> March 2015

*Laid before Parliament* 27<sup>th</sup> March 2015

*Coming into force - -* 17<sup>th</sup> April 2015

The Secretary of State, in exercise of the powers conferred by sections 1, 4, 5 and 7 of the Export Control Act 2002<sup>8</sup>, makes the following Order:

**Citation and commencement**

1. This Order may be cited as the Export Control (Amendment) (No. 2) Order 2015.

**Amendments to the Export Control Order 2008**

2. (1) The Export Control Order 2008<sup>9</sup> is amended as follows.
  - (2) In article 4(1), for “Subject to articles 13, 14, 17, 18 and 26” substitute “Subject to articles 13, 14, 15, 16, 17, 18 and 26”.
  - (3) In article 15(1), for “Nothing in article 3” substitute “Nothing in article 3 or 4”.
  - (4) In article 16—
    - (a) in paragraph (2), for “nothing in article 3” substitute “nothing in article 3 or 4”;

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<sup>8</sup> 2002 c.28.

<sup>9</sup> S.I. 2008/3231, relevant amending instruments are S.I. 2010/2007, S.I. 2012/1910, S.I. 2013/428, S.I. 2014/1069 and S.I. 2015/351.

- (b) in paragraph (3)(b), at the beginning, add “in the circumstances specified in Article 9(1)(a) (temporary export or re-export by hunters and sport shooters) of Council Regulation (EU) No 258/2012(c),”.
- (5) In Schedule 1, Part 2 (Category B goods), after paragraph 10, insert—
- “Non-military Firearms**
- 10A.** Firearms, their parts and essential components and ammunition specified in entry PL9010 in Schedule 3.”
- (6) In Schedule 2 (Military goods, software and technology)—
- (a) before the Note at the beginning of entry ML1, insert “N.B. Non-military firearms are controlled in PL9010 in Schedule 3.”;
- (b) before entry a. in entry ML2, insert “N.B. Non-military firearms are controlled in PL9010 in Schedule 3.”;
- (c) before entry a. in entry ML3, insert “N.B. Non-military firearms are controlled PL9010 in Schedule 3.”;
- (d) in entry ML7.c.—
- (i) in entry 3., for “Q-Isopropyl” substitute “O-Isopropyl”;
- (ii) in entry 4., for “Chlorosoman O-Pinacolyl” substitute “Chlorosoman: O-Pinacolyl”;
- (e) in entry ML8—
- (i) in entry a.16.c., for “1-fluroro-2,4-dinitroimidazole” substitute “1-fluoro-2,4-dinitroimidazole”;
- (ii) in entry a.21., for “RDA” substitute “RDX”;
- (iii) in entry a.22., for “trianimoguanidinenitrate” substitute “triaminoguanidinenitrate”;
- (iv) in entry b.7., for “Propellemts” substitute “Propellants”;
- (v) in Note 3 to entry c.5., for “allows” substitute “alloys”;
- (vi) in entry c.9., for “TiHn” substitute “TiH<sub>n</sub>”;
- (vii) in entry e.12., for “pydroxyl” substitute “hydroxyl”;

- (viii) in entry e.13.a., for “Poly(epichlorohydrin)” substitute “Poly(epichlorohydrindiol)”;
- (ix) in entry e.13.b., for “Poly(epichlorohydrindiol)” substitute “Poly(epichlorohydrintriol)”;
- (f) for entry ML13.b., substitute—
  - “b. Constructions of metallic or non-metallic materials, or combinations thereof, specially designed to provide ballistic protection for military systems, and specially designed components therefor;”.
- (7) In Schedule 3 (UK controlled dual-use goods, software and technology)—
  - (a) before the definition of “development”, insert—

““ammunition” means the complete round or the components thereof, including cartridge cases, primers, propellant powder, bullets or projectiles that are used in a “firearm”;
  - (b) after the definition of “energetic materials”, insert—

““essential components” means the breech-closing mechanism, the chamber and the barrel of a “firearm”, which, being separate objects, are included in the category of the “firearms” on which they are or are intended to be mounted;”
  - (c) after the definition of “explosives”, insert—

““firearm” means any portable barrelled weapon that expels, is designed to expel or may be converted to expel, a short, bullet or projectile by the action of a combustible propellant;”
  - (d) after the definition of “lighter-than-air vehicles”, insert—

““parts” means any element or replacement element as referred to specifically designed for a “firearm” and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adopted to diminish the sound caused by firing a “firearm”;
  - (e) after entry PL9009, insert—

**“Firearms**

**N.B. Military firearms and ammunition are controlled in ML1, ML2 and ML3 in Schedule 2.**

<b>PL9010</b>	The export of “firearms”, their “parts” and “essential components” and “ammunition”, as follows is prohibited to any destination:
a.	Semi-automatic or repeating short “firearms”;
b.	Single-shot short “firearms” with centre-fire percussion;
c.	Single-shot short “firearms” with rimfire percussion whose overall length is less than 28 cm;
d.	Semi-automatic long “firearms” whose magazine and chamber can together hold more than three rounds;
e.	Semi-automatic long “firearms” whose magazine and chamber cannot together hold more than three rounds, where the loading device is removable or where it is not certain that the weapon cannot be converted, with ordinary tools, into a weapon whose magazine and chamber can together hold more than three rounds;
f.	Repeating and semi-automatic long “firearms” with smooth-bore barrels not exceeding 60 cm in length;
g.	Semi-automatic “firearms” for civilian use which resemble weapons with automatic mechanisms;
h.	Repeating long “firearms” other than those listed in PL9010.f.;
i.	Long “firearms” with single-shot rifled barrels;
j.	Semi-automatic long “firearms” other than those in PL9010.d. to g.;
k.	Single-shot short “firearms” with rimfire percussion whose overall length is not less than 28 cm;
l.	Single-shot long “firearms” with smooth-bore barrels;



m.	“Parts” specifically designed for a “firearm” and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a “firearm”;
n.	Any “essential component” of such “firearms”: the breech-closing mechanism, the chamber and the barrel of a “firearm” which, being separate objects, are included in the category of the “firearms” on which they are or are intended to be mounted;
o.	“Ammunition:” the complete round or the components thereof, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a “firearm”;
p.	Collections and collectors’ pieces of historical interest;
q.	Antiques of an age exceeding 100 years.
<i>Notes: PL9010 does not control:</i>	
a.	<i>“Firearms”, their “parts” and “ammunition”, and “essential components” therefor, specified in Schedule 2;</i>
b.	<i>“Firearms” manufactured earlier than 1890, and reproductions thereof;</i>
c.	<i>“Firearms” certified by a registered UK Proof House as having been rendered incapable of firing any “ammunition”;</i>
d.	<i>“Firearms”, their “parts” and “essential components” and “ammunition” when destined for the armed forces, the police, or the public authorities of EU Member States.”</i>

26<sup>th</sup> March 2015

Matthew Hancock  
Minister of State for Business and Enterprise and Energy  
Department for Business, Innovation and Skills

## **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”). The 2008 Order contains export, transfer, trade and technical assistance controls on military and dual-use and certain other goods and technology. The 2008 Order also contains licensing provisions and sets out the offences and penalties for breach of the controls (except for offences relating to exportation out of the United Kingdom without a licence which are dealt with in the Customs and Excise Management Act 1979).

Articles 2(2)–(4) amend articles 4, 15 and 16 of the 2008 Order so that the exceptions for firearms contained in articles 15 and 16 will apply to the control on the movement of UK controlled dual-use goods, etc. in article 4. Article 2(5) inserts a new paragraph into Part 2 of Schedule 1 to the 2008 Order, which sets out Category B goods, to introduce a new national control on firearms, their parts and essential components and ammunition. Article 2(6) makes some small corrections to Schedule 2 to the 2008 Order. Article 2(7) inserts the new national control into Schedule 3 to the 2008 Order, which contains the UK controlled dual-use goods and technology list.

An Impact Assessment has not been prepared in respect of this Order as minimal or no impact on the private or voluntary sectors is foreseen. An Explanatory Memorandum is available alongside the instrument on the [www.legislation.gov.uk](http://www.legislation.gov.uk) website. Copies have also been placed in the Libraries of both Houses of Parliament.