

Statutory Document No. 2018/0080



Customs and Excise Act 1993

EXPORT CONTROL (AMENDMENT) ORDER 2018 (APPLICATION) ORDER 2018

Approved by Tynwald: 17 April 2018

Coming into operation in accordance with article 2

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) Order 2018 (Application) Order 2018.

2 Commencement

- (1) This Order comes into operation on the day it is approved by Tynwald¹.
- (2) However, when it is approved it shall be deemed to have come into operation on 5 March 2018.

3 Application of the Export Control (Amendment) Order 2018

- (1) The Export Control (Amendment) Order 2018 applies to the Island, as part of the law of the Island, subject to –
 - (a) the omission in article 1 (citation and commencement) of the words from “and come” to the end; and
 - (b) the omission (in consequence of paragraph (a)) of “and commencement” in the heading to that article.
- (2) The text of the applied legislation is annexed to this Order.

¹ 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 is 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.

MADE 28TH FEBRUARY 2018

A L CANNAN
Minister for the Treasury

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

This Order applies in Island law the Export Control (Amendment) Order 2018 (“the applied Order”).

The applied Order amends article 2 of, and Schedule 2 to, the Export Control Order 2008, as it has effect in the Island (“the ECO”), which contains a list of defence-related items that are subject to export and other controls and which includes items on the European Union Common Military List (“the CML”). The CML is contained in an Annex to Directive 2009/43/EC² of the European Parliament and of the Council of 6 May 2009.

The amendments implement changes to the CML by Commission Directive 2017/2054/EU³ of 8 November 2017. These amendments are largely technical and minor in nature but nevertheless require changes to be made to the ECO.

² OJ L146, 10.6.2009, p.1.

³ OJ L311, 25.11.2017, p.1.

Annex

STATUTORY INSTRUMENTS

2018 No. 165

CUSTOMS

The Export Control (Amendment) Order 2018

Made - - - -	7 th February 2018
Laid before Parliament	8 th February 2018
Coming into force - -	5 th March 2018

The Secretary of State makes this Order in exercise of the powers conferred by sections 1, 4, 5 and 7 of the Export Control Act 2002⁴.

Citation

1. This Order may be cited as the Export Control (Amendment) Order 2018.

Amendments to the Export Control Order 2008

2. In article 2 (Interpretation) of the Export Control Order 2008⁵ omit the definition of "information security items".

3. (1) Schedule 2 (Military Goods, Software and Technology) to the Export Control Order 2008 is amended as follows.

- (2) Under the Definitions heading—

- (a) omit the definition of "adapted for use in war";
- (b) at the appropriate place, insert—

"biological agents" means pathogens or toxins, selected or modified (such as altering purity, shelf life, virulence, dissemination characteristics, or resistance to UV radiation) to produce casualties in humans or animals, degrade equipment or damage crops or the environment;"

- (3) In entry ML7, for "Chemical or biological toxic agents, toxic chemicals and mixtures containing such agents or chemicals, "riot control agents", radioactive materials, related equipment, components and materials as follows:" substitute "Chemical agents, "biological agents", "riot control agents", radioactive materials, related equipment, components and materials, as follows:"

⁴ 2002 c.28.

⁵ S.I. 2008/3231, amended by S.I. 2017/85 and S.I. 2017/697. There are other amending instruments but none is relevant.

(4) For entry ML7.a. substitute ""Biological agents" or radioactive materials selected or modified to increase their effectiveness in producing casualties in humans or animals, degrading equipment or damaging crops or the environment;"

(5) After ML8.a.40 insert—

"41 FTDO (5,6-(3',4'-furazano)-1,2,3,4-tetrazine-1,3-dioxide);"

(6) For entry ML8.c.3 substitute—

"Boranes, as follows, and their derivatives:

a. Carboranes;

b. Borane homologues, as follows:

1. Decaborane (14) (CAS 17702-41-9);

2. Pentaborane (9) (CAS 19624-22-7);

3. Pentaborane (11) (CAS 18433-84-6);"

(7) In entry ML8.g.9, at the end replace "." with ";"

(8) After ML8.g. insert—

"h. 'Reactive material' powders and shapes, as follows:

1. Powders of any of the following materials, with a particle size less than 250 µm in any direction and not specified elsewhere in ML8:

a. Aluminium;

b. Niobium;

c. Boron;

d. Zirconium;

e. Magnesium;

f. Titanium;

g. Tantalum;

h. Tungsten;

i. Molybdenum; or

j. Hafnium;

2. Shapes, not specified in ML3, ML4, ML12 or ML16, fabricated from powders specified in ML8.h.1.

Technical Notes:

1. *'Reactive materials' are designed to produce an exothermic reaction only at high shear rates and for use as liners or casings in warheads.*
2. *'Reactive material' powders are produced by, for example, a high energy ball milling process.*
3. *'Reactive material' shapes are produced by, for example, selective laser sintering."*

Graham Stuart

Parliamentary Under Secretary of State for Investment
Department for International Trade

7th February 2018

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 2 to the Export Control Order 2008 (S.I. 2008/3231) ("the 2008 Order"), which schedule 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. This regime is given effect to in the European Union through the Common Military List ("the CML").

The amendments to Schedule 2 to the 2008 Order are being made to implement Commission Directive (EU) 2017/2054 of 8 November 2017 amending Directive 2009/43/EC of the European Parliament and of the Council as regards the list of defence-related products (OJ L 311, 25.11.2017, p. 1) ("the amending Directive"). Directive 2009/43/EC (OJ L 146, 10.6.2009, p.1) which simplifies the terms and conditions of transfers within the European Union of defence-related products listed in the annex to that Directive, contains an annex which corresponds to the CML. The CML was updated in 2017 and the amending Directive makes the necessary changes to the annex to Directive 2009/43/EC to bring it into line with the latest CML adopted by the Council of the European Union on 6 March 2017 (OJ C 97, 28.3.2017, p.1).

This Order also amends article 2 to the 2008 Order to remove a definition no longer needed as a result of changes made to the 2008 Order by the Export Control (Amendment) Order 2017 (S.I. 2017/85).

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 and a transposition note are available from the Export Control Organisation, 3 Whitehall Place, London SW1A 2AW and, also, are published alongside the instrument on the www.legislation.gov.uk website. In addition, copies have been placed in the Libraries of both Houses of Parliament.