



EXPORT OF RADIOACTIVE SOURCES (CONTROL) ORDER 2006 (APPLICATION) (AMENDMENT) ORDER 2019

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Statutory Document No. 2019/0095



Customs and Excise Act 1993

EXPORT OF RADIOACTIVE SOURCES (CONTROL) ORDER 2006 (APPLICATION) (AMENDMENT) ORDER 2019

Approved by Tynwald: 22nd May 2019
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 of Radioactive Sources (Control) Order 2006 (Application) (Amendment) Order 2019.

2 Commencement

This Order comes into operation on exit day¹.

3 Interpretation

In this Order, “**exit day**” has the same meaning as in the European Union and Trade Act 2019.

4 Application of the Export of Radioactive Sources (Control) (Amendment) Order 2009

(1) The Export of Radioactive Sources (Control) (Amendment) Order 2009² shall apply to the Island, as part of the law of the Island, subject to the following modifications —

(a) in article 1 —

(i) omit the words from “and shall” onwards; and

(ii) omit (as a consequence of head (i)), in the heading, “and commencement”; and

¹ Tynwald procedure – affirmative under section 3(1) of the Customs and Excise Act 1993.

² S.I. 2009/585.

(b) for “Secretary of State”, wherever occurring, substitute ~~the~~ Treasury ~~of the United Kingdom~~.

(2) The text of the applied legislation is annexed to this Order in Annex 1.

5 Application of regulation 3 of the Export Control (Amendment) (EU Exit) Regulations 2019

(1) Regulation 3 of the Export Control (Amendment) (EU Exit) Regulations 2019³ applies to the Island, as part of the law of the Island, subject to the following modifications –

(a) after “Union”, wherever occurring, insert ~~the~~ (construed as including the Island) ~~of the United Kingdom~~;

(b) in paragraph (2)(b), for “United Kingdom”, substitute ~~the~~ Island ~~of the United Kingdom~~; and

(c) in paragraph (2)(c), for “sub-sub-sub”, substitute ~~the~~ sub-head ~~of the United Kingdom~~.

(2) The text of the applied legislation is annexed to this Order in Annex 2.

6 Amendment of the Export of Radioactive Sources (Control) Order 2006 (Application) Order 2006

(1) As a consequence of articles 4 and 5, the Schedule to the Export of Radioactive Sources (Control) Order 2006 (Application) Order 2006⁴ is amended as follows.

(2) For the entry relating to article 2 (interpretation), substitute –

2 2	Interpretation	(a) For “United Kingdom”, on the first, third and fourth occasions where the words occur, substitute the Island of the United Kingdom .
		(b) Omit the definition of “the Commissioners”.
		(c) In the definition of “customs and excise Acts” and “prescribed sum” –
		(i) delete the words “and “prescribed sum””; and
		(ii) for “section 1 of the Customs and Excise Management Act 1979”, substitute

³ S.I. 2019/137.

⁴ SD 589/06.

section 184 of the
Customs and Excise
Management Act
1986.

(d) After the definition of
“exportation”, insert –

“general” in relation to a
licence, means not granted
to a particular person but
available for use
generally.

(e) After the definition of “in
transit”, insert –

“licence user” means a
person who is registered
under article 6 to use a
general licence or who is
entitled to use a general
licence without registration
owing to the terms of the
general licence.

(3) For the entry relating to article 5 (licences), substitute –

5 Licences

(a) For “Secretary of State”,
wherever occurring,
substitute Treasury.

(b) For paragraph (1)(a),
substitute –

(a) either general or
granted to a
particular
person.

(c) For paragraph (2),
substitute –

(2) The Treasury may
by notice –

(a) amend,
suspend or
revoke a
licence
granted
under this
Order;

(b) suspend or

revoke a
general
licence
granted
under this
Order as it
applied to a
particular
licence user.

(2A) A notice by the
Treasury under
paragraph (2) shall
not take effect until

—
(a) in the case of
a notice
affecting all
users of a
general
licence, it has
been
published in
a manner
appearing to
the Treasury
to be suitable
for securing
that the
notice is seen
by persons
likely to be
affected by it;

(b) in any other
case, it has
been served
on the holder
of the licence
or on the
licence user
affected. **22**.

(d) In paragraph (3) —

(i) omit “to any
destination outside
the European
Union (construed

- as including the Island)”;
- (ii) in paragraph (3)(b), for “established within the European Union (construed as including the Island)”, wherever occurring, substitute **“established in the Island”**; and
- (iii) in paragraph (3)(b)(bb) omit “from the European Union (construed as including the Island)”. **”**.
- (e) After the definition of “in transit”, insert —
- “**“licence user” means a person who is registered under article 6 to use a general licence or who is entitled to use a general licence without registration owing to the terms of the general licence;**”**.
- (4) For the entry relating to article 8 (licence refusals etc. and appeals), substitute —
- “**8 Licence refusals etc. For article 8, substitute —
- “**8 (1) In the event that the Treasury decides not to grant a licence to any person who has applied for one, the applicant shall be provided with a written notification setting out the reason or reasons for the

decision.

- (2) In the event that the Treasury decides to suspend a licence other than a general licence, or to suspend a general licence as it applies to a particular licence user, the licence holder or licence user shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.
- (3) In the event that the Treasury decides to revoke a licence other than a general licence, or to revoke a general licence as it applies to a particular licence user, the licence holder or licence user shall be provided with a written notification setting out the reason or reasons for the decision.
- (4) In the event that the Treasury decides to amend a licence other than a general licence, and does not do so at the request of the licence holder, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.
- (5) Any person who has a right under

paragraphs (1) to (4) to a written notification in respect of a decision made by the Treasury shall have 28 days beginning with the date of the written notification in which to submit an appeal against the decision in writing to the Treasury.

(6) Any appeal submitted under paragraph (5) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(7) Pending determination of any appeal submitted under paragraph (5), any decision taken by the Treasury shall continue to have effect. ~~22~~ ~~22~~.

(5) For the entry relating to article 13 (use and disclosure of information), substitute —

~~13~~ 13

Use and disclosure of information

(a) In paragraph (1), for subparagraphs (a) and (b), substitute ~~the~~ the Treasury ~~22~~.

(b) For “United Kingdom”, wherever occurring, substitute ~~the~~ Island ~~22~~.

(c) In paragraph (2)(b), omit “European Union or other”. ~~22~~.

7 Revocation

The Export of Radioactive Sources (Control) (Amendment) Order 2009 (Application) Order 2009⁵ is revoked.

MADE 28/03/2019

A L CANNAN
Minister for the Treasury

⁵ SD 253/09.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies in Island law the Export of Radioactive Sources (Control) (Amendment) Order 2009⁶ and regulation 3 of the Export Control (Amendment) (EU Exit) Regulations 2019⁷.

The Export of Radioactive Sources (Control) (Amendment) Order 2009 brings the provisions on licences, licensing decisions and appeals in the Export of Radioactive Sources (Control) Order 2006⁸, as it has effect in the Island, into line with those in the Export Control Order 2008⁹, as that Order has effect in the Island.

The Export of Radioactive Sources (Control) (Amendment) Order 2009 has previously been applied in the Island; however, this Order re-applies that Order in order to make the consequential amendments to the Export of Radioactive Sources (Control) Order 2006 (Application) Order 2006. Consequently, the Export of Radioactive Sources (Control) (Amendment) Order 2009 (Application) Order 2009¹⁰ is revoked.

Regulation 3 of the Export Control (Amendment) (EU Exit) Regulations 2019 amends the Export of Radioactive Sources (Control) Order 2006, as it has effect in the Island, to remove references to the EU which are no longer appropriate upon withdrawal of the United Kingdom from the EU.

⁶ S.I. 2009/585.

⁷ S.I. 2019/137.

⁸ S.I. 2006/1846, which was applied in the Island by SD 589/06.

⁹ S.I. 2008/3231, which was applied in the Island by SD 104/09.

¹⁰ SD 253/09.

Annex 1

STATUTORY INSTRUMENTS

2009 No. 585

CUSTOMS

The Export of Radioactive Sources (Control) (Amendment)

Order 2009

Made - - - -

8th March 2009

Laid before Parliament

11th March 2009

Coming into force - -

6th April 2009

The Secretary of State, in exercise of the powers conferred by sections 1, 5 and 7 of the Export Control Act 2002¹¹, makes the following Order:

Citation and commencement

1. This Order may be cited as the Export of Radioactive Sources (Control) (Amendment) Order 2009 ~~and shall come into force on 6th April 2009.~~

Amendments

2. The Export of Radioactive Sources (Control) Order 2006¹² is amended as set out in the Schedule.

8th March 2009

Ian Pearson
Economic and Business Minister
Department for Business, Enterprise and Regulatory Reform

¹¹ 2002 c.28.

¹² S.I. 2006/1846.

SCHEDULE
AMENDMENTS

Article 2

1. In article 2—
 - (a) after the definition of “exportation” insert—

““general” in relation to a licence, means not granted to a particular person but available for use generally;”;
 - (b) at the end insert—

““licence user” means a person who is registered under article 6 to use a general licence or who is entitled to use a general licence without registration owing to the terms of that general licence;”.

2. In article 5—
 - (a) for paragraph (1)(a) substitute—

“(a) either general or granted to a particular person;”;
 - (b) for paragraph (2) substitute—

“(2) The ~~Secretary of State~~ **Treasury** may by notice—

 - (a) amend, suspend or revoke a licence granted under this Order;
 - (b) suspend or revoke a general licence granted under this Order as it applies to a particular licence user.

(2A) A notice by the ~~Secretary of State~~ **Treasury** under paragraph (2) shall not take effect until—

 - (a) in the case of a notice affecting all users of a general licence, it has been published in a manner appearing to the ~~Secretary of State~~ **Treasury** to be suitable for securing that the notice is seen by persons likely to be affected by it;
 - (b) in any other case, it has been served on the holder of the licence or on the licence user affected.”.

3. For article 8 substitute—
 - “8. (1) In the event that the ~~Secretary of State~~ **Treasury** decides not to grant a licence to any person who has applied for one, the applicant shall be provided with a written notification setting out the reason or reasons for the decision.

 - (2) In the event that the ~~Secretary of State~~ **Treasury** decides to suspend a licence other than a general licence, or to suspend a general licence as it applies to a particular licence user, the licence holder or licence user shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.

 - (3) In the event that the ~~Secretary of State~~ **Treasury** decides to revoke a licence other than a general licence, or to revoke a general licence as it applies to a

particular licence user, the licence holder or licence user shall be provided with a written notification setting out the reason or reasons for the decision.

(4) In the event that the ~~Secretary of State~~ **Treasury** decides to amend a licence other than a general licence, and does not do so at the request of the licence holder, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.

(5) Any person who has a right under any of paragraphs (1) to (4) to a written notification in respect of a decision made by the ~~Secretary of State~~ **Treasury** shall have 28 days beginning with the date of the written notification in which to submit an appeal against the decision in writing to the ~~Secretary of State~~ **Treasury**.

(6) Any appeal submitted under paragraph (5) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(7) Pending determination of any appeal submitted under paragraph (5), any decision taken by the ~~Secretary of State~~ **Treasury** shall continue to have effect.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings the provisions on licences, licensing decisions and appeals in the Export of Radioactive Sources (Control) Order 2006 into line with those in the Export Control Order 2008 (S.I. 2008/3231).

A full impact assessment has not been produced for this instrument as minimal or no impact on the private or voluntary sectors is foreseen.

STATUTORY INSTRUMENTS

2019 No. 137

EXITING THE EUROPEAN UNION

CUSTOMS

The Export Control (Amendment) (EU Exit) Regulations 2019

Amendment of the Export of Radioactive Sources (Control) Order 2006

3. (1) The Export of Radioactive Sources (Control) Order 2006¹³ is amended as follows.
- (2) In article 5 (Licences), in paragraph (3) —
- (a) in the words before sub-paragraph (a), omit “to any destination outside the European Union **(construed as including the Island)**”;
- (b) in sub-paragraph (b) for “established within the European Union **(construed as including the Island)**” in each place these words occur, substitute “established in the United Kingdom”;
- (c) in ~~sub-sub-sub~~ **sub-head** paragraph (bb) omit “from the European Union **(construed as including the Island)**”.
- (3) In article 13 (Use and disclosure of information), in paragraph (2)(b), omit “European Union or other”.

¹³ S.I. 2006/1846, amended by S.I. 2011/1043; there is another amending instrument, but it is not relevant.