

2018 No. 939

CUSTOMS

The Export Control (Amendment) (No. 2) Order 2018

Made - - - - 20th August 2018

Laid before Parliament 22nd August 2018

Coming into force - - 14th September 2018

The Secretary of State in exercise of the powers conferred by sections 1, 4, 5 and 7 of the Export Control Act 2002(a), makes the following Order:

Citation and commencement

1. This Order may be cited as the Export Control (Amendment) (No. 2) Order 2018 and comes into force on 14th September 2018.

Amendments to the Export Control Order 2008

2.—(1) The Export Control Order 2008(b) is amended as follows.

(2) In Schedule 1 (Goods Subject to Stricter Export and Trade Controls), Part 2 (Category B Goods), paragraph 10A. (Non-military Firearms) for “Firearms, their parts and essential components and ammunition specified in entry PL9010 in Schedule 3.” substitute “Firearms, their parts and essential components and ammunition specified in entry PL9010 or PL9011 in Schedule 3.”.

(3) In Schedule 2 (Military Goods, Software and Technology)—

(a) in entry ML1—

- (i) for “*N.B.: See also PL9010 in Schedule 3*” substitute “*N.B.: Weapons using non-centre fire (e.g. rimfired) cased ammunition and which are not of the fully automatic firing type are specified in PL9010.a. or PL9011.a. of Schedule 3.*”;
- (ii) in the Note to ML1 insert “*e. Weapons using non-centre fire (e.g. rimfired) cased ammunition and which are not of the fully automatic firing type.*” at the appropriate place;
- (iii) before the Note at entry ML1.a. insert “*N.B.: Rifles and combination guns, manufactured earlier than 1938 are specified in PL9010.a. and PL9011.a. of Schedule 3.*”;
- (iv) in the Note to ML1.a. for “*b. Not used;*” substitute “*b. Rifles and combination guns manufactured earlier than 1938;*”;
- (v) before entry b.1. insert –

(a) 2002 c. 28

(b) S.I. 2008/3231, relevant amending instruments are S.I. 2015/940, S.I. 2017/85, S.I. 2017/697 and S.I. 2018/165.

“N.B.1.: Smooth-bore weapons manufactured earlier than 1938 are specified in PL9010.a. and PL9011.a. of Schedule 3.”

“N.B.2.: Smooth-bore weapons manufactured in 1938 or later are specified in PL9010.a. and PL9011.a. of Schedule 3 provided they are not specifically designed for military use or of the fully automatic type.”;

- (vi) for paragraph b.2. for “Smooth-bore weapons not controlled by ML1.b.1., as follows: a. Fully automatic type weapons; b. Semi-automatic or pump action type weapons;” substitute “Fully automatic smooth-bore weapons not controlled by ML1.b.1.;”;
- (vii) in the Note to ML1.b. for “a. Not used;” substitute “Smooth-bore weapons manufactured earlier than 1938;”;
- (b) in entry ML2 –
 - (i) delete “N.B.: See also PL9010 in Schedule 3.”;
 - (ii) before the Note at entry ML2.a. insert –
 - “N.B.1.: Rifles, smooth-bore weapons and combination guns, manufactured earlier than 1938 are specified in PL9010.a. and PL9011.a. of Schedule 3.”*
 - “N.B.2.: Smooth-bore weapons that are manufactured in 1938 or later are specified in PL9010.a. and PL9011.a. of Schedule 3, provided they are not specially designed for military use or not of the fully automatic firing type.”;*
 - (iii) in the Note to ML2.a. –
 - (aa) for “a. Not used;” substitute “a. Rifles, smooth-bore weapons and combination guns, manufactured earlier than 1938;”;
 - (bb) insert at the appropriate place–
- “g. Smooth-bore weapons that are not of the following:
 - 1. Specially designed for military use; or
 - 2. Fully Automatic firing type”;

(c) in entry ML3, for “N.B.: See also PL9010” substitute “N.B.: Ammunition specially designed for “firearms” specified in PL9010.a. or PL9011.a. in Schedule 3 is specified in PL9010.c. or PL9011.c. in Schedule 3.”;

(d) in entry ML7, for “Chemical agents, “biological agents”, “riot control agents”, radioactive materials, related equipment, components and materials, as follows:” substitute “Chemical agents, “biological agents”, toxic chemicals and mixtures containing such agents or chemicals, “riot control agents”, radioactive materials, related equipment, components and materials, as follows:”;

(e) in entry ML10 paragraph e.1., e.2., f. and g., for each use of the phrase “specified by” substitute “specified in”;

(4) In Schedule 3 (UK Controlled Dual-Use Goods, Software and Technology)—

(a) before the definition of “energetic materials” insert ““Deactivation Regulation” means Commission Implementing Regulation (EU) 2015/2403 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable.”(a);

(b) after the definition of “firearm” insert —

“Note: This definition does not include items specially designed for any of the following:

- a. Alarm;
- b. Signalling;

- *c. Life-saving;*
- *d. Animal slaughter;*
- *e. Harpoon fishing;*
- *f. Industrial or technical purposes.”;*

(c) before the definition of “improvised explosive devices” insert –

““Firearm Regulation” means Council Regulation (EU) No 258/2012 implementing Article 10 of the United Nations’ Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition.””(a);

(d) for entry PL9010 insert–

“Firearms

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

PL9010

Where the “Firearm Regulation” does not apply, the export of “firearms”, their “parts” and “essential components” and “ammunition”, as follows, is prohibited to any destination outside the European Union:

N.B.: See also the “Firearm Regulation” for the export of “firearms” to non-EU Member States.

a. “Firearms” other than those specified in ML1 or ML2 of Schedule 2;

Note: PL9010.a. includes pre-1938 “firearms”, post 1937 smooth-bore “firearms” that are not fully automatic or specially designed for military use and post 1937 “firearms” using non-centre fire (e.g. rimfire) cased “ammunition” and which are not of the fully automatic firing type.

b. “Parts” (including sound suppressors or moderators) or “essential components” specially designed for “firearms” specified in PL9010.a. above;

c. “Ammunition” specially designed for “firearms” specified in PL9010.a. above;

d. “Software” designed for “development” or “production” of semi-automatic or pump action type smooth-bore “firearms” manufactured in 1938 or later;

e. “Technology” for the “development” or “production” of semi-automatic or pump action type smooth-bore “firearms” manufactured in 1938 or later.

N.B.: See article 18 of this Order for exceptions from the controls on “technology”.

Note: PL9010 does not control:

1. “Firearms” manufactured earlier than 1890 and reproductions thereof;

2. “Parts” (including sound suppressors or moderators), “essential components” or “ammunition”, specially designed for “firearms” specified in Note 1 above;

3. “Firearms” to which the “Deactivation Regulation” applies which have been deactivated and marked in accordance with the technical specifications set out in Annex I and II to the Deactivation Regulation;

(a) OJ No. L 94, 30.3.2012, p.1.

4. “Firearms” to which the “Deactivation Regulation” does not apply which bear a mark and are certified as having been rendered incapable of discharging any shot, bullet or other missile in accordance with section 8 of the Firearms (Amendment) Act 1988

PL9011

Where the “Firearm Regulation” does not apply, the export of “firearms”, devices, “essential components”, sound suppressors or moderators and “ammunition”, as follows, is prohibited to any destination inside the European Union:

N.B.: See also the Firearm Regulation and PL9010 for exports of “firearms” to non-EU Member States.

- a. “Firearms” other than those specified in ML1 or ML2 of Schedule 2;

Note: PL9011.a. includes pre-1938 “firearms”, post 1937 smooth-bore “firearms” that are not fully automatic or specially designed for military use and post 1937 “firearms” using non-centre fire (e.g. rimfire) cased “ammunition” and which are not of the fully automatic firing type.

- b. “Parts” (including sound suppressors or moderators) or “essential components” specially designed for “firearms” specified in PL9011.a. above;
- c. “Ammunition” specially designed for “firearms” specified in PL9011.a. above;
- d. “Software” designed for the “development” or “production” of semi-automatic or pump action type smooth-bore “firearms” manufactured in 1938 or later;
- e. “Technology” for the “development” or “production” of semi-automatic or pump action type smooth-bore “firearms” manufactured in 1938 or later;
- N.B.: See article 18 of this Order for exceptions from the controls on “technology”.*
- f. Devices for firing blanks, irritants, other active substances or pyrotechnic rounds that are capable of being converted to a “firearm”;
- g. Devices for salute or acoustic applications that are capable of being converted to a “firearm”.

Note: PL9011 does not control:

1. “Firearms” manufactured earlier than 1890;
2. “Parts” (including sound suppressors or moderators), “essential components” or “ammunition”, specially designed for “firearms” specified in Note 1 above;
3. “Firearms” to which the “Deactivation Regulation” applies which have been deactivated and marked in accordance with the technical specifications set out in Annexes I and II to the Deactivation Regulation”.

20th August 2018

Baroness Fairhead
Minister of State for Trade and Export Promotion
Department for International Trade

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).

This Order amends parts of Schedules 1, 2 and 3 to the 2008 Order to update and restructure the lists of firearms contained within those Schedules which require an export licence from the UK. The amendments are being made to implement Directive 2017/853 of 17 May 2017 of the European Parliament and of the Council (OJ L 137, 24.5.2017, p.22) (“the amending Directive”) amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons (OJ L 256, 13.9.1991, p.51) (“the Directive”). The amending Directive extends the controls on firearms to include controls on devices capable of being converted to firearms and introduces a difference between the firearms controlled by the Directive and those controlled by Council Regulation (EU) No 258/2012 (OJ L 94, 30.3.2012, p.1) (“the 2012 Regulation”) which governs exports outside the European Union.

Article 2(3)(a) to (c) makes amendments to control entries ML1, ML2 and ML3 of the UK Military List to ensure that non-military firearms are distinguished from firearms falling under the UK Military List. Article 2(3)(d) and (e) make changes to entries ML7 and ML10 to address typographical errors. Article 2(4) extends the controls on non-military firearms to devices capable of being converted to firearms by insertion of a new national control list PL9011 to implement the changes introduced by the amending Directive. Article 2(4) also amends PL9010 to clarify the differences between the non-military firearms controlled by the Directive and the 2012 Regulation.

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 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.

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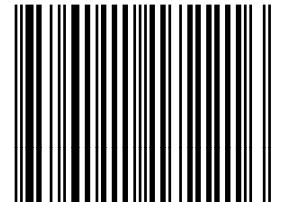
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