

2021 No. 586

CUSTOMS

TRADE

The Export Control (Amendment) Order 2021

<i>Made</i> - - - -	<i>13th May 2021</i>
<i>Laid before Parliament</i>	<i>17th May 2021</i>
<i>Coming into force</i> - -	<i>7th June 2021</i>

The Secretary of State makes the following Order in exercise of the powers conferred by sections 1, 2, 4, 5 and 7 of the Export Control Act 2002(a).

Citation and commencement

1. This Order may be cited as the Export Control (Amendment) Order 2021 and comes into force on 7th June 2021.

Amendments to the Export Control Order 2008

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

(2) Schedule 2 (military goods, software and technology) is amended in accordance with paragraphs (3) to (21).

(3) Under the heading “Definitions”—

(a) before the definition of “Deactivation Regulation”, insert—

““cyber incident response” means the process of exchanging necessary information or “software” on a cybersecurity incident with individuals or organisations responsible for conducting or coordinating remediation to address the cybersecurity incident;”;

(b) before the definition of “end-effectors”, insert—

““digital computer” means equipment which can, in the form of one or more discrete variables, perform all of the following:

a. accept data,

b. store data or instructions in fixed or alterable (writable) storage,

(a) 2002 c. 28; sections 1(5), 2(5), 5(2) and 7(2) were amended by S.I. 2011/1043; sections 1(5), 2(5), 4(4), 4(5), 5(2), 5(3), 7(2) and 11 were amended by S.I. 2019/771.

(b) S.I. 2008/3231, amended by S.I. 2010/2007, S.I. 2017/85, S.I. 2017/697, S.I. 2018/165, S.I. 2018/939, S.I. 2019/137, S.I. 2019/989; there are other amendments to the Order but none is relevant.

- c. process data by means of a stored sequence of instructions which is modifiable, and
- d. provide output of data;

Technical Note:

Modifications of a stored sequence of instructions include replacement of fixed storage devices, but not a physical change in wiring or interconnections;”;

- (c) before the definition of “explosives”, insert—
 - ““equivalent standards” means comparable national or international standards recognised by one or more Wassenaar Arrangement “participating states” and applicable to the relevant entry;”;
 - (d) before the definition of “production”, insert—
 - ““participating state” means a state participating in the Wassenaar Arrangement (see www.wassenaar.org);”;
 - (e) before the definition of “spacecraft”, insert—
 - ““satellite navigation system” means a system consisting of ground stations, a constellation of satellites, and receivers, that enables receiver locations to be calculated on the basis of signals received from the satellites. It includes global navigation satellite systems and regional navigation satellite systems;”;
 - (f) after the definition of “user-accessible programmability”, insert—
 - ““vulnerability disclosure” means the process of identifying, reporting, or communicating a vulnerability to, or analysing a vulnerability with, individuals or organisations responsible for conducting or coordinating remediation for the purpose of resolving the vulnerability;”.
- (4) At the end of the Note to entry ML1.a. insert—

- “;
- f. Handguns specially designed for any of the following:
 - 1. slaughtering of domestic animals; or
 - 2. tranquilising of animals.”.

- (5) For entry ML1.d.3, substitute—

““Special gun-mountings”;”.

(6) In entry ML2, for “projectors and accessories” substitute “accessories and projectors specially designed or modified for military use”.

(7) In entry ML2.a., for “recoilless rifles, smooth-bore weapons and signature reduction devices therefor;” substitute “recoilless rifles and smooth-bore weapons;”.

- (8) For entry ML2.b., substitute—

“The following types of projectors, when specially designed or modified for military use:

- 1. Smoke canister projectors;
- 2. Gas canister projectors;
- 3. Pyrotechnics projectors.

Note: ML2.b. does not control signal pistols.”.

- (9) For entry ML2.c., substitute—

“Accessories specially designed for the weapons specified in ML2.a., as

follows:

1. Weapon sights and weapon sight mounts, specially designed for military use;
2. Signature reduction devices;
3. Mountings;
4. Detachable cartridge magazines.”.

(10) Omit ML2.d..

(11) For entry ML6.b.1.a., substitute—

“a. manufactured or fitted with materials or components to provide ballistic protection equal to or better than level III (NIJ 0108.01, September 1985) or “equivalent standards”;

(12) For entry ML6.b.2.b., substitute—

“b. providing ballistic protection equal to or better than level III (NIJ 0108.01, September 1985) or “equivalent standards”;

(13) In entry ML8.c., at “Note 1”, for “apply to” substitute “control”;

(14) In entry ML10.f., for the words starting with “Technical Notes” and ending with “2.” substitute—

“Technical Note:

‘Ground equipment’ includes pressure refuelling equipment and equipment designed to facilitate operations in confined areas.”.

(15) In entry ML11.b., for “Global Navigation Satellite Systems (GNSS)” substitute ““Satellite navigation system””.

(16) In entry ML13.d.2.,—

(i) for “greater” substitute “better”; and

(ii) for “national equivalents” substitute ““equivalent standards””.

(17) After entry ML15.f., and before the entry that starts “Note: ML15”, insert—

“Note: ML15.f. includes equipment designed to degrade the operation or effectiveness of military imaging systems or to minimise such degrading effects.”.

(18) In entry ML17.m., omit “rafts,”.

(19) In entry ML18, after ““Production” equipment” insert “, environmental test facilities,”.

(20) After entry ML21.b.4., insert—

“5. “Software” specially designed or modified for the conduct of military offensive cyber operations;

Note 1: ML21.b.5. includes “software” designed to destroy, damage, degrade or disrupt systems, equipment or “software”, specified in this Schedule, and associated cyber reconnaissance and cyber command and control “software”.

Note 2: ML21.b.5. does not apply to a “vulnerability disclosure” or to a “cyber incident response”, limited to non-military defensive cybersecurity readiness or response.”.

(21) After entry ML21.c., insert—

“N.B. See systems, equipment or components specified in this Schedule for general purpose “digital computers” with installed “software” specified by ML21.c.”.

(22) Schedule 3 (UK controlled dual-use goods, software and technology) is amended in accordance with paragraphs (23) to (25).

(23) Under the heading “Definitions”—

(a) in the definition of “required”, omit “and the intended use of “technology” is irrelevant to whether it is “required””;

(b) before the definition of “use”, insert—

““Unmanned Aerial Vehicle” (or “UAV”) means any “aircraft” capable of initiating flight and sustaining controlled flight and navigation without any human presence on board;”.

(24) In entry PL9009.a., before entry PL9009.a.1, insert—

“Note: For the purpose of PL9009.a. “aircraft” includes “UAVs”.”.

(25) In entry PL9009.a.2.g., for “Unmanned aerial vehicle (UAV)” substitute ““UAV””.

Signed by authority of the Secretary of State

13th May 2021

Ranil Jayawardena
Parliamentary Under Secretary of State
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”).

Article 2(2) to (21) amends Schedule 2 to the 2008 Order which lists military goods, software and technology subject to export controls (“the military list”). The content of the military list reflects both domestic controls and an international export regime known as the Wassenaar Arrangement. Amendments to the Wassenaar Arrangement munitions list were most recently agreed in December 2019. The substituted text reflects those changes, including the insertion of new definitions and further technical notes.

Article 2(22) to (25) amends Schedule 3 to the 2008 Order which lists UK controlled dual-use goods, software and technology. The new text amends these national controls to provide further clarity regarding the interpretation of PL9009, particularly in relation to Unmanned Aerial Vehicles.

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