

GUERNSEY STATUTORY INSTRUMENT

2014 No. *14*

**The Export Control (Military, Security, and Related
Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014**

Made 27th June, 2014
Laid before the States , 2014
Coming into operation 1st August, 2014

THE HOME DEPARTMENT, in exercise of the powers conferred upon it by sections 1 and 7 of the Export Control (Bailiwick of Guernsey) Law, 2006^a and all other powers enabling it in that behalf, hereby makes the following Order:-

Amendments to principal Order.

1. The principal Order is amended as follows.
2. Immediately after article 2 of the principal Order, insert the following article –

"Movement of certain medicinal products to the United States of America.

2A. (1) Subject to articles 15 and 23, no person shall export a medicinal product or veterinary medicinal product containing the active ingredient pancuronium bromide or propofol where –

^a Order in Council No. XIV of 2007.

(a) the product is in a form suitable for injection or for preparation of an injection, and

(b) paragraph (2) or (3) applies.

(2) This paragraph applies where the destination of the product is the United States of America.

(3) This paragraph applies where the destination is not the United States of America but the exporter knows that the final destination of the product is the United States of America.

(4) In paragraph (1) –

"medicinal product" has the meaning given by section 133(1) of the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008, and

"veterinary medicinal product" means --

(a) any substance, or combination of substances, presented as having properties for treating or preventing disease in animals, or

(b) any substance, or combination of substances, that may be used in, or administered to, animals with a view either to restoring, correcting or

modifying physiological functions by exerting a pharmacological, immunological or metabolic action, or to making a medical diagnosis."

3. Immediately after article 12 of the principal Order, insert the following article –

"Exception for historic military vehicles.

12A. (1) The prohibition on the export of military goods in article 1 does not apply to the export of a vehicle or component falling within entry ML6 in Schedule 2 to the UK Order if the following conditions are met.

(2) The conditions are that –

- (a) the vehicle or component was manufactured more than 50 years before the date of exportation,
- (b) the exportation is to a destination in Belgium, France, Germany or the United Kingdom,
- (c) the exportation is for the purposes of a military re-enactment, commemorative event or recreational activity, and

(d) the vehicle or component is to be returned to the Bailiwick within 3 months of the date of exportation."

4. In article 15(1) of the principal Order, immediately after "2,", insert "2A,".

5. In article 15(4) of the principal Order, for subparagraph (a), substitute the following subparagraph –

"(a) the goods in question either –

(i) remain on board a vessel, aircraft or vehicle for the entire period that they remain in the Bailiwick or are goods on a through bill of lading, through air waybill or single transport contract and in any event are exported before the end of the period of 30 days beginning with the date of their importation, or

(ii) are European military items which were originally exported from a member State and the destination of the goods following exportation from the Bailiwick is within the European Union,".

6. In article 25(1)(b) of the principal Order, for "Community General Export Authorisation", substitute "Union General Export Authorisation".

7. In article 26 of the principal Order, for paragraph (1), substitute the following paragraph –

"(1) A person who –

- (a) acts under the authority of a general licence granted by the Department,
- (b) acts under the authority of the Union General Export Authorisation whilst established in the Bailiwick, or
- (c) acts under the authority of an individual licence to export or transfer European military items within the European Union,

shall keep detailed registers or records."

8. In article 38(1)(a)(i) and (2)(a) of the principal Order, immediately after "2," in each of those provisions, insert "2A,".

9. In article 44(1) of the principal Order, omit the definition of "**Community General Export Authorisation**" and insert the following definitions in the appropriate alphabetical order –

"European military items" means goods, software or technology listed in Schedule 2 to the UK Order except in entry PL5017 or PL5001,

"individual licence" means a Bailiwick licence granted to a particular person, and

"Union General Export Authorisation" has the meaning given by Article 2(9) of the dual-use Regulation,".

10. Immediately after article 44 of the principal Order, insert the following article –

"The Crown, States of Guernsey, States of Alderney and Chief Pleas of Sark.

44A. (1) Subject to paragraph (2), articles 2, 3, 4, 5 and 6 bind the Crown, the States of Guernsey, the States of Alderney and the Chief Pleas of Sark.

(2) The Crown, the States of Guernsey, the States of Alderney or the Chief Pleas of Sark is not criminally liable for a contravention of any of those articles; but the Royal Court sitting as an Ordinary Court may, on the application of a person appearing to that Court to have an interest, declare unlawful any act or omission of the Crown, the States of Guernsey, the States of Alderney or the Chief Pleas of Sark which constitutes such a contravention.

(3) Paragraph (2) does not affect the application of those articles to persons in the public service of the Crown, the States of Guernsey, the States of Alderney or the Chief Pleas of Sark."

Interpretation.

11. (1) In this Order, "**the principal Order**" means the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) Order, 2010^b.

(2) In this Order, a reference to any enactment is a reference to the enactment as from time to time amended, re-enacted (with or without modification), extended or applied.

^b G.S.I. No. 37 of 2010; as amended by G.S.I. No. 10 of 2012.

(3) The provisions of the Interpretation (Guernsey) Law, 1948^c apply to the interpretation of this Order throughout the Bailiwick as they apply to the interpretation of an enactment in force in the Island of Guernsey.

Revocation

12. The Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2012^d is revoked.

Citation.

13. This Order may be cited as the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014.

Commencement.

14. This Order comes into force on the 1st August, 2014.

Dated this 27th day of June, 2014



Deputy Francis Quin
Deputy Minister of the States Home Department
For and on behalf of the Department

^c Ordres en Conseil Vol. XIII, p. 355.

^d G.S.I. No. 10 of 2012.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order refreshes and updates the export prohibition on products which may be used for lethal injections in the United States of America, as well as amending the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) Order, 2010 ("**the principal Order**"), to mirror several of the amendments made to the UK's export prohibitions regime by the Export Control (Amendment) (No 2) Order 2012 (UK S.I. 2012 No. 1910).

Article 2 of this Order inserts article 2A into the principal Order, to prohibit the export of human and veterinary medicinal products containing pancuronium bromide or propofol. This prohibition only applies to the export of these products where they are in a form suitable for injection or for preparation of an injection and the final destination is the United States of America (articles 4 and 8 of this Order amend the principal Order to reflect this amendment).

Article 3 of this Order inserts a new article 12A into the principal Order to provide an exception allowing the temporary export of historic military vehicles where certain conditions are satisfied.

Article 5 of this Order extends the exception relating to goods in transit so that it applies to goods in transit via a vehicle and in relation to activities within the scope of Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community ("**the Directive**").

Articles 6 and 9 of this Order updates the terminology used in the principal Order and inserts definitions of "**European military items**" and "**individual licence**" into the principal Order, as a consequence of amendments to Council Regulation 428/2009

(OJ L134, 29 5 2009, p1) setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

Article 7 of this Order amends article 26 of the principal Order so that the record keeping requirements also apply to persons acting under the authority of individual licences relating to the items listed in the Annex to the Directive.

Article 10 of this Order inserts a provision concerning the application of the principal Order to the Crown, the States of Guernsey, the States of Alderney and the Chief Pleas of Sark.

Article 11 of this Order is the interpretation provision.

Article 12 of this Order revokes the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2012: provisions of that Order prohibiting the export of products containing sodium thiopental, pancuronium bromide, potassium chloride concentrate or sodium pentobarbital have expired, whilst other provisions amending the principal Order are spent.

This Order will come into force on the 1st August, 2014.

