

# GUERNSEY STATUTORY INSTRUMENT

ENTITLED

## **The Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) Order, 2010 \***

[CONSOLIDATED TEXT]

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* G.S.I. No. 37 of 2010; as amended by the: Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2012 (G.S.I. No. 10 of 2012); Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014 (G.S.I. No. 44 of 2014); Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019 (G.S.I. No. 38 of 2019); Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024 (G.S.I. No. 67 of 2024). See also the Firearms (Guernsey) (Amendment) Law, 2016 (No. IV of 2016).

# GUERNSEY STATUTORY INSTRUMENT

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## **The Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) Order, 2010**

### ARRANGEMENT OF ARTICLES

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SCHEDULE Dual-use regulation provisions modified and given effect.

Explanatory Note.

(Made on 26th April, 2010.)

## **The Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) Order, 2010**

**THE HOME DEPARTMENT**, in exercise of the powers conferred upon it by sections 1 to 4 and 7 of the Export Control (Bailiwick of Guernsey) Law, 2006<sup>a</sup> and of all other powers enabling it in that behalf, hereby makes the following Order: –

### PART I

#### EXPORT AND TRANSFER CONTROLS

##### **Military goods, etc.**

1. Subject to articles 11 to 16 and 23, no person shall –
  - (a) export military goods, or
  - (b) transfer military software or technology by electronic means.

##### **Movement of Bailiwick controlled dual-use goods, etc. to certain destinations.**

2. (1) Subject to articles 11, 12, 15, 16 and 23, no person shall –
  - (a) export Bailiwick controlled dual-use goods, or
  - (b) transfer Bailiwick controlled dual-use software or technology by electronic means,

if paragraph (2) or (3) applies.

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<sup>a</sup> Order in Council No. XIV of 2007.

(2) This paragraph applies where the destination is one specified in Schedule 3 to the UK Order as a prohibited destination in relation to the goods, software or technology in question ("**a prohibited destination**").

(3) This paragraph applies where the destination is not a prohibited destination but the exporter or transferor knows –

- (a) that the final destination of the goods, software or technology in question is a prohibited destination, and
- (b) that no processing or working is to be performed on the goods, software or technology in question before they are exported or transferred to that final destination.

**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) 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.]

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**NOTE**

*Article 2A was inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014, article 2, with effect from 1st August, 2014.<sup>1</sup>*

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**WMD purposes end-use control supplementing the dual-use Regulation.**

3. (1) This article applies where –
- (a) a person has grounds for suspecting that dual-use goods, software or technology are or may be intended, in their entirety or in part, for WMD purposes, and

- (b) the goods, software, or technology in question are not specified in Annex 1 to the dual-use Regulation.
- (2) Subject to article 23, the person shall not –
- (a) export the goods in question, or
  - (b) transfer the software or technology in question by electronic means,

to a destination outside the customs territory unless, having made all reasonable enquiries as to the proposed use of the goods, software or technology in question, that person is satisfied that they will not be used for WMD purposes.

**Control on transfers within the customs territory supplementing the dual-use Regulation.**

4. (1) This article applies where –
- (a) a person knows –
    - (i) that the final destination of dual-use goods, software or technology is outside the customs territory, and
    - (ii) that no processing or working is to be performed on the goods, software or technology in question within the customs territory,
  - (b) [an authorisation would be required] to export or transfer the goods, software or technology in question to a destination outside the customs territory [under

Article 3(1)] (controls on listed goods) or Article 4 (end-use controls) of the dual-use Regulation, and

(c) the goods, software or technology in question are not specified in Annex IV to the dual-use Regulation.

(2) Subject to articles 15 and 23, the person shall not –

(a) export the goods in question, or

(b) transfer the software or technology in question by electronic means,

to a destination within the customs territory.

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**NOTE**

*In article 4, the words in the first and second pairs of square brackets were substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 2(a) and article 2(b), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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**Transit controls supplementing the dual-use Regulation.**

5. (1) Subject to articles 15 and 23, no person shall export goods listed in Annex I to the dual-use Regulation where the goods in question are [...] entering and passing through the customs territory with a final destination outside the customs territory.

(2) Paragraph (3) applies where a person ("**the exporter**") –

(a) has been informed by [the Committee or the Chief

Officer] that dual-use goods are or may be intended, in their entirety or in part, for purposes referred to in Article 4(1) (WMD purposes end-use control) of the dual-use Regulation, or

- (b) is aware that dual-use goods specified are or may be intended, in their entirety or in part, for purposes referred to in Article 4(1) (WMD purposes end-use control) of the dual-use Regulation,

and the dual-use goods in question are [...] goods which are not listed in Annex I to the dual-use Regulation and which are entering and passing through the customs territory with a final destination outside the customs territory.

- (3) Subject to article 23, the exporter shall not export the goods in question.

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**NOTE**

*In article 5, first, the words omitted in square brackets in paragraph (1) were revoked, second, the words in square brackets in paragraph (2)(a) were substituted and, third, the words omitted in square brackets in the text following paragraph (2)(b) were revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 3(a), article 3(b)(i) and article 3(b)(ii), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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**Provisions supplementing the torture Regulation.**

- 6. (1) This article applies to –
  - (a) gang chains and leg-irons specially designed for restraining human beings,

- (b) goods within item 2.1 in Annex II to the torture Regulation (electric-shock [devices]), and
- (c) goods within item 2.1 in Annex III to the torture Regulation (portable electric [discharge weapons]).

(2) Subject to article 23, no person shall export goods to which this article applies to a destination within the customs territory.

(3) Subject to article 23, no person shall export any goods specified in paragraph (1)(a) or (c) in relation to which there is no export authorisation requirement under Article [11] (export authorisation requirement) of the torture Regulation because the goods are in transit.

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**NOTE**

*In article 6, first, the words in square brackets in, first, paragraph (1)(b) and, second, paragraph (1)(c) were substituted and, third, the figures in paragraph (3) were substituted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 12, respectively paragraph (a)(i), paragraph (a)(ii) and paragraph (b), with effect from 11 p.m. on 31st December, 2020.*

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**General prohibition.**

7. To the extent that, under any of articles 1 to 6, [or 10A,] a person may not export goods, the exportation of the goods in question is prohibited.

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**NOTE**

*In article 7, the word, figures and letter in square brackets were inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, article 4, with effect from 1st September, 2024, subject to the transitional provision in article 30 of the*

2024 Order.

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**Transfers within the Bailiwick for WMD purposes.**

8. (1) This article applies where a person –
- (a) has been informed by [the Committee] [or the Chief Officer] that software or technology is or may be intended, in its entirety or in part, for WMD purposes, or
  - (b) is aware that software or technology is intended, in its entirety or in part, for WMD purposes,

and knows that it may be or is intended to be used outside the customs territory or has been informed by [the Committee or] the Chief Officer that it may be or is intended to be so used.

(2) Subject to articles 16 and 23, the person shall not transfer the software or technology in question to a person or place within the Bailiwick.

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**NOTE**

*In article 8,*

*the words in the first pair of square brackets in paragraph (1)(a) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016;*

*the words in, first, the second pair of square brackets in paragraph (1)(a) and, second, in the text following subparagraph (b) were inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 5(a) and article 5(b), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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**Transfers from outside the customs territory for WMD purposes.**

9. (1) This article applies where a person who is a relevant person –
- (a) has been informed by a competent authority that software or technology is or may be intended, in its entirety or in part, for WMD purposes, or
  - (b) is aware that software or technology is intended, in its entirety or in part, for WMD purposes.
- (2) Subject to articles 16 and 23, the person shall not transfer the software or technology in question from a place outside the customs territory to –
- (a) a destination outside the customs territory,
  - (b) a destination anywhere within the customs territory (including, for avoidance of doubt, the Bailiwick), if that person –
    - (i) knows that the final destination of the software or technology is outside the customs territory, and
    - (ii) knows that no processing or working is to be performed on the software or technology within the customs territory, or
  - (c) a destination within the Bailiwick, if that person –
    - (i) knows that the software or technology may be

or is intended to be used outside the customs territory, or

- (ii) has been informed by the Chief Officer that it may be or is intended to be so used.

**Transfers by non-electronic means from the Bailiwick for WMD purposes.**

**10.** (1) This article applies where a person –

- (a) has been informed by [the Committee or] the Chief Officer that software or technology is or may be intended, in its entirety or part, for WMD purposes, or
- (b) is aware that software or technology is intended, in its entirety or in part, for WMD purposes.

(2) Subject to articles 16 and 23, the person shall not transfer the software or technology in question by non-electronic means to –

- (a) a destination outside the customs territory, or
- (b) a destination within the customs territory if that person-
  - (i) knows that the final destination of the software or technology is outside the customs territory, and
  - (ii) knows that no processing or working is to be performed on the software or technology within the customs territory.

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**NOTE**

*In article 10, the words in square brackets were inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, article 7, with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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**[Military end-use control supplementing the dual-use Regulation.]**

- 10A.** (1) This article applies where a person ("**a relevant person**") –
- (a) has been informed by the Committee or the Chief Officer that dual-use goods, software or technology are, or may be intended, in their entirety or in part, for use by a relevant entity, and
  - (b) the dual-use goods, software or technology in question are not specified in Annex I to the dual-use Regulation.
- (2) Subject to articles 10B, 16 and 23, a relevant person shall not –
- (a) export the goods in question, or
  - (b) transfer the software or technology in question by electronic means to a destination outside the Bailiwick.
- (3) In this article, "**relevant entity**" means –
- (a) any military forces, para-military forces, police forces, security services or intelligence services of a country that is one or more of the following –
    - (i) an embargoed destination,

- (ii) subject to an arms embargo imposed by a decision of the Organisation for Security and Cooperation in Europe (OSCE), or
  - (iii) subject to an arms embargo imposed by a binding resolution of the Security Council of the United Nations, or
- (b) any person involved in the procurement, research, development, production or use of dual-use goods, software or technology on behalf, or at the direction, of any of the entities mentioned in subparagraph (a).]

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**NOTE**

*Article 10A was inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, article 8, with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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**[Exceptions to military end-use control supplementing the dual-use Regulation.]**

- 10B.** (1) Nothing in article 10A shall be taken to prohibit –
- (a) the export of medical goods, including medicines and medical devices, for the benefit of the civilian population of a country,
  - (b) the export of consumer goods generally available to the public, or

- (c) the transfer of software or technology generally available to the public.

(2) For the purposes of paragraph (1), goods, software or technology are generally available to the public if they are –

- (a) sold from stock at retail selling points without restriction, by means of –
  - (i) over the counter transactions,
  - (ii) mail order transactions,
  - (iii) electronic transactions, or
  - (iv) telephone order transactions, and
- (b) designed for installation by the user without further substantial support by the supplier.]

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**NOTE**

*Article 10B was inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, article 8, with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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**Exceptions for aircraft.**

11. (1) Nothing in article 2 shall be taken to prohibit the exportation of –
- (a) any aircraft on a scheduled journey, or

- (b) any aircraft if –
  - (i) its immediately preceding importation was on a scheduled journey, and
  - (ii) the aircraft is intended for further scheduled journeys.

(2) Nothing in article 1 shall be taken to prohibit the exportation of any aircraft which is being exported (except to a country or destination specified in Part 1, 2 or 3 of Schedule 4 to the UK Order) after temporary importation into the Bailiwick if –

- (a) there has been no change of ownership or registration since such importation, and
- (b) no military goods have been incorporated into the aircraft since such importation other than by way of replacement for a component essential for the departure of the aircraft.

(3) Nothing in article 1 or 2 shall be taken to prohibit the exportation of any aircraft which is departing temporarily from the Bailiwick on trials.

**Exceptions for vessels.**

**12.** (1) Nothing in article 1 shall be taken to prohibit the exportation of any vessel registered or constructed outside the Bailiwick which is being exported (except to a country or destination specified in Part 1, 2 or 3 of Schedule 4 to the UK Order) after temporary importation into the Bailiwick provided that no military goods

have been incorporated into the vessel since such importation other than by way of replacement for a component essential for the departure of the vessel.

(2) Nothing in article 2 shall be taken to prohibit the exportation of any vessel proceeding on a journey providing transport services in the ordinary course of business.

(3) Nothing in article 1 or 2 shall be taken to prohibit the exportation of any vessel which is departing temporarily from the Bailiwick on trials.

**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[, the United Kingdom, the Bailiwick of Jersey or the Isle of Man],
- (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.]

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**NOTES**

*Article 12A was inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014, article 3, with effect from 1st August, 2014.*

*In article 12A, the words in square brackets in paragraph (2)(b) were substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, article 9, with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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**Exception for firearms - relevant certificates and permits.**

**13.** (1) This article applies to firearms authorised to be possessed or (as the case may be) purchased or acquired, by a relevant certificate or permit.

(2) Nothing in article 1 shall be taken to prohibit the exportation of any firearm to which this article applies, or any related ammunition or sight using non-electronic image enhancement for use with such a firearm, –

(a) to any destination in the United Kingdom, the Bailiwick of Jersey or the Isle of Man, subject to the conditions specified in paragraph (3),

(b) to any other authorised destination, subject to the conditions specified in paragraph (3).

(3) The conditions referred to in paragraph (2)(a) and (b) are –

(a) the firearm, and any related ammunition or sight –

(i) is exported or consigned by the holder of the relevant certificate or permit, and

- (ii) is exported or consigned in conformity with any conditions of the relevant certificate or permit,
- (b) the relevant certificate or permit is produced by the holder, or the holder's duly authorised agent, together with the firearm and any related ammunition or sight to the Chief Officer at the place of exportation, and
- (c) the firearm, and any related ammunition or sight –
  - (i) forms part of the personal effects of that holder, and
  - (ii) is not exported for sale, hire, or any kind of business or commercial supply.
- (4) In this article, –

**"authorised destination"** means any destination other than a country or destination specified in Part 1, 2 or 3 of Schedule 4 to the UK Order, and

**"relevant certificate or permit"** means –

- (a) a permit obtained from –
  - (i) the Chief Officer of the salaried police force of the Island of Guernsey under section 10 of the Firearms (Guernsey) Law, 1998<sup>b</sup>, or

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<sup>b</sup> Ordres in Conseil, Vol. XXXVIII, p. 324, as amended by Vol. XL, p. 24 (functions transferred by Recueil d'Ordonnances Tome XXIX, p. 406).

- (ii) the Firearms Committee (elected by the Chief Pleas of the Island of Sark) under section 9 of the Firearms (Sark) Law, 2001<sup>c</sup>,
- (b) a visitor's temporary permit issued under –
  - (i) section 16 of the Firearms (Guernsey) Law, 1998, or
  - (ii) section 15(2) of the Firearms (Sark) Law, 2001,
- (c) a valid firearm certificate or shot gun certificate granted under –
  - (i) section 30 or section 31, respectively, of the Firearms (Guernsey) Law, 1998, or,
  - (ii) section 29 or section 30, respectively, of the Firearms (Sark) Law, 2001,
- (d) a valid weapons certificate granted under section 3 of the Dangerous Weapons (Alderney) Ordinance, 1965<sup>d</sup>,  
or
- (e) a valid permit (by whatever name called) issued by the appropriate authority in the country of residence of a

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<sup>c</sup> Order in Council XII of 2002.

<sup>d</sup> Alderney Ordinance No. II of 1965, as amended by Alderney Ordinances No. I of 1985, No. V of 1992, No. XII of 1993 and No. XI of 2009.

person authorised to possess a shotgun, rifle or pistol under section 4(7) of the Dangerous Weapons (Alderney) Ordinance, 1965.

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**NOTE**

*In accordance with the provisions of the Firearms (Guernsey) (Amendment) Law, 2016, section 31(1), with effect from 1st November, 2017, the references in this Order to the Firearms (Guernsey) Law, 1998 are to construed as referring, or including a reference, to the Firearms and Weapons (Guernsey) Law, 1998, so far as may be necessary for preserving the effect of the Order.*

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**Other exceptions for firearms.**

**14.** (1) Nothing in article 1 shall be taken to prohibit the exportation of any firearm, or any related ammunition or sight using non-electronic image enhancement for use with such a firearm, if it meets Condition A or Condition B.

(2) Condition A is met if the firearm and any related ammunition or sight is exported or consigned to a destination within the United Kingdom, the Bailiwick of Jersey or the Isle of Man –

(a) by a person registered as a firearms dealer in the Bailiwick, and

(b) in conformity with any conditions of his registration.

(3) Condition B is met if the firearm and any related ammunition or sight is exported on board a ship or aircraft and had been –

(a) imported into the Bailiwick on board the ship or aircraft,

- (b) declared to the Chief Officer as part of the equipment of that ship or aircraft, and
- (c) kept on board that ship or aircraft whilst in the Bailiwick unless lawfully removed under section 15 of the Firearms (Guernsey) Law, 1998 or section 14 of the Firearms (Sark) Law, 2001.

(4) In paragraph (2), "**registered as a firearms dealer**", in relation to the Bailiwick, means so registered under –

- (a) section 36 of the Firearms (Guernsey) Law, 1998, or
- (b) section 35 of the Firearms (Sark) Law, 2001.

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**NOTE**

*In accordance with the provisions of the Firearms (Guernsey) (Amendment) Law, 2016, section 31(1), with effect from 1st November, 2017, the references in this Order to the Firearms (Guernsey) Law, 1998 are to construed as referring, or including a reference, to the Firearms and Weapons (Guernsey) Law, 1998, so far as may be necessary for preserving the effect of the Order.*

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**Transit or transhipment exception.**

**15.** (1) Subject to paragraphs (2) and (3), nothing in articles 1, 2, [2A,] 4 or 5(1) shall be taken to prohibit the exportation of any goods which are goods in transit provided that the conditions in paragraph (4) are met.

- (2) Paragraph (1) does not apply to the following –
  - (a) anti-personnel landmines and components specially designed for them,

- (b) category A goods,
  - (c) equipment, software or technology falling within entry ML18, ML21 or ML22 in Schedule 2 to the UK Order, specifically related to anti-personnel landmines or Category A goods,
  - (d) goods being exported to a destination specified in Part 1 of Schedule 4 to the UK Order,
  - (e) military goods being exported to any country or destination specified in Part 2 or 3 of Schedule 4 to the UK Order, and
  - (f) category B goods being exported to any country or destination specified in Part 4 of Schedule 4 to the UK Order.
- (3) Paragraph (1) does not apply to the extent that –
- (a) the exporter (or, if the exporter is not within the Bailiwick, any agent of the exporter within the Bailiwick concerned in the exportation or intended exportation) has been informed by [the Committee or the Chief Officer] that the goods are or may be intended, in their entirety or in part, for WMD purposes,
  - (b) the exporter is aware that the goods are intended, in their entirety or in part, for WMD purposes, or

- (c) the exporter has grounds for suspecting that the goods are or may be intended, in their entirety or in part, for WMD purposes, unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that they will not be so used.
- (4) The conditions are that –
- [(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) [...]
  - (b) the destination of the goods in question following exportation from the Bailiwick has been determined in the country from which they were originally exported prior to their original exportation in connection with the transaction which has given rise to transit or transshipment and either –
    - (i) the destination has not been changed prior to their exportation from the Bailiwick, or

- (ii) the goods are being returned to that country, and
- (c) the goods in question were exported from that country in accordance with any laws or regulations relating to the exportation of goods applying there at the time of exportation of the goods.

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**NOTES**

*In article 15,*

*the figure, letter and punctuation in square brackets in paragraph (1) were inserted and subparagraph (a) of paragraph (4) was substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014, respectively article 4 and article 5, with effect from 1st August, 2014;<sup>2</sup>*

*first, the words in the first pair of square brackets in paragraph (3)(a) were substituted and, second, paragraph (4)(a)(ii) (which paragraph was previously substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014, article 5, with effect from 1st August, 2014) was revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 10(a) and article 10(b), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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**Software and technology exceptions.**

**16.** (1) Nothing in article 1 or 2 shall be taken to prohibit the transfer of technology –

- (a) that is in the public domain,
- (b) that is the minimum technology required for –
  - (i) the installation, operation, maintenance or repair of goods or software that are not military goods

or software or Bailiwick controlled dual-use goods or software, or

- (ii) a patent application, or
- (c) in the course of basic scientific research.

(2) Nothing in article 8, 9[, 10 or 10A] shall be taken to prohibit the transfer of software or technology in the public domain.

(3) In this article, "**basic scientific research**" means experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts and not primarily directed towards a specific practical aim or objective.

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**NOTE**

*In article 16, the punctuation, figures, word and letter in square brackets were substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, article 11, with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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PART II

TECHNICAL ASSISTANCE CONTROLS

**End-use control on technical assistance.**

17. (1) Subject to article 23, no person shall directly or indirectly provide to a person or place outside the customs territory any technical assistance related to the supply, delivery, manufacture, maintenance or use of anything which –

- (a) that person has been informed by [the Committee or]

the Chief Officer is or may be intended, in its entirety or in part, for WMD purposes, or

- (b) that person is aware is intended, in its entirety or in part, for WMD purposes.

(2) Subject to article 23, no person who is a relevant person shall directly or indirectly provide from a place outside the customs territory to any person or place outside the customs territory any technical assistance related to the supply, delivery, manufacture, maintenance or use of anything which –

- (a) that person has been informed by [the Committee or] the Chief Officer is or may be intended, in its entirety or in part, for WMD purposes, or

- (b) that person is aware is intended, in its entirety or in part, for WMD purposes.

(3) For the purposes of paragraphs (1) and (2) –

- (a) directly providing technical assistance includes providing technical assistance or agreeing to do so, and

- (b) indirectly providing technical assistance includes making arrangements under which another person provides technical assistance or agrees to do so.

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**NOTE**

*In article 17, the words "the Committee or" in square brackets, wherever occurring, were inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, article*

*12, with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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PART III  
TRADE CONTROLS

**Embargoed destinations.**

**18.** (1) This article applies to –

- (a) persons carrying out activities in the Bailiwick, and
- (b) relevant persons.

(2) Subject to article 23, no person to whom this article applies shall directly or indirectly –

- (a) supply or deliver,
- (b) agree to supply or deliver, or
- (c) do any act calculated to promote the supply or delivery of,

any goods subject to trade controls from one third country to another third country that is an embargoed destination.

**Category A goods.**

**19.** (1) This article applies to –

- (a) persons carrying out activities in the Bailiwick, and

(b) relevant persons.

(2) Subject to articles 22 and 23, no person to whom this article applies shall directly or indirectly –

(a) supply or deliver,

(b) agree to supply or deliver, or

(c) do any act calculated to promote the supply or delivery of,

any category A goods, where that person knows or has reason to believe that such action will, or may, result in the removal of those goods from one third country to another third country.

**Category B goods.**

**20.** (1) This article applies to –

(a) persons carrying out activities in the Bailiwick, and

(b) relevant persons.

(2) Subject to paragraphs (3), (4) and (7) and to article 23, no person to whom this article applies shall directly or indirectly –

(a) supply or deliver,

(b) agree to supply or deliver, or

(c) do any act calculated to promote the supply or delivery

of,

any category B goods, where that person knows or has reason to believe that such action will, or may, result in the removal of those goods from one third country to another third country.

- (3) Nothing in this article shall be taken to prohibit the provision –
  - (a) financing or financial services,
  - (b) insurance or reinsurance services, or
  - (c) general advertising or promotion services,

by a person whose only involvement in the activities described in paragraph (2) is to provide or agree to provide such services.

(4) A person whose only involvement in the activities described in paragraph (2) is to provide or agree to provide transportation services in relation to category B goods only contravenes the prohibition in this article if paragraph (5) or (6) applies.

(5) This paragraph applies if the person arranges the removal of those goods from one third country to another third country.

(6) This paragraph applies if the person, otherwise than in the course of providing services to another person –

- (a) to whom this article applies, and
- (b) who has agreed to provide transportation services in

relation to those goods,

removes or agrees to remove the relevant goods from one third country to another third country.

(7) Nothing in this article shall be taken to prohibit any contract promotion activity that is carried out otherwise than for payment.

**Category C goods.**

**21.** (1) Subject to paragraphs (2) and (3) and to articles 22 and 23, no person shall directly or indirectly –

- (a) agree to supply or deliver, or
- (b) do any act calculated to promote the supply or delivery of,

any category C goods, where that person knows or has reason to believe that such action will, or may, result in the removal of those goods from one third country to another third country.

(2) Nothing in this article shall be taken to prohibit the provision –

- (a) transportation services,
- (b) financing or financial services,
- (c) insurance or reinsurance services, or
- (d) general advertising or promotion services,

by a person whose only involvement in the activities described in paragraph (1) is to provide or agree to provide such services.

(3) Nothing in this article shall be taken to prohibit any contract promotion activity that is carried out otherwise than for payment.

**Exception for movement of goods within the customs territory.**

**22.** Nothing in article 19 or 21 shall be taken to prohibit activities related to the movement of any of the following goods within the customs territory –

- (a) the goods listed in paragraph 1 of Schedule 1 to the UK Order,
- (b) individual cuffs,
- (c) shackles except those shackles which have an overall dimension including chain, when measured from the outer edge of one cuff to the outer edge of the other cuff, of between 240 mm and 280 mm when locked and have not been modified to cause physical pain or suffering,
- (d) the goods listed in paragraphs 2(b), (c) and (d) and 4 of Schedule 1 to the UK Order,
- (e) portable devices for the purpose of riot control or self-protection by the administration or dissemination of an incapacitating chemical substance,
- (f) pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4) or

- (g) oleoresin capsicum (OC) (CAS 8023-77-6).

PART IV  
LICENCES, ETC.

**Licences.**

**23.** (1) Nothing in Part I, II or III [or article 40(1C)] prohibits an activity that is carried out under the authority of a Bailiwick licence.

(2) Unless it provides otherwise, a Bailiwick licence to export [...] goods [or transfer software] also authorises the export or transfer of the minimum technology required for the installation, operation, maintenance and repair of the goods [or the software] to the same destination as the goods [or software].

(3) A Bailiwick licence to supply or deliver goods subject to trade controls also authorises the following –

- (a) agreeing to supply or deliver, or
- (b) doing any act calculated to promote the supply or delivery of, the goods.

(4) A licence granted by [the Committee] (whether it is a Bailiwick licence or an authorisation granted under the [...] torture Regulation) may be –

- (a) either general or granted to a particular person (except that a licence granted under or in relation to the torture Regulation may not be a general licence),

- (b) limited so as to expire on a specified date unless renewed, and
- (c) subject to, or without, conditions and any condition imposed may require any act or omission before or after the doing of the act authorised by the licence.

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**NOTES**

*In article 23,*

*first, the words in square brackets in paragraph (1) were inserted, second, the word omitted in the first pair of square brackets in paragraph (2) was revoked, third, the words in the second, third and fourth pairs of square brackets therein were inserted and, fourth, the words omitted in the second pair of square brackets in paragraph (4) were revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 13(a), article 13(b)(i), article 13(b)(ii) and article 13(c), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order;*

*the words in the first pair of square brackets in paragraph (4) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.*

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**Person authorised by Bailiwick licence to export goods.**

**24.** (1) For the purpose of article 23(1), but subject to paragraph (2), the exportation of goods to any destination outside the customs territory shall be regarded as being under the authority of a Bailiwick licence issued to, or for the benefit of, a particular person ("X") only if –

- (a) X is the person on whose behalf the exportation declaration is made, [where an export declaration is required,] and
- (b) X is established within the customs territory and either

–

- (i) X is the owner of the goods or has a similar right of disposal over them, or
- (ii) if no person who is the owner of the goods or has a similar right of disposal over them is established within the customs territory, X is a party to one or more contracts under which the ownership of the goods or a similar right of disposal over them has passed to a person not established within the customs territory and pursuant to which the goods are to be, are being or have been exported from the customs territory.

(2) Paragraph (1) does not apply if no person falls within subparagraph (b) of that paragraph or if the exportation is of goods imported into the Bailiwick for transit or transhipment.

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**NOTE**

*In article 24, the words in square brackets were inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, article 14, with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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**Registration with [the Committee].**

**25.** (1) Not later than 30 days after –

- (a) any person first does any act under the authority of a general licence granted by [the Committee] that does

not provide otherwise, or

- (b) any person established in the Bailiwick first does any act under the authority of the [[Torture] General Export Authorisation],

the person in question shall give to [the Committee] written notice of his name and the address at which copies of the [registers or] records referred to in article 26(1) [...] of this Order or Article 20(1) (record-keeping) of the dual-use Regulation may be inspected by an authorised person under article 28.

(2) A person who has given to [the Committee] written notice of particulars under paragraph (1) shall, not later than 30 days after any change in those particulars, give to [the Committee] notice of the changed particulars.

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## NOTES

*In article 25,*

*the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016;*

*first, the word in square brackets within the first pair of square brackets in paragraph (1)(b) was substituted, second, the words in the second pair of square brackets in the text following paragraph (1)(b) were inserted and, third, the words omitted in the third pair of square brackets therein were revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 15(a), article 15b(i) and article 15(b)(ii), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order;<sup>3</sup>*

*the words in square brackets in paragraph (1)(b) were substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014, article 6, with effect from 1st August, 2014.*

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**Record keeping - general.**

26. [ (1) A person who –

- (a) acts under the authority of a general licence granted by [the Committee] [or],
- (b) acts under the authority of the [Torture] General Export Authorisation whilst established in the Bailiwick, [...]
- (c) [...],

shall keep detailed registers or records.]

(2) The registers or records shall contain sufficient detail as may be necessary to allow the following information, where appropriate, to be identified in relation to each act carried out under the authority referred to in paragraph (1) –

- (a) a description of the act,
- (b) a description of the goods, software or technology to which the act relates,
- (c) the date of the act or the dates between which the act took place,
- (d) the quantity of the goods (if any) to which the act relates,
- (e) the name and address of the person referred to in paragraph (1),

*Consolidated text*

- (f) the name and address of any consignee of the goods to which the act relates or any recipient of the software or technology to which the act relates,
  - (g) in so far as it is known to the person referred to in paragraph (1), the name and address of the end-user of the goods, software or technology to which the act relates,
  - (h) if different from the person referred to in paragraph (1), the name and address of the supplier of the goods (if any) to which the act relates, and
  - (i) any further information required by the licence or authorisation referred to in paragraph (1).
- (3) The registers or records shall be kept –
- (a) in the case of a general licence authorising an activity that would otherwise be prohibited by Part III, for at least four years from the end of the calendar year in which the authorised act took place, and
  - (b) in any other case, for at least three years from the end of the calendar year in which the authorised act took place or for such longer period as may be specified in the licence or authorisation referred to in paragraph (1).
- (4) The documents and records to be kept in accordance with Article 22(8) (records of exportation and transfer of listed items within the customs territory) of the dual-use Regulation are the registers and records referred to in

paragraph (2)(a) to (i).

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**NOTES**

*In article 26,*

*paragraph (1) was substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014, article 7, with effect from 1st August, 2014;*

*the words in the first pair of square brackets within paragraph 1(a) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016;*

*first, the word in the second pair of square brackets within paragraph (1)(a) was inserted, second, the word in the first pair of square brackets within paragraph (1)(b) was substituted and the word omitted in square brackets in the second pair of square brackets therein was revoked, third, paragraph (1)(c) (which paragraph was previously substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014, article 7, with effect from 1st August, 2014) and, fourth, paragraph (4) were by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 16(a)(i), article 16(a)(ii), article 16(a)(iii) and article 16(b), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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**Registration and record keeping - information security items.**

27. ...

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**NOTE**

*Article 27 was revoked by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 13, with effect from 11 p.m. on 31st December, 2020.<sup>4</sup>*

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**Inspection of records.**

28. (1) A person ("**record holder**") who is required under article 26 [...] of this Order or under Article 20 (record-keeping) or 22(8) (records of

exportation and transfer of listed items within the customs territory) of the dual-use Regulation to keep registers, records or documents ("**compulsory records**") shall permit those compulsory records to be inspected and copied by any authorised person.

(2) For the purposes of paragraph (1), an authorised person who produces, on request, a duly authenticated document showing that he is an authorised person, may at any reasonable hour enter –

- (a) in the case of compulsory records required to be kept under article 26 [...] of this Order, the premises the address of which has been most recently notified to [the Committee] under article 25 of this Order in relation to the records,
- (b) in the case of compulsory records required to be kept under Article 20 or 22(8) of the dual-use Regulation, the premises the address of which has been most recently notified to [the Committee] under article 25 of this Order in relation to the records, or
- (c) if no address has been so notified under article 25 of this Order, any other premises at which the authorised person believes, on reasonable grounds, the compulsory records referred to in subparagraph (a) or (b) are kept.

(3) Where a record holder keeps compulsory records in a form which is not legible, the record holder shall at the request of the authorised person reproduce the relevant records in a legible form.

(4) In this article, "**authorised person**" means –

- (a) the Chief Officer,
- (b) any person authorised by the Chief Officer, or
- (c) any person authorised by [the Committee].

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**NOTES**

*In article 28,*

*the words omitted in square brackets in paragraph (1) and in the first pair of square brackets in paragraph (2)(a) were revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, article 17, with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order;*

*the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.*

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**Amendment, suspension and revocation of licences.**

**29.** (1) [ The Committee] may by written notice –

- (a) amend, suspend or revoke any licence granted by [the Committee], or
- (b) suspend or revoke a general licence granted by [the Committee] as it applies to a particular licence user.

(2) A notice by [the Committee] under paragraph (1), [...] or Article [21(5)] (suspension, revocation, etc. of authorisations) of the torture Regulation, does 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 Committee] to be suitable for securing that the notice is seen by persons likely to be affected by it, and
- (b) in any other case, it has been served on the holder of the licence or on the licence user affected.

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**NOTES**

*In article 29,*

*the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016;*

*the words omitted in square brackets in the second pair of square brackets in paragraph (2) were revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, article 18, with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order;*

*the figures and parentheses in the third pair of square brackets in paragraph (2) were substituted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 14, with effect from 11 p.m. on 31st December, 2020.*

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**Licence refusals, etc. and appeals.**

**30.** (1) If [the Committee] decides not to grant a licence to any person who has applied for one, [the Committee] shall give the applicant written notice of the reason for the decision.

(2) If [the Committee] decides –

- (a) to suspend a licence other than a general licence, or

- (b) to suspend a general licence as it applies to a particular licence user,

[the Committee] shall give the licence holder or licence user written notice of the terms of, and reason for, the suspension.

- (3) If [the Committee] decides –

- (a) to revoke a licence other than a general licence, or
- (b) to revoke a general licence as it applies to a particular licence user,

[the Committee] shall give the licence holder or licence user written notice of the reason for the decision.

(4) If [the Committee] decides to amend a licence other than a general licence (other than at the request of the licence holder), [the Committee] shall give the licence holder written notice of the reason for the decision.

(5) Any person who has a right under any of paragraphs (1) to (4) to written notice in respect of a decision made by [the Committee] may appeal to the Court against the decision on any of the following grounds –

- (a) the decision was *ultra vires* or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,

- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(6) An appeal must be made –

- (a) within a period of 28 days immediately following the date of the written notice given under the relevant paragraph, and
- (b) by summons served on [the Committee] stating the grounds and material facts on which the appellant relies.

(7) At the appellant's request, the Court may suspend or modify, on such terms and conditions as the Court thinks just, the operation of [the Committee]'s decision (against which the appeal was made) pending the determination of the appeal.

(8) On an appeal, [the Committee] may apply to the Court, by summons served on the appellant, for an order that the appeal be dismissed for want of prosecution; and on hearing the application the Court may –

- (a) dismiss the appeal or the application (in either case on such terms and conditions as the Court may direct), or
- (b) make such other order as the Court considers just.

(9) On determining an appeal, the Court may –

- (a) set the decision of [the Committee] aside and, if the Court considers it appropriate to do so, remit the matter to [the Committee] with such directions as the Court thinks fit, or
- (b) confirm the decision, in whole or in part.

(10) An appeal from a decision of the Court under this article lies to the Court of Appeal on a question of law.

(11) Paragraph (8) is without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007<sup>e</sup>.

(12) In this article, "**the Court**" means the Royal Court sitting as an Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats; and for the purposes of an appeal under this article the Court may appoint one or more assessors to assist it in the determination of any matter before it.

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**NOTE**

*In article 30, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.*

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PART V

OFFENCES, ENFORCEMENT AND PENALTIES

**Offences relating to prohibitions in Parts I, II and III.**

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<sup>e</sup> Order of the Royal Court No. IV of 2007, as amended by Order of the Royal Court No. II of 2008.

**31.** (1) Subject to paragraph (2), a person who contravenes a prohibition in Part I or III of this Order is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

(2) A person who –

(a) did not know, and had no reason to suppose, that the goods referred to in article 18 were destined for an embargoed destination, and

(b) is able to show the matters stated in sub-paragraph (a),

is not guilty of an offence under paragraph (1) by reason only of a contravention of the prohibition in article 18.

(3) A person who contravenes a prohibition in Part I or II of this Order that is engaged because the person –

(a) has been informed,

(b) is aware, or

(c) has grounds for suspecting,

that goods, software or technology are or may be intended, in their entirety or in part, for WMD purposes is guilty of an offence and may be detained.

[ (3A) A person who contravenes a prohibition in Part I of this Order that is engaged because the person has been informed by the Committee or the Chief Officer that dual-use goods, software or technology are or may be intended, in their entirety or in part, for use by a relevant entity referred to in article 10A (military end-

use control supplementing the dual-use Regulation), commits an offence and may be arrested.]

(4) A person guilty of an offence under paragraph (3) [or (3A)] is liable [on conviction to a fine, to imprisonment for a term not exceeding two years, or to both].

(5) A person knowingly concerned in any activity prohibited by Part I, II or III of this Order with intent to evade the relevant prohibition is guilty of an offence and may be detained.

(6) A person guilty of an offence under paragraph (5) is liable [on conviction to a fine, to imprisonment for a term not exceeding two years, or to both].

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**NOTES**

*In article 31,*

*first, paragraph (3A) and, second, the words in the first pair of square brackets in paragraph (4) were inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 19(a) and article 19(b), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order;*

*the words in, first, the second pair of square brackets in paragraph (4) and, second, paragraph (6) were substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2012, article 4, with effect from 1st March, 2012.*

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**Offences relating to prohibitions and restrictions in the dual-use Regulation.**

**32.** (1) A person who contravenes [the prohibition or restriction in article 40(1C)(a) of this Order relating to] Article 3(1) (controls on listed goods), 4(2) (military end-use control), 4(3) (end-use control relating to use in items exported or transferred without authorisation) or 22(1) (exportation or transfer of sensitive items

within the customs territory) of the dual-use Regulation is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale.

- (2) A person who –
  - (a) contravenes [the prohibition or restriction in article 40(1C) of this Order relating to] a prohibition or restriction in Article 4(1) (WMD purposes end-use control) or Article 5(1) (brokering services) of the dual-use Regulation, or
  - (b) fails to comply with the requirement in Article 4(4) (requirement to notify [the Committee] in the case of awareness of end-use for certain military or WMD purposes) of the dual-use Regulation,

is guilty of an offence and may be detained.

(3) A person guilty of an offence under paragraph (2) is liable [on conviction to a fine, to imprisonment for a term not exceeding two years, or to both].

(4) A person knowingly concerned in an activity prohibited or restricted by [article 40(1C) of this Order] with intent to evade the relevant prohibition or restriction is guilty of an offence and may be detained.

(5) A person guilty of an offence under paragraph (4) is liable [on conviction to a fine, to imprisonment for a term not exceeding two years, or to both].

(6) ...

(7) A person who fails to comply with Article 20 (record-keeping),

22(8) (records of exportation and transfer of listed items within the customs territory) or 22(10) (requirement in relation to commercial documents for exportation and transfer of listed items within the customs territory) of the dual-use Regulation is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale.

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## NOTES

*In article 32,*

*first, the words in square brackets in paragraph (1) were substituted, second, the words in square brackets in paragraph (2)(a) were inserted, third, the words in square brackets in paragraph (2)(b) were substituted, fourth, the words in square brackets in paragraph (4) were substituted and, fifth, paragraph (6) was revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 20(a), article 20(b)(i), article 20(b)(ii), article 20(c) and article 20(d), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order;*

*the words in square brackets in paragraph (3) and paragraph (5) were substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2012, article 4, with effect from 1st March, 2012.*

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### **Offences relating to prohibitions and restrictions in the torture Regulation.**

33. (1) A person who contravenes a prohibition or restriction in Article 3(1) (export prohibition) of the torture Regulation in respect of the supply of technical assistance as defined in the torture Regulation is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale.

(2) A person knowingly concerned in the provision of technical assistance as defined in the torture Regulation with intent to evade the prohibition on the provision of technical assistance in article 3(1) of the torture Regulation is guilty of an offence and may be detained.

(3) A person guilty of an offence under paragraph (2) is liable [on

conviction to a fine, to imprisonment for a term not exceeding two years, or to both].

(4) A person who contravenes a prohibition or restriction in Article 4(1) (import prohibition) of the torture Regulation in respect of the acceptance of technical assistance as defined in the torture Regulation is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale.

(5) A person knowingly concerned in the acceptance of technical assistance as defined in the torture Regulation with intent to evade the prohibition on the acceptance of technical assistance in article 4(1) of the torture Regulation is guilty of an offence and may be detained.

(6) A person guilty of an offence under paragraph (5) is liable [on conviction to a fine, to imprisonment for a term not exceeding two years, or to both].

(7) A person who fails to comply with Article [20(8)] (provision of relevant information for licence applications) of the torture Regulation is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale; any licence which may have been granted in connection with the application is void as from the time it was granted.

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**NOTES**

*In article 33,*

*the words in square brackets in paragraph (3) and paragraph (6) were substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2012, article 4, with effect from 1st March, 2012;*

*the figures and parentheses in square brackets in paragraph (7) were substituted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 15, with effect from 11 p.m. on 31st December, 2020.*

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**Misleading applications for licences.**

34. (1) Where for the purpose of obtaining a licence a person either –
- (a) makes a statement or provides a document or information which to the person's knowledge is false in a material particular, or
  - (b) recklessly makes a statement or provides a document or information which is false in a material particular,

that person is guilty of an offence and any licence that has been granted in connection with the application for which the false statement was made or the false document or information was provided is void as from the time it was granted.

(2) A person guilty of an offence under paragraph (1) is liable [on conviction to a fine, to imprisonment for a term not exceeding two years, or to both].

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**NOTE**

*In article 34, the words in square brackets in paragraph (2) were substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2012, article 4, with effect from 1st March, 2012.*

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**Failure to comply with licence conditions.**

35. (1) A person who, having acted under the authority of a licence or the [Torture] General Export Authorisation, fails to comply with –
- (a) any of the requirements or conditions to which the licence or [authorisation] is subject, or
  - (b) any obligation under article 25, 26[...] or 28,

is guilty of an offence unless paragraph (2) applies.

- (2) This paragraph applies if –
- (a) the licence was modified after the completion of the act authorised, and
  - (b) the alleged failure to comply would not have been a failure had the licence not been so modified.

(3) A person guilty of an offence under paragraph (1) is liable [on conviction to a fine, to imprisonment for a term not exceeding two years, or to both].

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**NOTES**

*In article 35,*

*first, the word in the first pair of square brackets in paragraph (1) was substituted, second, the words in square brackets in paragraph (2)(a) were substituted and, third, the words omitted in square brackets in paragraph (2)(b) were revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 21(a)(i), article 21(a)(ii) article 21(a)(iii), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order;*

*the words in square brackets in paragraph (3) were substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2012, article 4, with effect from 1st March, 2012.*

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**[Failure to comply with other record-keeping and related duties.]**

**35A.** (1) A person who fails to comply with any obligation under –

- (a) Article 20, or Article 22(8) or (10), of the dual-use Regulation, or
- (b) articles 25, 26 or 28 of this Order,

is guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable on conviction to a fine not exceeding level 2 on the uniform scale.

(3) Paragraph (1) does not apply where a person is acting under the authority of a licence and article 35(2) applies.]

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**NOTE**

*Article 35A was inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, article 22, with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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**Customs powers to require evidence of destination.**

36. (1) This article applies where a person has exported goods and required a licence to do so.

(2) The Chief Officer may require the person to provide within a time specified by the Chief Officer evidence of the destination to which the goods in question were delivered.

(3) A person who fails to comply with a requirement made under paragraph (2) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the uniform scale.

**Customs powers relating to dual-use goods.**

37. (1) Goods in relation to which a licence has not been granted and which are brought to any place in the Bailiwick for the purpose of being exported may be detained by the Chief Officer as if they were liable to forfeiture, if and so long as that officer has reason to believe that [the Committee or the Chief Officer] (after, if necessary, having had the impending exportation brought to its attention) might inform the exporter –

- (a) that the goods are or may be intended, in their entirety or in part, for WMD purposes, [...]
- (b) as provided in Article 4(2) (military end-use control) or 4(3) (end-use control relating to use in items exported or transferred without authorisation) of the dual-use Regulation, [or]
- [(c) that the goods are or may be intended, in their entirety or in part, for use by a relevant entity referred to in article 10A (military end-use control supplementing the dual-use Regulation).]

(2) Any goods listed in Annex I to the dual-use Regulation in relation to which a licence has been granted which are brought to any place in the Bailiwick for the purpose of being exported to a destination outside the customs territory may be detained by the Chief Officer for a period of 10 business days as if they were liable to forfeiture where that officer or [the Committee] has grounds for suspicion that –

- (a) relevant information was not taken into account when the licence was granted, or

- (b) circumstances have materially changed since the issue of the licence,

[...]

- (3) In this article, "**business day**" means any day other than –
  - (a) a Saturday, a Sunday, Christmas Day or Good Friday, or
  - (b) a day appointed as a public holiday by Ordinance of the States of Deliberation, the States of Alderney or (as the case may be) the Chief Pleas of Sark, under section 1(1) of the Bills of Exchange (Guernsey) Law, 1958<sup>f</sup>.

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## NOTES

*In article 37,*

*first, the words in the first pair of square brackets in paragraph (1) were inserted, second, the word omitted in square brackets in paragraph (1)(a) was revoked, third, paragraph (1)(c) and, fourth, the word in square brackets in paragraph (1)(b) were inserted and, fifth, the words omitted in square brackets immediately after paragraph (1)(c) were revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 23(a)(i), article 23(a)(ii), article 23(a)(iii), article 23(a)(iv) and article 23(b), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order;<sup>5</sup>*

*the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.*

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<sup>f</sup> Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84; No. XI of 1993; and No. XIV of 1994.

**Application of 1972 Law in respect of offences.**

38. (1) Where [the Committee] or the Chief Officer investigates or proposes to investigate any matter with a view to determining –

- (a) whether there are grounds for believing that an offence has been committed by reason of a contravention of –
  - (i) article 1, 2, [2A,] 3, 4, 5, 6, 9, 10, [10A,] 17, 18, 19, 20, 21, [32,] 34, 35[, 35A,] or 36 of this Order,
  - (ii) article 28 of this Order so far as it relates to the powers of an authorised person, [or]
  - (iii) ...
  - (iv) the torture Regulation, or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter for the purposes of the 1972 Law.

(2) Section 69A of the 1972 Law (power to require furnishing of information, etc.) applies to a person concerned in an activity which, if not authorised by a licence, would contravene –

- (a) article 1, 2, [2A,] 3, 4, 5, 6, 9, 10, [10A,] 17, 18, 19, 20[, 21 or 40(1C)] of this Order, [or]

(b) ...

(c) the torture Regulation,

and accordingly references in section 69A of the 1972 Law to exportation shall be read as including any such activity.

(3) Section 55 of the 1972 Law (provisions as to detention of persons) applies to the detention of a person for an offence under this Order as it applies to the detention of a person for an offence under customs Laws.

(4) Sections 61 to 65 (provisions relating to proceedings, fines and proof) of the 1972 Law apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under customs Laws.

(5) Nothing in this article limits or otherwise affects the operation of section 11 (application of the 1972 Law to control orders) of the Law.

(6) For the avoidance of doubt, nothing in this Order limits the offences for which a person may be charged, or the penalties that may be imposed for offences, under the 1972 Law; and conversely, nothing in the 1972 Law limits the offences for which a person may be charged, or the penalties that may be imposed for offences, under this Order.

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**NOTES**

*In article 38,*

*the words in the first pair of square brackets in paragraph (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016;*

*the figures, letters and punctuation in the first pairs of square*

*brackets in paragraph (1)(a)(i) and in paragraph (2)(a) were inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014, article 8, with effect from 1st August, 2014;<sup>6</sup>*

*first, the figures, letters and punctuation in the second, third and fourth pairs of square brackets in paragraph (1)(a)(i) and, second, the word in square brackets at the end of paragraph (1)(a)(ii) were inserted, third, paragraph (1)(a)(iii) was revoked, fourth, the figures and letter in the second pair of square brackets in paragraph (2)(a) were inserted, fifth, the punctuation, figures, parentheses and letter in the third pair of square brackets therein were substituted, sixth, the word in square brackets at the end of paragraph (2)(a) was inserted and, seventh, paragraph (2)(b) was revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 24(a)(i), article 24(a)(ii), article 24(a)(iii), article 24(b)(i)(A), article 24(b)(i)(B), article 24(b)(i)(C) and article 24(b)(ii), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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**Increase of maximum penalties for prohibited exportation in 1972 Law.**

**39.** In the case of an offence committed in connection with a prohibition or restriction on exportation in Part I [or article 40(1C)(a)] of this Order, [...] or the torture Regulation –

- (a) in section 30(2) (offences in relation to exportation of prohibited or restricted goods) of the 1972 Law, paragraph (i) has effect as if for the words "three months" there were substituted the words "6 months", and paragraph (ii) has effect as if for the words "two years" there were substituted the words " 10 years", and
- (b) section 77(1) (fraudulent evasion of duty, etc.) of the 1972 Law has effect as if for the words "two years" there were substituted the words " 10 years".

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**NOTE**

*In article 39, the words in the first pair of square brackets were inserted and those omitted in the second pair of square brackets were revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 25(a) and article 25(b), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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PART VI  
GENERAL

**Application of dual-use Regulation.**

**40.** [ (1) The following provisions of the dual-use Regulation have effect subject to any modifications necessary to make those provisions read as the provisions set out in the Schedule –

- (a) Article 3(1),
- (b) Article 4(1) to (4),
- (c) Article 5(1),
- (d) Article 20, and
- (e) Article 22(1), (8) and (10).

(1A) The following also have effect in the Bailiwick –

- (a) any other provision of the dual-use Regulation necessary to give effect to the provisions given effect by paragraph (1), and
- (b) any other provision of that Regulation, to the extent –

- (i) incorporated by any provision of this Order, or
- (ii) necessary to give effect to any provision of this Order.

(1B) The provisions of the dual-use Regulation given effect by paragraph (1) or (1A) shall be read together with the provisions of this Order.

(1C) Subject to article 23 of this Order, a person shall not –

- (a) export or transfer any thing if Article 3(1), 4(1), (2) or (3) or 22(1) of the dual-use Regulation requires an authorisation to export or transfer the thing, or
- (b) provide or carry out brokering services of any description if Article 5(1) of the dual-use Regulation requires an authorisation for those brokering services.]

[ (2) A reference in [provisions of the dual-use Regulation given effect by paragraph (1A)], or in any provision of a Community directive or regulation referred to or incorporated in [the dual-use Regulation] –

- (a) to a Member State, Member States, the Community, the customs territory, the customs territory of the Union or the territory of the Community, howsoever referred to or styled, is deemed to include a reference to the Bailiwick and any other country or territory in the British Islands,

*Consolidated text*

- (b) to a third country, howsoever referred to or styled, is deemed to refer to a country or territory that is outside the customs territory,
- (c) to a competent authority, howsoever referred to or styled, is deemed to include a reference to –
  - (i) the Committee in respect of the Bailiwick, and
  - (ii) any other authority empowered to grant authorisations in respect of any other country or territory in the British Islands under provisions of or equivalent to the dual-use Regulation having or given effect in that other country or territory,
- (d) to export or exportation, shall be construed to -
  - (i) mean only removal from the Bailiwick to a destination outside the customs territory,
  - (ii) include shipment as stores,
  - (iii) in relation to a vessel, vehicle, submersible vehicle, aircraft, or any other means of conveyance, include taking it out of the Bailiwick to a destination outside the customs territory, even if it is conveying goods or passengers or moving under its own power, and

(iv) include transmission of software or technology by electronic media, including by fax, telephone, email or any other electronic means to a destination outside the customs territory; and include making available in electronic form such as software and technology to legal or natural persons or partnerships outside the customs territory; and include oral transmission of technology when the technology is described over the telephone to legal or natural persons or partnerships outside the customs territory, and

[(da) to an intra-Community transfer, shall be construed to mean a transfer within the customs territory, and]

(e) to the date of entry into force is a reference to the date on which this Order comes into force.]

[ (3) For the avoidance of doubt –

(a) the definitions of "**export**", "**brokering services**" and "**broker**" in Articles 2(2) and 28 respectively of the dual-use Regulation have no effect,

(b) in the provisions of the dual-use Regulation given effect by paragraph (1) of this article –

(i) "**the Committee**" has the meaning given by article 44(1) of this Order, and

- (ii) **"military good"** has the meaning given by article 44(1) of this Order in relation to the definition of "military",
- (c) in paragraph (2)(b) and (d) of this article, **"customs territory"** has the meaning given by article 44(1) of this Order, and
- (d) a reference in this Order to a provision of the dual-use Regulation given effect by paragraph (1) is a reference to the provision as modified and set out in the Schedule.]
- (4) ...
- (5) ...
- [ (6) ...]

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**NOTES**

*In article 40,*

*first, paragraph (1) was substituted and paragraph (1A), paragraph (1)(B) and paragraph (1)(C) were inserted, second, the words in the first and second pairs of square brackets within paragraph (2) were substituted, third, paragraph (2)(da) was inserted and, fourth, paragraph (3) was substituted and paragraph (4), paragraph (5) and paragraph (6) (which paragraph was previously substituted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 16(d), with effect from 11 p.m. on 31st December, 2020) were revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 26(a), article 26(b)(i), article 26(b)(ii) and article 26(c), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order;<sup>7</sup>*

*paragraph (2) was substituted by the Export Control (Brexit)*

*(Bailiwick of Guernsey) Regulations, 2019, regulation 16(a), with effect from 11 p.m. on 31st December, 2020.*

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**Application of torture Regulation.**

**41.** (1) Subject to the modifications specified in paragraphs (2) to (4), the torture Regulation –

- (a) has full force and effect to the extent that it imposes export controls, transfer controls, technical assistance controls, or trade controls, or provides for matters authorised by section 7 of the Law, and
- (b) shall be read together with this Order.

[ (2) A reference in the torture Regulation, or in any provision of a Community directive or regulation referred to or incorporated in the torture Regulation –

- (a) to a Member State, Member States, the Community, the customs territory, the customs territory of the Union or the territory of the Community, howsoever referred to or styled, is deemed to include a reference to the Bailiwick and any other country or territory in the British Islands,
- (b) to a third country, howsoever referred to or styled, is deemed to refer to a country or territory that is outside the customs territory,
- (c) to a competent authority, howsoever referred to or styled, is deemed to include a reference to –

- (i) the Committee in respect of the Bailiwick, and
- (ii) any other authority empowered to grant authorisations in respect of any other country or territory in the British Islands under provisions of or equivalent to the torture Regulation having or being given effect in that other country or territory, and

(d) to the date of entry into force is a reference to the date on which this Order comes into force.]

(3) [ For the avoidance of doubt, the Committee] shall be regarded as the competent authority of the Bailiwick for the purposes of granting or administering any authorisation under the torture Regulation.

(4) Article [36] of the torture Regulation is omitted.

(5) An authorisation granted by [the Committee] under the torture Regulation (whether before or after this Order comes into force) shall be regarded as a licence for the purposes of this Order.

[ (6) In paragraph (2)(b), for the avoidance of doubt, "**customs territory**" has the meaning given by article 44(1).

(7) In paragraph (5), the reference to the torture Regulation is deemed to include a reference to Council Regulation (EC) No 1236/2005.]

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**NOTES**

In article 41,

*first, paragraph (2), second, the words in square brackets in paragraph (3) and, third, the figures in square brackets in paragraph (4) were substituted and, fourth, subsection (6) was substituted and subsection (7) inserted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 17, respectively paragraph (a), paragraph (b), paragraph (c) and paragraph (d), with effect from 11 p.m. on 31st December, 2020;*

*the words in square brackets in subsection (5) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.*

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**Use and disclosure of information.**

42. (1) This article applies to information which is held by [the Committee] or any person in connection with the operation of controls imposed by –

- (a) this Order,
- (b) the dual-use Regulation, to the extent that it has effect in the Bailiwick,
- (c) the torture Regulation, to the extent that it has effect in the Bailiwick,
- (d) any [Preserved EU law (within the meaning of section 3 of the European Union (Brexit) Law, 2018) or] other Community directive or regulation, to the extent that it has effect in the Bailiwick in relation to the export of goods, the transfer of software or technology, participation in the provision of technical assistance, or activities which facilitate, or are otherwise connected with, the acquisition, disposal or movement of goods.

(2) The information may be used for the purposes of, or for any purposes connected with –

- (a) the exercise of functions in relation to any control imposed by this Order or any other order made under the Law,
- (b) implementation of any [Preserved EU law (within the meaning of section 3 of the European Union (Brexit) Law, 2018), Community directive or regulation having effect in the Bailiwick,] or any international [obligation], or
- (c) facilitating the exercise by an authority or international organisation outside the Bailiwick of functions which correspond to functions –
  - (i) conferred by, or
  - (ii) in connection with any activity subject to control by,

this Order or any other order made under the Law.

(3) The information may be disclosed to any person for use for any purpose specified in paragraph (2), but the disclosure must be proportionate to its object.

(4) For the purposes of this article, "**information**" means information that relates to a particular business or other activity carried on by a person.

(5) Nothing in this article affects or limits any power to disclose information that exists apart from this article.

(6) The information that may be disclosed under this article includes information obtained before this Order came into force.

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**NOTES**

*In article 42,*

*the words in the first pair of square brackets in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016;*

*first, the words in square brackets in paragraph (1)(d) were inserted and, second, the words in the first pair of square brackets in paragraph (2)(b) were substituted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 27(a) and article 27(b), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order;*

*the word in the second pair of square brackets in paragraph (2)(b) was substituted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 18, with effect from 11 p.m. on 31st December, 2020.*

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**Service of notices.**

**43.** A notice to be given to [the Committee] by a person under this Order

- 
- (a) may be given by an agent of that person, and
  - (b) shall be sent by post or delivered care of the Chief Officer, at the current business address of the Chief Officer.

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**NOTE**

*In article 43, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.*

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**Interpretation.**

**44.** (1) In this Order, unless the context otherwise requires –

**"aircraft"** means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing airborne vehicle or helicopter,

**"Bailiwick controlled"**, in relation to dual-use goods, software, or technology, means listed in Schedule 3 to the UK Order,

**"Bailiwick licence"** –

- (a) means a licence in writing granted by [the Committee] that authorises an act that would otherwise be prohibited by Part I, II, or III [or article 40(1C)] of this Order, and
- (b) includes a licence or Community Licence deemed to be a Bailiwick licence under article 46,

**"category A goods"** means goods specified in Part 1 of Schedule 1 to the UK Order,

**"category B goods"** means goods specified in Part 2 of Schedule 1 to the UK Order,

**"category C goods"** means –

- (a) military goods other than goods specified in Schedule 1 to the UK Order,
- (b) portable devices for the purpose of riot control or self-protection by the administration or dissemination of an incapacitating chemical substance,
- (c) pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4), or
- (d) oleoresin capsicum (OC) (CAS 8023-77-6),

**"Chief Officer"** –

- (a) means the Chief Officer of Customs and Excise for the time being appointed by the [Policy & Resources Committee], and
- (b) includes any officer of Customs and Excise acting by or under his authority,

[ ...]

[ ...]

**"contract promotion activity"** means –

- (a) any act calculated to promote the arrangement or negotiation of a contract for the acquisition, disposal or

movement of goods, or

- (b) any agreement to do such an act,

**"country"** includes territory or dependency,

[ **"customs territory"** –

- (a) in relation to any provision of the torture Regulation, or any provision of this Order giving effect or otherwise relating to the torture Regulation, means –

- (i) the customs territory described in Article 4 of Regulation (EU) No 952/2013, and

- (ii) the British Islands,

taken collectively, and

- (b) in any other case, means the British Islands,]

**"dual-use"** in relation to goods, software, or technology, means usable for both civil and military purposes,

[ **"dual-use Regulation"** means Council Regulation (EC) No 428/2009 [as it had effect in the European Union immediately before 31st December, 2020; but any reference to Annex I or IV of that Regulation in this Order or any provision of that Regulation is to be construed as a reference to that Annex as amended from time to time and given effect in the United Kingdom],]

**"embargoed destination"** means a country listed in Part 1 or 2 of Schedule 4 to the UK Order,

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

**"exportation"** –

- (a) means removal from the Bailiwick to any destination outside the Bailiwick,
- (b) includes shipping as stores, and
- (c) in relation to a vessel, vehicle, submersible vehicle, aircraft, or any other means of conveyance, includes taking it out of the Bailiwick even if it is conveying goods or passengers, or moving under its own power,

and cognate expressions shall be construed accordingly,

**"general"**, in relation to a licence, means not granted to a particular person but available for use generally,

**"goods subject to trade controls"** means goods that are category A goods, category B goods, or category C goods,

[ **"individual licence"** means a Bailiwick licence granted to a particular person,]

[ ...]

**"importation"**, in relation to a vessel, vehicle, submersible vehicle, aircraft, or any other means of conveyance, means taking it into the Bailiwick, even if it is conveying goods or passengers, or moving under its own power; and cognate expressions shall be construed accordingly,

**"the Law"** means the Export Control (Bailiwick of Guernsey) Law, 2006,

**"licence"**, except in article 46, means –

- (a) a Bailiwick licence, or
- (b) an authorisation regarded as a licence for the purposes of this Order under article [...] 41(5),

**"licence user"** means a person –

- (a) who is registered under article 25(1) in relation to a general licence, or
- (b) who is entitled to use a general licence without registration owing to the terms of that general licence,

[ ...]

**"microprogramme"** means a sequence of elementary instructions, maintained in a special storage, the execution of which is initiated by the introduction of its reference instruction into an instruction register,

**"military"**, in relation to goods, software, or technology, means listed in Schedule 2 to the UK Order,

[ ...]

**"non-electronic means"**, in relation to the transfer of software or technology, means disclosure of the software or technology by any means (or combination of means), including oral communication, other than as the exportation of goods or the transfer by electronic means,

**"payment"** –

- (a) includes a payment in money or money's worth or in kind whether referable to a particular act or made from time to time, but
- (b) excludes a payment made by way of wages or salary,

**"programme"** means a sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer,

**"in the public domain"** means available without restriction on further dissemination (no account being taken of copyright restrictions),

[ **"relevant person"** means –

- (a) a British national,
- (b) a limited partnership which has separate legal personality pursuant to section 9A of the Limited Partnerships (Guernsey) Law 1995, or

- (c) a body incorporated under the law of any part of the Bailiwick,]

**"scheduled journey"** means one of a series of journeys which –

- (a) are undertaken between the same two places, and
- (b) together amount to a systematic service operated in such manner that its benefits are available to members of the public seeking to take advantage of it,

**"shipment"** (and cognate expressions) and **"stores"** have the same respective meanings as in section 1(1) of the 1972 Law,

**"software"** means one or more programmes or microprogrammes fixed in any tangible medium of expression,

**"surface effect vehicle"** means any air cushion vehicle (whether side wall or skirted) or any vehicle using the wing-in-ground effect for positive lift,

**"third country"** means any country that is not the Bailiwick except that, for the purposes of Part III of this Order, goods that are goods in transit are considered to be located in a third country,

[ **"Torture General Export Authorisation"** means Union General Export Authorisation as defined by Article 2(o) of the Torture Regulation,]

[ **"torture Regulation"** means Regulation (EU) 2019/125 as given effect and modified by article 41 of this Order,]

**"transfer"**, in relation to software or technology, means transfer by

electronic or non-electronic means (or any combination of electronic and non-electronic means) from a person or place within the Bailiwick to a person or place outside the Bailiwick, except in articles 8 and 9 where the limitations as to the origin and destination of the transfer do not apply; and cognate expressions shall be construed accordingly,

**"transfer by electronic means"**, in relation to software or technology, means transmission by facsimile, telephone or other electronic media, and includes the transmission of technology by describing it orally over the telephone,

**"in transit"** means imported into the Bailiwick for transit or transshipment,

**"transit or transshipment"**, in relation to goods, means transit through the Bailiwick or transshipment with a view to re-exportation of the goods or transshipment of the goods for use as stores,

**"UK legislation"** means any Act of Parliament or subordinate legislation enacted or made in the United Kingdom, or any provision or part of such an Act or subordinate legislation,

**"the UK Order"** means the Export Control Order 2008<sup>h</sup>,

**"uniform scale"** means the scale of fines for offences set out in the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989<sup>i</sup>,

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<sup>h</sup> United Kingdom S.I. 2008 No. 3231, as amended by United Kingdom S.I.s 2009 No. 1305, 2009 No. 1852, 2009 No. 2151, 2009 No. 2969 and 2010 No. 121.

<sup>i</sup> Ordres in Conseil Vol. XXXI, p. 278 amended by Recueil d'Ordonnances Tome XXV, p. 344 and Ordinance No. XXII of 1998.

[ ...]

**"vehicle"** includes a railway carriage,

**"vessel"** includes any ship, surface effect vehicle, vessel of small waterplane area or hydrofoil and the hull or part of the hull of a vessel, and

**"WMD purposes"** means use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons.

[ (1A) ...]

(2) Except in the definition of category C goods, tangible storage media on which military or dual-use software or technology is recorded shall be regarded as military or dual-use goods respectively.

(3) In this Order, unless the context requires otherwise –

- (a) a reference to time after an event is a reference to a period of that length of time beginning on the day of that event,
- (b) a reference to any enactment or UK legislation is a reference to the enactment or UK legislation as from time to time amended, varied, re-enacted (with or without modification), extended or applied,

- (c) a reference to any Community directive or regulation, or any provision or part of a Community directive or regulation is a reference to it as from time to time amended or re-issued (with or without modification), and
- (d) a reference to any convention, treaty or other international agreement, or any provision or part of it is a reference to the agreement, provision, or part concerned, as from time to time amended or re-issued (with or without modification).

(4) The provisions of the Interpretation (Guernsey) Law, 1948<sup>j</sup> 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.

(5) For the avoidance of doubt, unless the context otherwise requires, an expression used in this Order has the same meaning as in the Law.

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**NOTES**

*In article 44,*

*the words in the first pair of square brackets in the definition of the expression "Bailiwick licence" in paragraph (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016;*

*first, the words in the second pair of square brackets in paragraph (a) of the definition of the expression "Bailiwick licence" in paragraph (1) were inserted, second, the words omitted in square brackets immediately preceding the definition of the expression "contract promotion activity", immediately following the definition of the expression "licence user", immediately preceding the definition of the expression "non-electronic*

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<sup>j</sup> Ordres en Conseil Vol. XIII, p. 355.

*means" and immediately following the definition of the expression "uniform scale", all in paragraph (1), were revoked, third, the definition of the expression "customs territory" (which definition was previously substituted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 19(a)(i), with effect from 11 p.m. on 31st December, 2020) in paragraph (1) was substituted, fourth, the words in square brackets within the definition of the expression "dual-use Regulation" in paragraph (1) were substituted, fifth, the words omitted in square brackets in the definition of the expression "licence" in paragraph (1) were revoked, the definitions of the expressions, sixth, "relevant person" and, seventh, "Torture General Export Authorisation" in that paragraph were inserted and eighth, paragraph (1A) (which paragraph was originally inserted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 19(b), with effect from 11 p.m. on 31st December, 2020) was revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, respectively article 28(a)(ii), article 28(a)(i), article 28(a)(iii), article 28(a)(iv), article 28(a)(v), article 28(a)(vi), article 28(a)(vii) and article 28(b), with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order;<sup>8</sup>*

*the words in square brackets in the definition of the expression "Chief Officer" in paragraph 1 were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a) and section 4, with effect from 1st May, 2016;*

*the definitions of the expressions "European military items" and "individual licence" in paragraph (1) were inserted, and the words omitted in the square brackets immediately after the definition of the expression "Chief Officer" therein were revoked by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014, article 9, with effect from 1st August, 2014;*

*first, the definitions of the expressions "dual-use Regulation" and "torture Regulation" in paragraph (1) were substituted and, second, the words omitted in the square brackets immediately before the definition of the expression "importation" therein were revoked by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, respectively regulation 19(a)(ii) and regulation 19(a)(i), with effect from 11 p.m. on 31st December, 2020.*

*The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Order were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a) and section 4, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*

*The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016,*

*section 28(a), with effect from 1st October, 2018.*

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**[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.]

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**NOTE**

*Article 44A was inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014, article 10, with effect from 1st August, 2014.*

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**Repeals.**

**45.** Subject to article 46, the following ordinances are repealed –

- (a) the European Communities (Implementation of Council Resolution for Control of Exports of Dual-Use Items) (Guernsey) Ordinance, 2003<sup>k</sup>,

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<sup>k</sup> Ordinance No. II of 2003.

- (b) the European Communities (Implementation of Council Regulation for the Control of Exports of Dual-Use Items) (Alderney) Ordinance, 2003<sup>**l**</sup>, and
- (c) the European Communities (Implementation of Council Regulation for Control of Exports of Dual-Use Items) (Sark) Ordinance, 2003<sup>**m**</sup>.

**Transitional provisions.**

**46.** (1) Subject to this article, on the coming into force of this Order, a licence or Community Licence –

- (a) granted by the Department under any Ordinance specified in article 45, and
- (b) in force immediately before the coming into force of this Order,

is deemed to be a Bailiwick licence.

(2) A licence or Community Licence deemed to be a Bailiwick licence under paragraph (1) expires on the expiry date (if any) stated on it, unless sooner surrendered or revoked under this Order.

(3) This article expires on the first anniversary of this Order coming into force.

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**l** Alderney Ordinance No. V of 2003.

**m** Sark Ordinance No. 122.

**Extent.**

47. This Order has effect throughout the Bailiwick and the provisions of this Order have extra-territorial effect according to their tenor.

**Citation and commencement.**

48. This Order may be cited as the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) Order, 2010 and comes into force on the 1<sup>st</sup> of May, 2010.

DUAL-USE REGULATION PROVISIONS MODIFIED AND GIVEN EFFECT

*Article 3*

1. An authorisation shall be required for the export of the dual-use items listed in Annex I.

*Article 4*

1. An authorisation shall be required for the export of dual-use items not listed in Annex I if the exporter has been informed by the Committee or the Chief Officer that the items in question are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons.
2. An authorisation shall also be required for the export of dual-use items not listed in Annex I if the purchasing country or country of destination is subject to an arms embargo imposed through its listing as an embargoed destination in Part 1 or 2 of Schedule 4 to the Export Control Order 2008, or a decision of the Organisation for Security and Cooperation in Europe (OSCE), or an arms embargo imposed by a binding resolution of the Security Council of the United Nations, and the exporter has been informed by the Committee or the Chief Officer that the items in question are or may be intended, in their entirety or in part, for a military end-use. For the purposes of this paragraph, "**military end-use**" shall mean:

- (a) incorporation into a military good;
  - (b) use of production, test or analytical equipment and components therefor, for the development, production or maintenance of a military good; or
  - (c) use of any unfinished products in a plant for the production of military goods.
3. An authorisation shall also be required for the export of dual-use items not listed in Annex I if the exporter has been informed by the Committee or the Chief Officer that the items in question are or may be intended, in their entirety or in part, for use as parts or components of military goods that have been exported from the Bailiwick without authorisation or in violation of a Bailiwick licence.
4. If an exporter is aware that dual-use items which he proposes to export, not listed in Annex I, are intended, in their entirety or in part, for any of the uses referred to in paragraphs 1, 2 and 3, he must notify the Committee, which will decide whether or not it is expedient to make the export concerned subject to authorisation.

*Article 5*

1. An authorisation shall be required for brokering services of dual-use items listed in Annex I if the broker has been informed by the Committee or the Chief Officer that the items in question are or may be intended, in their entirety or in part, for any of the uses referred to in Article 4(1). If a broker is aware that the dual-use items listed in Annex I for which he proposes brokering services are intended, in their entirety or in part, for any of the uses referred to in Article 4(1), he must notify the Committee which will decide

whether or not it is expedient to make such brokering services subject to authorisation.

**"Brokering services"** means –

- (a) the negotiation or arrangement of transactions for the purchase, sale or supply of dual-use items from a country or territory outside the Bailiwick of Guernsey to a third country; or
- (b) the selling or buying of dual-use items that are located in a country or territory outside the Bailiwick of Guernsey for their transfer to a third country.

The sole provision of ancillary services is excluded from this definition. Ancillary services are transportation, financial services, insurance or re-insurance, or general advertising or promotion.

*Article 20*

1. Exporters of dual-use items shall keep detailed registers or records of their exports. Such registers or records shall include in particular commercial documents such as invoices, manifests and transport and other dispatch documents containing sufficient information to allow the following to be identified:
  - (a) the description of the dual-use items;
  - (b) the quantity of the dual-use items;
  - (c) the name and address of the exporter and of the consignee;

- (d) where known, the end-use and end-user of the dual-use items.
- 2. Brokers shall keep registers or records for brokering services which fall under the scope of Article 5 so as to be able to prove, on request, the description of the dual-use items that were the subject of brokering services, the period during which the items were the subject of such services and their destination, and the countries concerned by those brokering services.
- 3. The registers or records and the documents referred to in paragraphs 1 and 2 shall be kept for at least three years from the end of the calendar year in which the export took place or the brokering services were provided. They shall be produced, on request, to an authorised person.

*Article 22*

- 1. An authorisation shall be required for a transfer within the customs territory of dual-use items listed in Annex IV.
- 8. A person who transfers within the customs territory dual-use items listed in Annex I shall keep a register and records relating to each transfer for at least three years from the end of the calendar year in which the transfer took place. The register and records must include the details specified in article 26(2) of this Order, and for this purpose a reference in that provision to an act carried out under the authority referred to in article 26(1) of this Order, howsoever referred to or styled, is to be read as a reference to each transfer.
- 10. A person who transfers within the customs territory any dual-use item listed in Annex I shall indicate clearly on commercial documents that the item was subject to controls when exported from the Bailiwick and may be subject to controls if exported from the country or territory within the customs territory to which it was transferred. Commercial documents include, in particular, any

sales contract, order confirmation, invoice or dispatch note.]

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**NOTE**

*The Schedule was inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2024, article 29, Schedule, with effect from 1st September, 2024, subject to the transitional provision in article 30 of the 2024 Order.*

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## EXPLANATORY NOTE

*(This note is not part of the Order)\*\**

This Order puts in place controls on the export of goods, software, and technology that can be used for both civil and military purposes and goods that can be used for capital punishment, torture, or other cruel, inhuman or degrading treatment or punishment.

It mirrors provisions in the UK's Export Control Order 2008.

This Order applies Council Regulation (EC) No 42812009 (the dual-use Regulation) throughout the Bailiwick (article 40) and repeals Guernsey, Sark, and Alderney Ordinances that applied that Regulation (article 45). This Order also applies Council Regulation (EC) No 123612005 (the torture Regulation) throughout the Bailiwick (article 41).

Part I supplements the applicable provisions of these two Regulations by extending their controls to cover additional goods (article 2), intra-Community transfers and goods in transit (articles 3, 4, 5, and 6), and different types of technology transfers (articles 8,9, and 10).

Article 1 controls the export of military goods, software, and technology (which is not covered by either of the two Regulations). The list of military goods, software, and technology controlled is based on the Wassenaar Arrangement military list (the Wassenaar Arrangement is an international regime for controlling conventional arms).

The remaining provisions of Part I are exceptions from the controls, notably covering scheduled flights and other low-risk movements of aircraft and vessels, firearms, transit and transshipment, and transfers of software and technology that are of little concern. The extent of the transit and transshipment exception varies according to the type of goods and their destination.

Part II prohibits the provision of technical assistance in relation to chemical, biological, or nuclear weapons programmes.

Part III controls movement of goods between the Bailiwick and the UK and other countries. Goods are organised into 3 categories, A, B and C, A being goods with the highest level of sensitivity (such as torture equipment). Different controls are applied

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\*\* The text of this Explanatory Note is as it was when the Statutory Instrument was first made – that is to say that the Explanatory Note has not been updated to take account of any changes made by subsequent amending Statutory Instruments with their own Explanatory Notes.

and different exemptions apply to each category of goods.

Part IV contains provisions about licences. There are provisions about record keeping by licence holders (articles 26 and 27) and inspection of the relevant records (article 28) and appeals from licensing decisions (article 30).

Part V contains provisions about offences and the powers of Customs and Excise officers who will enforce the Order. In addition to provisions in this Order, offences relating to exportation out of the Bailiwick without a licence are also dealt with in sections 30 and 77 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972.

Part VI applies the dual-use Regulation and the torture Regulation to the Bailiwick, It also sets out the purposes for which information held by the Department or the Chief Officer in connection with controls can be disclosed. Finally it deals with service of notices, interpretation, the extent of application of this Order, and its commencement.

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<sup>1</sup> Article 2A was previously inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2012, article 2, with effect from 1st March, 2012 to 13th April, 2012 and thereafter ceased to have effect in accordance with the provisions of article 6 of the 2012 Order.

<sup>2</sup> Previously, the figure, letter and punctuation in paragraph (1) were inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2012, article 3, with effect from 1st March, 2012 to 13th April, 2012 and thereafter ceased to have effect in accordance with the provisions of article 6 of the 2012 Order.

<sup>3</sup> The word in the first pair of square brackets in paragraph (1) was previously substituted, in part, by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014, article 6, with effect from 1st August, 2014.

<sup>4</sup> Prior to its revocation, article 27 was amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.

<sup>5</sup> The words omitted in square brackets immediately after paragraph (1)(c) were previously amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May,

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2016.

**6** Previously, the figures, letters and punctuation in square brackets in paragraph (1)(a)(i) and paragraph (2)(a) were inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2012, article 5, with effect from 1st March, 2012 to 13th April, 2012 and thereafter ceased to have effect in accordance with the provisions of article 6 of the 2012 Order.

**7** Prior to its substitution, paragraph (3) was amended by the: Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016; Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 16(b), with effect from 11 p.m. on 31st December, 2020. Prior to its revocation, paragraph (4) was amended by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 16(c), with effect from 11 p.m. on 31st December, 2020. Prior to its revocation, paragraph (5) was amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016. Prior to its revocation, paragraph (6) .

**8** The words omitted in square brackets immediately preceding the definition of the expression "contract promotion activity" (being the definition of the expression "competent authority") were previously amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016 and substituted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 19(a)(i), with effect from 11 p.m. on 31st December, 2020. The words omitted in square brackets immediately following the definition of the expression "licence user" (being the definition of the expression "Member State") were previously substituted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 19(a)(i), with effect from 11 p.m. on 31st December, 2020. The words omitted in square brackets immediately preceding the definition of the expression "non-electronic means" (being the definition of the expression "non-community goods") were previously substituted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 19(a)(i), with effect from 11 p.m. on 31st December, 2020. The words omitted in square brackets immediately following the definition of the expression "uniform scale" (being the definition of the expression "Union General Export Authorisation") were previously inserted by the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014, article 9, with effect from 1st August, 2014.