

# GUERNSEY STATUTORY INSTRUMENT

ENTITLED

## **The Export Control (Miscellaneous Goods) (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. 38 of 2010; as amended by the: Control of Trade in Endangered Species etc. (Bailiwick of Guernsey) Ordinance, 2016 (No. I of 2016); Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2010 (G.S.I. No. 67 of 2010); Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2012 (G.S.I. No. 9 of 2012); Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment No 2) Order, 2012 (G.S.I. No. 24 of 2012); Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2013 (G.S.I. No. 48 of 2013); Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2015 (G.S.I. No. 51 of 2015); Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) Order, 2010 (G.S.I. No. 139 of 2020); Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (No. 2) Order, 2020 (G.S.I. No. 165 of 2020); Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2022 (G.S.I. No. 23 of 2022).

# GUERNSEY STATUTORY INSTRUMENT

ENTITLED

## **The Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) Order, 2010**

### ARRANGEMENT OF ARTICLES

#### PART I EXPORT CONTROL, LICENCES, ETC.

1. Exportation of scheduled goods prohibited.
2. Exportation of goods prohibited other than from port or customs airport.
3. Exportation permitted under licence.
4. Transit exception to export control.
5. Licences.
6. Persons authorised by licence to export scheduled goods outside customs territory.
7. Registration with the licensing authority.
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*Consolidated text*

- SCHEDULE 1 Goods that cannot be exported without a licence - Controlled Radioactive Sources.
- SCHEDULE 2 Goods that cannot be exported without a licence - Counterfeit Currency.
- SCHEDULE 3 Goods that cannot be exported without a licence - Restricted Veterinary Medicines.
- SCHEDULE 4 Goods that cannot be exported without a licence - Miscellaneous.
- SCHEDULE 5 Goods that cannot be exported to specified countries or areas without a licence.

Explanatory Note.

*(Made on 26th April, 2010.)*

## **The Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) Order, 2010**

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

### **PART I**

#### **EXPORT CONTROL, LICENCES, ETC.**

##### **Exportation of scheduled goods prohibited.**

**1.** Subject to articles 3 and 4, and any exception provided for in the respective Schedule, no person shall –

- (a) export any goods specified in any of Schedules 1 to 4, or
- (b) export any goods specified in column 2 of Schedule 5, to any country or area specified in column 3 of that schedule in relation to those goods.

##### **Exportation of goods prohibited other than from port or customs airport.**

**2.** (1) No person shall ship for exportation, put off or waterborne to be shipped for exportation, or bring to any place for exportation, any goods, except at a port or customs airport.

(2) Nothing in paragraph (1) applies to electrical energy exported

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

by means of –

- (a) the submarine cable which enters the Island of Guernsey at Havelet Bay in the parish of St Peter Port, or
- (b) any submarine cable which enters the territorial waters of the Island of Alderney.

**Exportation permitted under licence.**

3. Article 1 does not prohibit the exportation of any goods under the authority, and in accordance with the conditions, of a licence in writing granted –

- [(aa) in the case of goods specified in entry 2 of Schedule 5, by the Director,
- (a) in the case of goods exported from the Island of Alderney, other than those mentioned in paragraph (aa), by the Committee, and
- (b) in any other case, by the Committee for Home Affairs.]

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**NOTE**

*In article 3, paragraph (aa), paragraph (a) and paragraph (b) were substituted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2022, article 2, with effect from 28th March, 2022.<sup>1</sup>*

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**Transit exception to export control.**

4. (1) Article 1 does not prohibit the exportation of any goods specified in Schedule 1 that are in transit, if the conditions in paragraph (2) are

satisfied.

- (2) The conditions are that –
  - (a) the goods remain on board a vessel or aircraft for the entire period that they remain in the Bailiwick or are on a through bill of lading or through air waybill, and in any event are exported within 30 days of their importation, and
  - (b) the goods were exported from the country from which they were originally exported in accordance with the laws and regulations relating to the exportation of goods applying there at the time of the exportation of those goods, and either –
    - (i) the goods are being returned to the country from which they were originally exported, or
    - (ii) where they are not being returned to the country from which they were originally exported –
      - (A) the destination of those goods following exportation from the Bailiwick has been determined in the country from which they were originally exported prior to their original exportation,
      - (B) the destination was determined in connection with the transaction which has given rise to transit or transshipment,

and

- (C) the destination has not been changed prior to their exportation from the Bailiwick.

**Licences.**

5. A licence granted under article 3 may be –

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

**Persons authorised by licence to export scheduled goods outside customs territory.**

6. For the purposes of article 3, the exportation of goods to any destination outside the customs territory shall be regarded as being under the authority of a licence granted under that article 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, 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 those 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.

**Registration with the licensing authority.**

7. (1) No later than 30 days after a person first does any act under the authority of any general licence that does not provide otherwise, that person shall give to the licensing authority written notice of his name, and of the address at which copies of the registers or records kept under article 8 may be inspected.

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

**Record keeping and inspection.**

8. (1) A person acting under the authority of any general licence shall keep registers or records.

(2) The registers or records shall contain sufficient detail to allow the following information, where appropriate, to be identified –

- (a) a description of the goods that have been exported,

- (b) the date of the exportation,
- (c) the quantity of the goods,
- (d) the name and address of the person referred to in paragraph (1),
- (e) the name and address of any consignee of the goods,
- (f) 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, and
- (g) any further information required to be kept under the licence.

(3) The registers or records shall be kept for at least three years from the end of the calendar year in which the authorised act took place and the person referred to in paragraph (1) shall permit those registers and records to be inspected and copied by any authorised person.

(4) For the purposes of paragraph (3), an authorised person who produces, on request, a duly authenticated document showing that he is an authorised person, may at any reasonable hour enter the premises of the address which has most recently been notified to the licensing authority under article 7.

(5) Where the registers or records required to be kept under this article are kept in a form which is not legible, at the request of an authorised person the person referred to in paragraph (1) shall reproduce those registers or records in a legible form.

- [ (6) In this article, "**authorised person**" means –
- (a) in the case of a general licence granted by the Director, the Director or any person authorised by the Director,
  - (b) in the case of a general licence granted by the Committee, any person authorised by the Committee, and
  - (c) in the case of a general licence granted by the Committee for Home Affairs –
    - (i) the Chief Officer,
    - (ii) any person authorised by the Chief Officer, or
    - (iii) any person authorised by the Committee for Home Affairs.]

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**NOTE**

*In article 8, paragraph (6) was substituted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2022, article 3, with effect from 28th March, 2022.*

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

9. (1) The licensing authority may by written notice –
- (a) amend, suspend or revoke any licence granted by the licensing authority, or

- (b) suspend or revoke a general licence as it applies to a particular licence user.

(2) A notice by the licensing authority under paragraph (1) 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 licensing authority 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.

**Licence refusals etc. and appeals.**

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

(2) If the licensing authority 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 licensing authority shall give the licence holder or licence user written notice of the terms of, and reason for, the suspension.

(3) If the licensing authority 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 licensing authority shall give the licence holder or licence user written notice of the reason for the decision.

(4) If the licensing authority decides to amend a licence other than a general licence (other than at the request of the licence holder), the licensing authority 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 licensing authority 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 licensing authority 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 licensing authority's decision (against which the appeal was made) pending the determination of the appeal.

(8) On an appeal, the licensing authority 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 licensing authority aside and, if the Court considers it appropriate to do so, remit the matter to the licensing authority 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 Royal Court of the Island of Guernsey under this article lies to the Court of Appeal on a question of law.

(11) An appeal from a decision of the Royal Court of the Island of Guernsey, made on an appeal from a decision of the Court of Alderney under this article, lies to the Court of Appeal on a question of law.

(12) Paragraph (8) is without prejudice to –

- (a) the inherent powers of the Court,
- (b) where the Court is the Royal Court of the Island of Guernsey, the provisions of rule 52 of the Royal Court Civil Rules, 2007<sup>b</sup>, and
- (c) where the Court is the Court of the Island of Alderney, the provisions of rule 51(2) of the Court of Alderney Civil Rules, 2005.

(13) In this article, "**the Court**" –

- (a) in any case where the licensing authority is [the Committee for Home Affairs] [or the Director], means the Royal Court of the Island of Guernsey 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

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

matter before it, and

- (b) in any case where the licensing authority is the Committee, means the Court of Alderney.

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**NOTES**

*In article 10,*

*the words in the first pair of square brackets in paragraph (13)(a) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 7, with effect from 1st May, 2016;*

*the words in the second pair of square brackets in paragraph (13)(a) were inserted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2022, article 4, with effect from 28th March, 2022.*

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**PART II**

**OFFENCES, ENFORCEMENT, AND PENALTIES**

**Offences relating to prohibitions in articles 1 and 2.**

**11.** (1) A person who contravenes article 1 or article 2 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 an activity prohibited by article 1 or article 2 with intent to evade the prohibition 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].

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**NOTE**

*In article 11, the words in square brackets in paragraph (3) were substituted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2012, article 2, with effect from 1st March, 2012.*

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**Misleading applications for licences, etc.**

12. (1) Where for the purpose of obtaining a licence under article 3, or a written permission under any provision of a schedule to this Order, 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 or other written permission 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 12, the words in square brackets in paragraph (2) were substituted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2012, article 2, with effect from 1st March, 2012.*

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**Failure to comply with licence conditions, etc.**

13. (1) Subject to paragraph (3), a person is guilty of an offence, who
- 
- (a) has done any act under the authority of a licence under article 3, or a written permission granted or issued under any provision of a schedule to this Order, and
  - (b) fails to comply with —
    - (i) any condition of the licence or other written permission, or
    - (ii) article 7 or article 8.
- (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].
- (3) A person who would otherwise be guilty of an offence under paragraph (1) is not so guilty if —
- (a) the licence or other written permission concerned was modified (by the licensing authority or person that granted or issued it) after the completion of the act authorised by that licence or other written permission, and
  - (b) the alleged failure to comply would not have been a failure had the licence or other written permission not been so modified.
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**NOTE**

*In article 13, the words in square brackets in paragraph (2) were substituted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2012, article 2, with effect from 1st March, 2012.*

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

**14.** (1) This article applies where –

- (a) a person has exported goods, and
- (b) the exportation of those goods is prohibited under this Order without a licence under article 3 or a written permission under any provision of a schedule to this Order.

(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.

**Offences and penalties not limited by or in 1972 Law.**

**15.** 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.

PART III  
GENERAL

**Other permissions.**

16. (1) A written permission granted or issued under any provision of a schedule to this Order may be –

- (a) either general or individual,
- (b) limited so as to expire on a specified date unless renewed, and
- (c) subject to, or without, conditions and any condition may require any act or omission before or after the doing of the act authorised under that written permission.

(2) For the avoidance of doubt, paragraph 1 does not apply to –

- (a) a licence granted under article 3, or
- (b) a written permission granted or issued under –
  - (i) any other enactment, or
  - (ii) any Community directive or regulation.

**Use and disclosure of information.**

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

(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 Community directive or regulation or any international agreement, 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 the commencement of this Order.

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**NOTE**

*In article 17, the word in square brackets in paragraph (1) was substituted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2022, article 5, with effect from 28th March, 2022.*

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**Service of notices.**

**18.** A notice to be given to the licensing authority by a person under this Order –

- (a) may be given by an agent of that person, and
- [(b) may be sent to the Director (in the case of a notice for the Director), the Chief Executive of the States of Alderney (in the case of a notice for the Committee) or the Chief Officer (in the case of a notice for the Committee of Home Affairs), at their respective principal offices.]

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**NOTE**

*In article 18, paragraph (b) was substituted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2022, article 6, with effect from 28th March, 2022.<sup>2</sup>*

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**Interpretation.**

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

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

**"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,

**"the Committee"** means the States of Alderney Policy and Finance Committee,

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

**"customs airport"** means an aerodrome appointed by [the Committee for Home Affairs] under section 7(2) of the 1972 Law,

[ **"customs territory"** means –

- (a) the customs territory described in Article 4 of Regulation (EU) No 952/2013, and
- (b) the British Islands,

taken collectively,]

[ **"the Director"** means the person appointed as Director of

Environmental Health and Pollution Regulation under section 4 of the Environmental Pollution (Guernsey) Law, 2004,]

**"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 licence"** means a general licence granted under article 5(a),

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

**"the Law"** means the Export Control (Bailiwick of Guernsey) Law, 2006<sup>c</sup>,

**"licence"** means a licence granted under article 3,

**"licence user"** means a person –

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

- (a) who is registered under article 7(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,

**"licensing authority" –**

- [(aa) in relation to a licence granted or that may be granted by the Director, means the Director,]
- (a) in relation to a licence granted or that may be granted by the Committee, means the Committee, and
- (b) in relation to a licence granted or that may be granted by [the Committee for Home Affairs], means [the Committee for Home Affairs],

**"place"** includes a vehicle, vessel, or aircraft,

**"port"** means a port appointed and named by [the Committee for Home Affairs] under section 7(1) of the 1972 Law,

**"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,

**"transit or transhipment"**, in relation to goods, means transit through the Bailiwick or transhipment with a view to re-exportation of the goods in question,

**"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,

**"uniform scale"** means the uniform scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989<sup>d</sup>,

**"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

**"written permission"** includes any kind of licence, permit, certificate or authorisation.

- (2) 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 legislation concerned 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 the directive, regulation,

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<sup>d</sup> Ordres en Conseil Vol. XXXI p. 278.

provision, or part concerned 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).

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

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

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**NOTES**

*In article 19,*

*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 definition of the expression "customs territory" in paragraph 1 was substituted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2020, article 2, with effect from 11 p.m. on 31st December, 2020;*

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

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

*first, the definition of the expression "the Director" and, second, paragraph (aa) of the definition of the expression "licensing authority" in paragraph (1) were both inserted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2022, article 7, respectively paragraph (a) and paragraph (b), with effect from 28th March, 2022.*

*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 functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Order were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(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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**Extent.**

**20.** This Order has effect throughout the Bailiwick.

**Citation and commencement.**

**21.** This Order may be cited as the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) Order, 2010, and comes into force on the 1<sup>st</sup> of May, 2010.

SCHEDULE 1

Article 1(a)

GOODS THAT CANNOT BE EXPORTED WITHOUT A LICENCE

**Controlled Radioactive Sources**

Any radionuclide described in column 1 of the table below with the activity level set out in the corresponding entry in column 2:

<b><u>Column 1</u></b>	<b><u>Column 2</u></b>
<i>Radionuclide</i>	<i>Controlled levels of activity (TBq)</i>
Am-241	6.E-1 to 1.27E + 00
Co-60	3.E-01 and above
Cs-137	1.E + 00 and above
Gd-153	1.E + 01 and above
Ir-192	8.E-01 and above
Pm-147	4.E + 02 and above
Se-75	2.E + 00 and above
Sr-90 (Y-90)	1.E + 01 and above
Tm-170	2.E + 02 and above
Yb-169	3.E + 00 and above

SCHEDULE 2

Article 1(a)

GOODS THAT CANNOT BE EXPORTED WITHOUT A LICENCE

**Counterfeit currency**

Any counterfeit of –

- (a) a currency note, or
- (b) a protected coin.

**Interpretation.**

1. In this Schedule –

**"currency note"** means –

- (a) any note which –
  - (i) has been lawfully issued in the Bailiwick of Guernsey, England and Wales, Scotland, Northern Ireland, the Bailiwick of Jersey, or the Isle of Man,
  - (ii) is or has been customarily used as money in the country where it was issued, and
  - (iii) is payable on demand, or
- (b) any note which –
  - (i) has been lawfully issued in a country not

mentioned in subparagraph (a)(i), and

- (ii) is customarily used as money in that country;  
and

**"protected coin"** means any coin which is customarily used as money in any country.

2. For the purposes of this Schedule, a thing is a counterfeit of a currency note or protected coin –

- (a) if it is not a currency note or protected coin but resembles a currency note or protected coin (whether on one side only or on both) to such an extent that it is reasonably capable of passing for a currency note or protected coin of that description, or
- (b) if it is a currency note or protected coin which has been so altered that it is reasonably capable of passing for a currency note or protected coin of some other description.

3. For the purposes of this Schedule, the following things are capable of being a counterfeit of a currency note –

- (a) a thing consisting of one side only of a currency note, with or without the addition of other material, is a counterfeit of such a note, and
- (b) a thing consisting –

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- (i) of parts of two or more currency notes, or
- (ii) of parts of a currency note, or of parts of two or more currency notes, with the addition of other material.

GOODS THAT CANNOT BE EXPORTED WITHOUT A LICENCE

**Restricted veterinary medicines**

Any veterinary medicinal product that is for the time being classified as "Prescription Only Medicine-Veterinarian" (abbreviated to POM-V), or "Prescription Only Medicine-Veterinarian, Pharmacist, Suitably Qualified Person" (abbreviated to POM-VPS) or "Non-Food Animal-Veterinarian, Pharmacist, Suitably Qualified Person" (abbreviated to NFA-VPS), under the Veterinary Medicines Regulations 2008<sup>f</sup> or any other enactment in force in the United Kingdom, except where –

- (a) there is a marketing authorisation in force relating to the product concerned, and the product is for the time being classified as "Authorised Veterinary Medicine-General Sales List" (abbreviated to AVM-GSL),
- (b) there is a marketing authorisation in force relating to the product concerned, and the exporter –
  - (i) is a veterinary surgeon or a pharmacist, and the exportation is not, and does not involve, a sale of that product to any individual, unless that individual has shown the veterinary surgeon or (as the case may be) pharmacist a prescription for that product before the exportation,
  - (ii) is a suitably qualified person permitted to supply that product under any enactment in

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<sup>f</sup> United Kingdom S.I. 2008 No. 2297.

force in the United Kingdom,

- (iii) is the holder of the marketing authorisation,
  - (iv) is the holder of a UK wholesale dealer's authorisation relating to that product, or
  - (v) is the holder of a UK manufacturing authorisation relating to that product,
- (c) the product is exported as part of a supply of products for use by the exporter only on animals in his personal care, and the products –
- (i) have been lawfully dispensed in the Bailiwick, and
  - (ii) do not exceed 6 months' supply for those animals at the normal prescribed dose, or
- (d) the exporter is the States Analyst and the export is for the purpose of subjecting the product to analysis.

**Interpretation.**

In this Schedule, –

"**Agency**" means the European Medicines Agency established by Regulation (EC) No. 726/2004 of the European Parliament and of the Council laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency,

**"marketing authorisation"** means a marketing authorisation granted

—

- (a) by the Secretary of State under the Veterinary Medicines Regulations 2008 or any other enactment in force in the United Kingdom, or
- (b) by the Agency under any Community directive or regulation,

**"pharmacist"** means a person registered as a recognised pharmacist under the Doctors, Dentists and Pharmacists Ordinance, 1987<sup>g</sup>,

**"UK manufacturing authorisation"** means a manufacturing authorisation granted by the Secretary of State under the Veterinary Medicines Regulations 2008 or any other enactment in force in the United Kingdom,

**"UK wholesale dealer's authorisation"** means a wholesale dealer's authorisation granted by the Secretary of State under the Veterinary Medicines Regulations 2008 or any other enactment in force in the United Kingdom, and

**"veterinary surgeon"** means a person authorised to practise in the Islands of Guernsey and Alderney under the Veterinary Surgery and Animal Welfare Ordinance, 1987<sup>h</sup>.

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<sup>g</sup> Recueil d'Ordonnances Tome XXIV, pp. 79, 238 and 262 (applied to Alderney by Ordinance of the States of Alderney, Recueil d'Ordonnances Tome XXIV, p. 262).

<sup>h</sup> Recueil d'Ordonnances Tome No XXIV, p. 51 (applied to Alderney by Ordinance of the States of Alderney No. XVIII, 1994).

SCHEDULE 4

Article 1(a)

GOODS THAT CANNOT BE EXPORTED WITHOUT A LICENCE

**Miscellaneous**

1. Any cosmetic product that is prohibited from being supplied under regulation 5, 6, 7, 8, or 9 of the Cosmetic Products (Safety) Regulations, 2008<sup>i</sup>.
2. Any indecent or obscene print, painting, photograph, book, card, lithographic or other engraving, or any other indecent or obscene article.
3. Any substance or salts listed or referred to in Category 1 or 2 of the Annex to Council Regulation (EC) No. 111/2005 laying down rates for the monitoring of trade between the Community and third countries in drug precursors.
- [4. Any animals or goods (within the meaning of Article 3 of Preserved Regulation (EU) 2017/625) originating outside the British Islands (except where exported under the authority, and in accordance with the conditions of an export permit export licence or similar authority issued by the appropriate Designated Authority within the meaning of section 1 of the European Communities (Official Controls) (Implementation and General Provisions) (Guernsey) Ordinance, 2019).]
- [5.
  - (a) Ethyl phenyl(piperidin-2-yl)acetate (also known as ‘ethylphenidate’),
  - (b) any stereoisomeric form of ethyl phenyl(piperidin-2-yl)acetate,

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<sup>i</sup> United Kingdom S.I. 2008 No. 1284.

- (c) any salt of a substance specified in subparagraph (a) or (b), or
  - (d) any preparation or other product containing a substance specified in any of subparagraphs (a) to (c).
- 6.
- (a) Any compound structurally derived from 2-(2,5-dimethoxyphenyl)-*N*-(2-methoxybenzyl)ethanamine by substitution in the phenethylamine ring to any extent with an alkyl group or halide substituents,
  - (b) 5-(2-aminopropyl)benzofuran or 6-(2-aminopropyl)benzofuran whether or not modified in either of the following ways –
    - (i) by saturation of the benzofuran ring at the 2-position, or
    - (ii) by substitution at the nitrogen atom with methyl or ethyl groups,
  - (c) 1-(1*H*-indol-5-yl)propan-2-amine or 1-(1*H*-indol-6-yl)propan-2-amine whether or not substituted at the nitrogen atom in the side chain with methyl or ethyl groups,
  - (d) any stereoisomeric form of a substance specified in any of subparagraphs (a) to (c),
  - (e) any salt of a substance specified in any of subparagraphs (a) to (d), or

- (f) any preparation or other product containing a substance or product specified in any of subparagraphs (a) to (e).]

[7. Dangerous products within the meaning of the General Product Safety Regulations (U. K. S. I. 2005/1803).]

**Interpretation.**

In this Schedule, "Preserved Regulation (EU) 2017/625" means Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation), as it forms part of Preserved EU law.]

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**NOTES**

*In Schedule 4,*

*first, paragraph 4 (which was previously repealed by the Control of Trade in Endangered Species etc. (Bailiwick of Guernsey) Ordinance, 2016, section 58, Schedule 1, paragraph 1, with effect from 4th April, 2019, subject to the transitional provisions in section 59 of, and Schedule 2, paragraph 1 to, the 2016 Ordinance) was substituted and, second, paragraph 7 and the words in square brackets immediately thereafter were inserted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (No. 2) Order, 2020, article 1(2), with effect from 11 p.m. on 31st December, 2020;*

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*paragraph 5 was substituted and paragraph 6 inserted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2013, article 1, with effect from 1st October, 2013.<sup>3</sup>*

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SCHEDULE 5

Article 1(b)

GOODS THAT CANNOT BE EXPORTED TO SPECIFIED COUNTRIES OR  
AREAS WITHOUT A LICENCE

Column 1  Entry	Column 2  Goods and exceptions	Column 3  Country or area
1.	[Goods suspected of infringing an intellectual property right, within the meaning of Article 2 of Regulation (EU) No 608/2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003, subject to the exceptions provided for in paragraphs 3, 4 and 5 of article 1 of that Regulation.]	Anywhere outside the customs territory
[2.	(a) Any controlled substance listed in Annex A, B, C or E where – <ul style="list-style-type: none"> <li>(i) the substance is a bulk gas contained in any canister, tank or other container, or</li> <li>(ii) the substance is listed in Annex A and contained in a product –                             <ul style="list-style-type: none"> <li>(A) listed in Annex D, and</li> </ul> </li> </ul>	Anywhere outside the British Islands]

	<p>(B) consigned to any State that is not a party to the Montreal Protocol, within the meaning of Article 4 of the Montreal Protocol.</p> <p>(b) In this entry –</p> <p><b>"Annex"</b> refers to an Annex to the Montreal Protocol,</p> <p><b>"the Beijing amendment"</b> means the Beijing Amendment (1999): the Amendment to the Montreal Protocol agreed by the Eleventh Meeting of the Parties (Beijing, 29 November – 3 December, 1999),</p> <p><b>"controlled substance" –</b></p> <p>(i) has the meaning given by Article 1(4) of the Montreal Protocol, and</p> <p>(ii) for the avoidance of doubt includes any new, used, recycled or reclaimed controlled substance, within the meaning given by that provision of the Montreal Protocol, and</p> <p><b>"the Montreal Protocol"</b> means the Montreal Protocol on Substances that Deplete the</p>	
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*Consolidated text*

	Ozone Layer, agreed on 16 September 1987, as amended and adjusted up to and including the Beijing Amendment.	
3.	Any rough diamonds, except in accordance with the conditions specified in Article 11 of Council Regulation (EC) No. 2368/2002 [(as amended by Commission Regulation (EC) No 718/2005)] implementing the Kimberley Process certification scheme for the international trade in rough diamonds.	Anywhere outside the customs territory
4.	Cat fur or dog fur within the meaning of Regulation (EC) No 1523/2007 of the European Parliament and of the Council banning the placing on the market and the import to, or export from, the Community of cat and dog fur, and products containing such fur, subject to any exceptions provided in that Regulation.	Anywhere outside the customs territory
5.	Any goods listed in the Annex to Council Regulation (EEC) No. 116/2009 on the export of cultural goods, subject to the exceptions provided in this Regulation.	Anywhere outside the customs territory
6.	Any objects of cultural interest of a description specified in and not excluded from the Schedule to the Export of Objects of Cultural Interest (Control) Order 2003 <sup>j</sup> , except where the	Any destination other than the United Kingdom, the Bailiwick of

<sup>j</sup> United Kingdom S.I. 2003 No. 2759.

	Secretary of State has granted an Open General Export Licence under that Order for the exportation of that object from the United Kingdom.	Jersey, or the Isle of Man
7.	Any decoding equipment which is designed or adapted to be used primarily for the purpose of enabling the reception of programmes transmitted in the provision of a proscribed service within the meaning of section 178 of the Broadcasting Act 1990 <sup>k</sup> .	United Kingdom

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**NOTES**

*In Schedule 5,*

*first, the words in square brackets in column 2 of entry 1 were substituted and, second the words in square brackets in column 2 of entry 3 were inserted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2015, article 1, respectively paragraph (a) and paragraph (c), with effect from 1st August, 2015;*

*entry 2 was substituted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2022, article 8, with effect from 28th March, 2022.<sup>4</sup>*

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<sup>k</sup> An Act of Parliament, Chapter 42 of 1990.

## EXPLANATORY NOTE

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

This Order controls the export of miscellaneous goods from the Bailiwick.

Article 1 prohibits the exportation of goods listed in Schedules 1 to 4 to any destination, and the exportation of goods listed in Schedule 5 to specified countries or areas, subject to specified exceptions.

Article 2 prohibits goods being shipped for exportation from anywhere other than a port or customs airport appointed under the 1972 Law.

Article 3 provides that the prohibition in article 1 does not apply to the exportation of goods authorised under a licence granted, in the case of exports from Alderney, by the States of Alderney Policy and Finance Committee, and in any other case, by the Home Department.

Article 4 excludes from the prohibition in article 1 Schedule 1 goods in transit under certain conditions.

Articles 5 to 10 provide for the granting of licences, registration, record keeping, and appeals against the refusal of a licence application.

Article 11, and section 30 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, set out offences for breach of the export controls in articles 1 and 2.

Articles 12 and 13 make provision in respect of misleading applications for licences or other written permissions and failure to comply with conditions of a licence or other written permission.

Article 14 gives to the Chief Officer of Customs and Excise the power to require evidence of the destination to which goods controlled under this Order are delivered.

Article 15 provides that nothing in this Order limits the offences and penalties in the 1972 Law, and conversely, nothing in the 1972 Law limits the offences and penalties in this Order.

Article 16 deals with other written permissions granted or issued under this Order.

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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.

Article 17 sets out the purposes for which information held by a Department, a Committee, or any other person in connection with these export controls can be disclosed.

Articles 18 to 21 deal with service of notices, interpretation, the extent of application of this Order, and its commencement.

Schedules 1 to 4 list controlled radioactive sources, counterfeit currency, restricted veterinary medicines and miscellaneous other goods, the exportation of which is prohibited without a licence.

Schedule 5 lists goods which cannot be exported to specified countries or areas without a licence.

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<sup>1</sup> Article 3 was previously amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 7, with effect from 1st May, 2016.

<sup>2</sup> Article 18 was previously amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 7, with effect from 1st May, 2016.

<sup>3</sup> Paragraph 5 was originally inserted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2010, article 1, with effect from 20th July, 2010; revoked by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2012, article 3, with effect from 1st

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March, 2012; then re-inserted by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment No 2) Order, 2012, article 1, with effect from 1st June, 2012.

<sup>4</sup> Entry 2 was previously amended by the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2015, article 1(b), with effect from 1st August, 2015; the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2020, article 3, with effect from 11 p.m. on 31st December, 2020.