

Treasury
Customs and Excise Division

Notice 279 MAN

Export and Trade Controls



February 2022



Isle of Man
Government

Reilrys Ellan Vannin

About this Notice

The Notice is intended as a general guide and has no force in law. Those persons who think they may be affected by the provisions are advised to seek independent legal advice.

The information in this Notice was up to date at the month shown on the cover.

This general guide is intended to assist exporters and their agents in understanding the requirements of the law concerned with the licensing of exports from the Isle of Man and United Kingdom, and also provide a guide to what goods or services are subject to trade controls.

If you have any queries about how the contents of this Notice may affect you or your business, you should contact:

Telephone numbers -

Export Licensing: (01624) 648109

General enquiries: (01624) 648130

Email: customs@gov.im

The Customs and Excise website can be found at:

<http://www.gov.im/categories/tax,-vat-and-your-money/customs-and-excise/>

If you have any technical queries and wish to know if specific goods would require an export or trade licence, you should contact the Export Control Joint Unit:

Tel: 0207 215 4594

Email: exportcontrol.help@trade.gov.uk

The ECO website can be found at:

<https://www.gov.uk/government/organisations/export-control-organisation>

You should also note that for most export purposes the United Kingdom and Isle of Man are regarded as a single customs area. Therefore the rates of duty in force, and the laws, rules and regulations involved in the Island will generally be essentially the same as those in effect in the United Kingdom.

Other Notices on related matters include -

Notice 279C MAN Export of Cultural Items

Notice 279F MAN Import and Export of Firearms etc



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1. Introduction

1.1 What is subject to export and trade controls?

In theory, virtually everything exported from the UK and Isle of Man to another country requires an export licence. However, with very few exceptions, goods moving between the UK and Isle of Man do not require a licence application.

Most goods exported from the UK or Isle of Man to another country are covered by open general licences, meaning that exporters and their agents need not apply for individual licences for their goods.

1.2 Who is affected by the controls?

The controls in the orders mentioned in paragraph 1.3 apply to -

- persons in the Isle of Man;
- a body corporate under the law of the Island and limited liability companies (LLC);
- the various types of British citizen and British protected person who are resident in the Isle of Man.

The above three categories of person are referred to in the legislation as "Island persons". Note that certain elements of the controls have an extra-territorial element, i.e. they apply to actions by persons and entities in the Island that take place overseas (see section 6). You should also note that UN and UK sanctions legislation may also have extra-territorial aspects, and these are often broader in their scope.

1.3 Where is the law on export control?

The main legislation concerned with export and trade licensing controls are -

- the Export Control Order 2008¹ ("the 2008 Order");
- the Export of Radioactive Sources (Control) Order 2006² (as amended).

Links to legislation in this Notice are to UK law, however, the list of goods are the same in Island law.

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1. SD No 104/09
 2. SD No 589/06

1.4 **Who is responsible for enforcing export and trade controls and issuing export and trade licences?**

In the Isle of Man, the Treasury may issue licences, with any applications administered by Customs and Excise. However, Customs and Excise strongly advise businesses to use the online SPIRE system provided by the Export Control Organisation (ECO), as submitting application to or via Customs and Excise would only add to the time needed to obtain clearance. All applications are referred to the ECO for the necessary checks with other departments and organisations prior to any decision on a licence.

The enforcement of export controls is the responsibility of Customs and Excise in the Island, and HMRC and Border Force in the UK.

The ECO, as part of the UK Department for International Trade undertakes compliance work, including visits to licence-holders, and deals with licence applications.

The ECO provides a wide range of guidance and online tools (including tools to help you determine if you, in fact, need a licence, or if there is a general licence which you can make use of). The ECO can also be contacted to obtain the correct classification of your goods for export licensing purposes.

Manx law regards UK-issued licences as if issued by the Treasury, and so have full legal effect in the Island.

1.5 **What if I get it wrong?**

There are severe penalties for violations of export and trade control law, including attempted evasion of controls, and making false statements in order to obtain a licence. Penalties range from a fine of £1,000 to imprisonment for up to 10 years.

In addition, any goods involved may be subject to seizure and forfeiture.

1.6 **What about exports to the Channel Islands?**

You need an export licence if you are exporting controlled goods to the Channel Islands.

There is an open general export licence which covers exports to the Channel Islands.

2. Overview

An **export licence** is needed before the export of controlled military goods, software and technology and items on the dual-use list from the Isle of Man and the United Kingdom to another country. These items are listed in [Schedule 2 and 3 to the Export Control Order 2008](#).

A **trade control licence** is needed before engaging in certain activities that involve:

- the supply or delivery of certain items from one country to another;
- the agreement to supply or deliver certain items from one country to another;
- any activity that will promote the supply or delivery of certain items from one country to another.

You can assess your goods, software and technology against the [UK Strategic Export Control Lists](#) to determine whether or not they are controlled.

The [OGEL and Goods Checker Tools](#) can be used to:

- help determine if the items are controlled;
- identify the appropriate control entry.

You can apply for a licence through [SPIRE, the online export licensing system](#).

3. Controlled military items

Controlled military items include physical goods, software and technology (specific technical information and data), specially designed or modified for military use. They are specified in [Schedule 2 to the Export Control Order 2008](#).

4. Controlled dual-use items

Controlled dual-use items are specified in [Schedule 3 to the Export Control Order 2008](#). They are not necessarily designed or modified for military use.

Controlled dual-use items include:

- firearms and ammunition;
- security and paramilitary police equipment;
- riot-control vehicles;
- chemical and biological agents;

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- explosives and energetic material;
 - explosive detection equipment requiring export authorisation to certain destinations;
 - firing sets and detonators;
 - certain materials, chemicals and micro-organisms;
 - tropospheric scatter communications equipment;
 - vessels and aircraft requiring authorisation to certain destinations;
 - related technology for controlled goods and certain firearms not otherwise specified in [Schedule 2 to the Export Control Order 2008, as amended](#).

You can find the complete list on the [UK Strategic Export Control Lists](#).

5. **When you need an export licence**

You must have an export licence if you are exporting items that are on the [UK Strategic Export Control Lists](#) and you are in the Isle of Man, or a British citizen resident overseas.

You can apply for a licence through [SPIRE](#).

6. **Trade controls and arranging sales or movements**

A trade control licence is required for activities subject to trade controls in the Isle of Man or for an 'Island person' outside of the Island.

Trade controls apply to specific activities, including brokering, that involve certain controlled goods. The trade control legislation imposes different restrictions to different categories of goods. These are contained in Part 4 of the Export Control Order 2008.

Goods which are subject to trade controls are specified in category A, category B or category C, of Schedule 1 to the Export Control Order 2008.

Trade controls do not apply to ML21 or ML22 (software and technology).

A trade control licence is also required for specific activities involving goods subject to trade controls from one third country to another third country that is an embargoed destination.

There are also controls related to brokering of military and other items contained in trade sanctions.

7. **Goods for which you cannot arrange sales or movement (category A goods)**

There is a ban on trade controlled activities relating to category A goods which includes:

- cluster missions, explosive submunitions and explosive bomblets;
- goods for the execution of human beings;
- torture goods, such as: electric shock batons, electric chairs, drug injection electric-shock belts, leg irons and sting sticks.

A full list of category A goods is contained in Part 1 of Schedule 1 to the Export Control Order 2008.

For goods in category A, or where the activity is to an embargoed destination, you cannot supply or deliver, agree to supply or deliver or do any activity that will promote the supply or delivery of category A goods.

This includes:

- arranging, or agreeing to, the transfer, acquisition or disposal of goods;
- general advertising and promotion (for example placing advertisements);
- arranging or providing freight or transport services;
- finance, financial services, insurance or reinsurance services;
- arranging or negotiating contracts or contract promotion activity.

A 'contract promotion activity' means an act calculated to promote the arrangement or negotiation of a contract for the acquisition, disposal or movement of goods or any agreement to do such an act.

This applies in cases where you know or have reason to believe that such action or actions will, or even may, result in the removal of those goods from one third country to another third country.

Restrictions on category A goods apply to any company or a person from within the Island (whether or not they are an Island person) or by any Island person operating overseas, whether directly or indirectly.

8. Goods subject to strict trade controls (category B goods)

There are strict trade controls on activities relating to [category B goods](#).

These controls apply to goods and components including:

- small arms and light weapons (SALWs) within ML1 and ML2;
- accessories and ammunition for SALWs in ML1 and ML2;
- light weapons within ML4;
- ammunition for light weapons within ML4;
- hand grenades specified in ML4;
- anti-vehicle landmines;
- combat aircraft and attack helicopters within ML10;
- warships within ML9;
- long range missiles (LRMs) with a range over 300km;
- unmanned air vehicles (UAVs);
- man-portable air defence systems (MANPADS) and accessories, ammunition, and specially designed components therefore;
- other missiles and missile launchers;
- battle tanks and armoured vehicles within ML6;
- production equipment specially designed for MANPADS, including field test equipment specially designed for MANPADS and specialised training equipment and simulators for MANPADS.

A trade control licence is required to:

- supply or deliver category B goods;
- agree to supply or deliver category B goods;
- do any activity that will promote the supply or delivery of category B goods.

This applies in cases where you know or have reason to believe that such action or actions will, or even may, result in the removal of those goods from one third country to another third country.

This includes:

- arranging, or agreeing to, the transfer, acquisition or disposal of goods;
- general advertising and promotion (for example placing advertisements);
- arranging or providing freight or transport services;
- finance, financial services, insurance or reinsurance services;
- arranging or negotiating contracts or contract promotion activity.

Restrictions on category B goods apply to any company or a person from within the Island (whether or not they are an Island person) or by an Island person operating overseas, whether directly or indirectly.

A licence is not required for category B goods if your only involvement in the transaction is to provide financing or financial services, insurance or reinsurance services, general advertising or promotion services or a contract promotion activity where a payment is not received.

9. **Controls on category C goods**

Trade controls on category C goods includes all other goods in the [UK Military List](#) not listed above and certain substances for the purpose of riot control or self-protection and related portable dissemination equipment.

For category C goods, a trade control licence is required to:

- supply or deliver category C goods;
- agree to supply or deliver category C goods;
- do any activity that will promote the supply or delivery of category C goods.

This applies in cases where you know or have reason to believe that such action or actions will, or even may, result in the removal of those goods from one third country to another third country. This includes:

- arranging, or agreeing to, the transfer, acquisition or disposal of goods;
- general advertising and promotion (for example placing advertisements);
- arranging or providing freight or transport services;
- finance, financial services, insurance or reinsurance services;
- arranging or negotiating contracts or contract promotion activity.

A licence is not required for category C goods if your only involvement in the

transaction is to provide one of the following:

- financing or financial services;
- insurance or reinsurance services;
- general advertising or promotion services;
- contract promotion activity where a payment is not received.

Restrictions on category C goods apply to any company or a person from within the Island (whether or not they are an Island person). Controls on category C goods are not fully extra-territorial, they apply to activities of Island persons carried out in the Island only. They do not apply to the activities of Island persons undertaken wholly overseas.

10. **Overlap between sanctions and strategic export controls**

The export of, and other trade in, military goods and technology is controlled under sanctions regulations and the Export Control Order 2008, and so you may need a licence which is valid under both pieces of legislation. This means that all licence applications relating to military goods and technology will need to be considered against the sanctions licensing purposes, and the strategic export licensing criteria. A licence under sanctions regulations is unlikely to be granted if a licence is refused for the same activity under the Export Control Order 2008.

The way this will work in practice is that the UK will consider an application for a licence which relates to activities that are licensable under both the sanctions regulations and the Export Control Order 2008 as an application under both pieces of legislation. This means that only a single licence application is required.

The application will be considered against the relevant licensing criteria. If a licence is granted it will be valid under both the Export Control Order 2008 and the sanctions regulations.

11. **Trade controls for embargoed destinations**

Embargoed destinations are those subject to full-scope EU, OSCE and national arms embargoes. Controls apply to category A, B and C goods traded to embargoed destinations. Article 20 of the Export Control Order 2008, as amended sets out what trade controls apply in respect of embargoed destinations. Article 20 does not apply to destinations with arms embargoes made under sanctions legislation.

12. **Trade control licences**

There are 4 [open general trade control licences \(OGTCLs\)](#) available.

If you cannot use an OGTCL, you must apply for a Standard Individual Trade Control Licence.

You can apply for a licence through [SPIRE](#).

13. **Transfer of information (technology controls)**

You must get an export licence to transfer controlled technology to anyone outside the Island.

Technology includes any information necessary for the development, production or use of goods.

This includes any of the following that are related to military items and software:

- blueprints;
- diagrams;
- technical and training manuals;
- intangible technology such as emails.

Find out how [military and dual-use technology is defined for export controls](#).

You can use the control list classification advisory service to assess goods and technology against the [UK strategic export control lists](#).

14. **Military end-use controls**

The military end-use control is a catch-all control in the EU Dual-Use Regulation 428/2009 as retained in the Isle of Man. This means that even if the items which you intend to export are not listed on the current UK Military List, you might still require an export licence under this control.

An exporter is usually told by the ECJU that an export licence is required for one of two reasons. Either you are exporting non-controlled items that are, or may be, intended for use with military equipment in an embargoed destination, or you are exporting non-controlled items that may be intended for use as parts of military goods illegally obtained from the Island or UK, irrespective of destination.

If you have any concerns about your end user, you can get advice through [SPIRE](#).

15. **Goods you must not export**

You must not export any goods and services if they might be used for weapons of mass destruction (WMD) purposes. This includes chemicals, biological agents or technology that might be used in a nuclear weapons facility.

This restriction covers:

- technical assistance such as assembly, maintenance or repair;
- services and goods.

16. Breaches of export control legislation

As an exporter, you may discover that you have exported goods or transferred controlled technology without an appropriate export licence in place. It is also possible that a compliance inspector from the Export Control Joint Unit will identify an irregularity during a compliance audit.

If this happens, it is very important to report the irregularity to the Customs and Excise Division (sometimes known as 'voluntary disclosure') as soon as possible.

Send copies of your voluntary declaration by email to: customs@gov.im

You should provide:

- details of the export, including dates;
- any relevant documents, such as export documentation and commercial invoices;
- details of how the breach was discovered, why it occurred and what steps you have put in place to ensure it does not happen again.

Customs & Excise will consider the matter and contact you directly, either for more information or to let you know of its decision.

Amendments to this Notice

15 November 2013	Paragraphs 3.1 and 3.3 updated.
16 June 2014	New paragraph 8.1A on Open Licence annual returns inserted.
13 February 2015	Various amendments to replace references to "EUU", in relation to OIEL and SIEL, with references to "Consignee Undertaking"; and new template for such an Undertaking substituted in Annex.
2 July 2015	New paragraph 8.1B inserted re additional end-user information required for SIEL.
27 July 2016	References to BIS replaced; as Department for International Trade took over responsibility for ECO from 18 July 2016.
20 January 2017	Paragraph 1.9 amended re the export of dual-use goods to or via the Channel Islands, and new paragraph 5.3 on dual-use items amended to refer to paragraph 1.9. New paragraph 1.10 inserted re MoD exports. Paragraph 2.2 amended to emphasise that a licence was required for temporary export of military or dual-use goods.
16 March 2017	New paragraph 1.1(f), 3.3A and 3.3B added re changes to control of goods that could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.
30 May 2018	Privacy Notice added
2 July 2018	Email address for Export Control Unit changed.
1 February 2019	Email address for Export Control Unit changed.
14 February 2022	Notice updated - removing references to EU and re-written to improve readability.

Published by:
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