This draft Statutory Instrument supersedes the draft of the Trade etc. in Dual-Use Items, Firearms and Torture etc. Goods (Amendment) (EU Exit) Regulations 2019 which were laid before Parliament on 11th February 2019 and published on 11th February 2019 (ISBN 978-0-11-118062-4). It is being issued free of charge to all known recipients of that draft Statutory Instrument.

Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No. XXXX

EXITING THE EUROPEAN UNION
CUSTOMS

The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2019

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State, in exercise of the powers conferred by section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018(**1**), makes the following Regulations.

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2019 and come into force on the later of exit day or the day after the day on which they are made.

Amendment of Council Regulation (EU) 2019/125

2.—(1) Council Regulation (EU) 2019/125 of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment is amended as follows.

(2) In Article 1 (subject matter)—

(a) omit "Union";

(**1**) 2018 c. 16.

(b) for "third", substitute "other".

(3) In Article 2 (definitions)—

(a) in point (d) (definition of "export")—

(i) for "customs territory of the Union,", substitute "United Kingdom to a destination outside of the territory of the United Kingdom,";

(ii) for the words from "of Regulation (EU) No 952/2013" to the end, substitute "given by section 100A(2) of the Customs and Excise Management Act 1979(**2**);";

(b) in point (e) (definition of "import")—

(i) for "into the customs territory of the Union,", substitute "(excluding goods consigned from the Isle of Man) into the United Kingdom,";

(ii) omit "within the meaning of Regulation (EU) No 952/2013";

(c) for point (h), substitute—

"(h) "competent authority" means the Secretary of State";

(d) in point (i) (definition of "applicant"), in point 2—

(i) omit "customs";

(ii) for "Union", substitute "United Kingdom";

(e) for point (j) (definition of "customs territory of the Union"), substitute—

"(j) references to the "territory of the United Kingdom" include the Isle of Man;";

(f) for point (l), substitute—

"(l) "broker" means—

(i) any person resident or established in the United Kingdom who supplies brokering services from the United Kingdom;

(ii) any United Kingdom national who supplies brokering services from the United Kingdom;

(iii) any United Kingdom person who supplies brokering services from a country within the European Union;

(iv) any person resident or established in the European Union who supplies brokering services from the United Kingdom;

(v) any European Union national who supplies brokering services from the United Kingdom;";

(g) for point (m), substitute—

"(m) "supplier of technical assistance" means—

(i) any person resident or established in the United Kingdom who supplies technical assistance from the United Kingdom;

(ii) any United Kingdom national who supplies technical assistance from the United Kingdom;

(iii) any United Kingdom person who supplies technical assistance from a country within the European Union;

(iv) any person resident or established in the European Union who supplies technical assistance from the United Kingdom;

(**2**) 1979 c. 2. Section 100A was inserted by the Finance Act 1984 (c. 43), section 8, Schedule 4, Part 1.

(v) any European Union national who supplies technical assistance from the United Kingdom;";

(h) for point (n), substitute—

"(n) "exporter" means any person, resident or established in the United Kingdom, who makes an export declaration or on whose behalf an export declaration is made, that is to say the person who, at the time the declaration is accepted, holds the contract with the consignee in the third country and has the power for determining the sending of the item out of the territory of the United Kingdom. If no export declaration has been made, the exporter is the person who holds the contract with the consignee in the third country and has the power for determining the sending of the item out of the United Kingdom to a destination outside of the territory of the United Kingdom. If no contract has been concluded, or if the holder of the contract does not act on its own behalf, the exporter is the person who has the power for determining the sending of the item out of the United Kingdom to a destination outside of the territory of the United Kingdom;";

(i) for point (o), substitute—

"(o) "General Export Authorisation" means an authorisation for exports as defined under point (d) to certain countries which is available to all exporters who respect conditions and requirements for its use as listed in Annex 5";

(j) in point (p) (definition of "individual authorisation")—

(i) omit "customs";

(ii) for "Union", substitute "United Kingdom";

(k) in point (s) (definition of "transit")—

(i) for "customs territory of the Union" in each place that it occurs, substitute "territory of the United Kingdom";

(ii) for "non-Union goods", substitute "goods not in free circulation";

(l) after point (s), insert—

"(t) "third country" means any country or territory other than the United Kingdom or the Isle of Man;

(u) "United Kingdom national" means a person who is a British citizen, a British overseas territories citizen, a British National (Overseas), a British Overseas citizen, or a person who, under the British Nationality Act 1981(**3**), is a British subject or a British protected person within the meaning of that Act;

(v) "United Kingdom person" means a United Kingdom national or a person, entity or body incorporated or constituted under the law of the United Kingdom or of any part of the United Kingdom;

(w) "European Union national" means a natural person who is a national of a member State;

(x) a person is "resident or established" in the country or territory in which, in the case of a natural person, that person has their habitual residence and, in the case of any other person, that person has its registered office, central headquarters or a permanent business establishment;

(**3**) 1981 c. 61.

(y) "permanent business establishment" has the meaning given by Article 5(32) of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code.".

(4) In Article 3 (export prohibition), in paragraph 1, in the third paragraph, for "a third country", substitute "any country or territory outside of the United Kingdom".

(5) In Article 4 (import prohibition)—

(a) in paragraph 1, in the second sub-paragraph—

(i) for "Union" substitute "United Kingdom";

(ii) for "a third country", substitute "any country or territory outside of the United Kingdom";

(b) in paragraph 2, omit "in the Member State of destination,".

(6) In Article 6 (prohibition of brokering services), for "a third country", substitute "any country or territory outside of the United Kingdom".

(7) In Article 7 (prohibition of training), for "a third country" substitute "any country or territory outside of the United Kingdom".

(8) In Article 8 (trade fairs)—

(a) for "a Member State", substitute "the United Kingdom";

(b) for "Union", substitute "United Kingdom".

(9) For Article 9 (advertising), substitute—

"It shall be prohibited—

(a) for any person resident or established in the United Kingdom who sells or purchases advertising space or advertising time from within the United Kingdom;

(b) for any United Kingdom national who sells or purchases advertising space or advertising time from within the United Kingdom;

(c) for any United Kingdom person who sells or purchases advertising space or advertising time from a country within the European Union;

(d) for any person resident or established in the European Union who sells or purchases advertising space or advertising time from within the United Kingdom; and

(e) for any European Union national who sells or purchases advertising space or advertising time from within the United Kingdom,

to sell to or to purchase from any person in any country or territory outside of the United Kingdom advertising space in print media or on the internet or advertising time on television or radio in relation to goods listed in Annex 2.".

(10) Omit Article 10 (national measures).

(11) In Article 11 (export authorisation requirement)—

(a) in paragraph 1, in the first sub-paragraph—

(i) omit "customs";

(ii) for "Union", substitute "United Kingdom";

(iii) omit "external";

(iv) for "under Article 226 of Regulation (EU) No 952/2013" substitute "within the meaning given by paragraph 5 of Schedule 2 to the Taxation (Cross-border Trade) Act 2018(**4**)";

(**4**) 2018 c. 22.

(v) omit "non-Union";

(vi) for point (c), substitute—

"(c) goods listed in Schedule 2 to the Export Control Order 2008(**5**).";

(b) omit paragraph 2;

(c) in paragraph 3—

(i) for "a Member State", substitute "the United Kingdom";

(ii) for "an EU or", substitute "a";

(iii) for "between Member States" substitute "between the United Kingdom".

(12) In Article 12 (criteria for granting export authorisations)—

(a) in paragraph 1—

(i) for "authorities" substitute "authority";

(ii) omit the words from "in particular" to "the preceding three years and";

(b) in paragraph 2, in the second sub-paragraph, in point (a), for "judgement" substitute "judgment";

(c) in paragraph 2, in the second sub-paragraph, in point (b), for "the UN, the Council of Europe and the EU,", substitute "the UN and the Council of Europe".

(13) In Article 13 (prohibition of transit), for "a Member State", substitute "the United Kingdom".

(14) Omit Article 14 (national measures).

(15) In Article 15 (authorisation requirement for certain services)—

(a) in paragraph 1, for "a third country", substitute "any country or territory outside of the United Kingdom";

(b) in paragraph 3—

(i) for point (a), substitute—

"(a) the technical assistance is supplied to military or civil personnel of the United Kingdom in the circumstances described in the first sentence of Article 11(3);";

(ii) in point (c), for "a competent", substitute "the competent";

(c) omit paragraph 4.

(16) In Article 16 (export authorisation requirement)—

(a) in paragraph 1, in the first sub-paragraph—

(i) omit "customs" in the first place that it occurs;

(ii) for "Union", substitute "United Kingdom";

(iii) omit "external";

(iv) for "under Article 226 of Regulation (EU) No 952/2013", substitute "within the meaning given by paragraph 5 of Schedule 2 to the Taxation (Cross-border Trade) Act 2018";

(v) omit "non-Union";

(b) in paragraph 1, in the second sub-paragraph, for point (c), substitute—

"(c) goods listed in Schedule 2 to the Export Control Order 2008.";

(c) in paragraph 2—

(**5**) S.I. 2008/3231. Schedule 2 was substituted by S.I. 2017/697 and 2018/165 and 939.