

**Military Components**

31 JULY 2012



## Open General Export Licence (Military Components)

**The Secretary of State grants this Open General Export Licence under article 26 of the Export Control Order 2008 (SI 2008/3231 as amended).**

This licence comes into force on 31 July 2012. It replaces the licence dated 22 March 2010.

### 1. Purpose

- (1) The purpose of this Open General Export Licence (OGEL) is to allow you to export military 'components' for military equipment, as long as the original equipment has been exported with the approval of the UK licensing authority (the Export Control Organisation (ECO)) or has been supplied by the UK Government. This OGEL will mainly be used by exporters who need to supply components (goods or software) to maintain or repair equipment held by their customers for the use of the original government end-user.
- (2) However, as with any OGEL, there are limits to what it covers. It is limited to a number of low-risk destinations. Some goods and software are excluded and you will have to provide certain documents before exporting the components, and keep records so that the ECO can carry out audits to confirm you have used the OGEL correctly. **If you fail to use this OGEL correctly ECO may suspend or withdraw your authorisation to use this licence.**
- (3) You should only register to use this licence if you have **fully considered** the terms and conditions that follow and are able to meet them **all**.

## 2. Goods and software you can export or transfer under this licence

- (1) This licence allows you to export **components** (goods and software) specifically designed for any military goods or equipment listed in Schedule 2 (Military Goods) of the Export Control Order 2008 as amended, except goods listed below and which do not improve the performance of the originally supplied equipment.
- (2) You **may not export or transfer** any of the following components (goods or software):

ML3	<i>Cluster munitions, explosive submunitions.</i>
ML4 a, b1	<ul style="list-style-type: none"> <li>• Missiles for Man Portable Air Defence Systems (MANPADS) (with or without missiles, including related launching equipment and rockets).</li> <li>• MANPADS (including missiles which can be used without modification in other applications).</li> <li>• Anti-personnel landmines.</li> <li>• <i>Cluster munitions, explosive bomblets and explosive submunitions.</i></li> </ul>
ML10c	Unmanned aerial vehicles (UAV) and their launchers, ground support equipment and related equipment for command and control.
ML11a	Electronic equipment specially designed or modified for military use: <ul style="list-style-type: none"> <li>• Test equipment for MANPADS.</li> <li>• Goods for use with <i>cluster munitions, explosive submunitions and explosive bomblets.</i></li> </ul>
ML14	Training equipment for MANPADS.
ML16	Forging, castings and other unfinished goods for use with <i>cluster munitions, explosive submunitions and explosive bomblets.</i>
ML17f	Libraries for MANPADS.
ML17n	Test models specially designed for the development <i>cluster munitions, explosive submunitions and explosive bomblets.</i>

PL5017	Equipment and test models for MANPADS.
PL5001c, d, g, h, i	Security and paramilitary police <i>goods</i> listed.
ML18, ML21	Equipment listed in classification ML18 (production equipment and environmental test facilities), and software listed in classification ML21 (software) related to any equipment listed above.

Note: Definitions of the goods and software shown above in *italics* have the same meaning as that given in the Export Control Order 2008 (as amended).

- (3) You **must not** export or transfer under this licence goods (either complete items or components of items) which fall within the scope of the Directive on the Control of the Acquisition and Possession of Weapons (Council Directive 91/477/EEC as amended).

### 3. End countries or destinations allowed under this licence

- (1) Australia, Austria  
Belgium  
Canada, Czech Republic  
Denmark  
Estonia  
Finland, France  
Germany, Gibraltar, Greece  
Hungary  
Iceland, Ireland (Republic of), Italy  
Japan  
Latvia, Lithuania, Luxembourg  
Malta  
Netherlands, New Zealand, Norway  
Poland, Portugal  
Romania  
Slovenia, Slovakia, Spain, Sweden, Switzerland (including Liechtenstein)  
Turkey  
USA
- (2) You **must not** export or transfer goods or software to a 'customs free zone'. A 'customs free zone' is a part of the territory of a country where any goods introduced are generally regarded, as far as import duties and taxes are concerned, as being outside the customs territory of that country, and so the usual customs controls do not apply.

#### 4. Who you can export goods and software to

- (1) You must only export or transfer goods or software if the ultimate end-user is the same government end-user as for the original equipment, and is the government of one of the countries or territories listed in section 3.
- (2) You must only export or transfer goods or software to the end-user for the original equipment as shown either in the original export licence or in the documents relating to the sale of the equipment by the UK Government.

#### 5. Other restrictions that apply

##### (1) Protectively marked goods and software

You must not export or transfer goods or software which carry a UK protective marking of '**Confidential**' or above unless you also have written approval from the Ministry of Defence (MoD) to allow you to export them. You can get more information about applying to the MoD for approval, and an application form, from:

<http://www.mod.uk/DefenceInternet/AboutDefence/WhatWeDo/SecurityandIntelligence/PSyA/>

##### (2) Weapons of mass destruction (WMD)

- a You **must not** export or transfer all or part of goods or software if you are aware they may be used for a WMD purpose. You may become aware of this in the following ways:
  - i. A competent authority tells you.
  - ii. You are already aware of this intended use.
  - iii. You have grounds for suspecting that the goods or software will be used for this purpose unless you have made all reasonable enquiries about what the goods or software will be used for, and are satisfied that they will not be used for a WMD purpose.
- b If you have any concerns over the end use of the goods or software, you should contact the ECO's End User Advice Service.

**6. Actions you must take before exporting or transferring goods or software under this licence**

- (1) You must be satisfied that you and the goods or software you plan to export or transfer can meet all the requirements set out in this licence.
- (2) You must also have an undertaking from the government end-user confirming that the original equipment was exported from the UK under a valid licence or was supplied by the UK Government if:
  - a. you were not the supplier of the original equipment; or
  - b. the person receiving (the consignee) the goods or software is not the same person (consignee) that received the original equipment.
- (3) Before using this licence, you **must** register through the ECO's electronic licensing system, 'SPIRE' (<https://www.spire.bis.gov.uk>), stating where you will keep records of the exports or transfers and where ECO may inspect them.

**7. Actions you must take when exporting or transferring goods or software under this licence**

- (1) For all physical (tangible) exports of goods or software, you must make sure that the commercial documents that go with the goods or software include a declaration stating either:
  - a 'the goods [or software] are being exported under the OGEL (military components)'; or
  - b your SPIRE licence reference (in the form "GBOGE 20XX/XXXXX").
- (2) You should present these documents to officials of HM Revenue & Customs when asked, together with the information and documents listed in section 8. (1) f or g below.

## 8. Records that you must keep

- (1) You must keep the following records relating to exporting or transferring tangible and intangible goods and software under this licence for **four years** and you must make them available for any person authorised by the Secretary of State to inspect. The detailed requirements are set out in article 29 of the Export Control Order 2008. In summary, you must keep a record of the following.
  - a The date and destination of export.
  - b The name and address of the person (the consignee) you are exporting or transferring the goods or software to.
  - c A description of the goods or software.
  - d The classification in Schedule 2 of the Export Control Order.
  - e Documents referred to in section 7 above that include either of the declarations described in section 7. (1) a or b.
  - f A copy of the original equipment licence, or evidence that the UK Government sold the original equipment that the components will be used for.
  - g If you **are not the original supplier** of the goods or software, or if you are not exporting or transferring the components to the original customer, you must provide an original undertaking from the government end-user, as described in section 6.(2).
- (2) For goods and software which have any of the functions or characteristics of information security described in Category 5 Part 2 of Annex 1 to Council Regulation (EC) No.428/2009 (as amended), every 12 months you must present a copy of the records set out in section 8. (1) a, b and c above to a representative of the Secretary of State (the Communications-Electronics Security Group (CESG) and the ECO) for inspection.

## 9. Other legal requirements

- (1) You must complete, in full, the pre-visit questionnaire (PVQ) which you receive before an audit visit by the ECO and return it by the date given in the letter that came with it.
- (2) As well as keeping to the requirements of this licence, you must also keep to any other relevant laws and acts which are in force. There may be restrictions or limits

under other laws which apply when exporting these goods or software.

**10. If you fail to meet the terms and conditions of this licence**

- a If, following an audit visit, the ECO send you a 'failure to comply' warning letter, you must take the steps set out in that letter and within the timescale given. If you do not do this, the ECO may **suspend or withdraw your authorisation** to use this licence until you can satisfy the ECO that you are able to meet the terms and conditions of this licence.
- b The ECO may suspend or withdraw this licence if you do not satisfy the requirements of all the terms and conditions of this licence. If this is the case, you may (along with anyone who has exported or transferred goods or software for you) be prosecuted.
- c You **must not** export or transfer goods or software under this licence at any time once the ECO have suspended or withdrawn your authorisation to use this licence by serving a notice on you under article 32(1) of the Export Control Order 2008.



## Glossary

Expressions used in this licence and in the Export Control Act 2002 (2002 C.28) or in the Export Control Order 2008 have the same meaning here as they do in the Act and Order. The legislation referred to in this licence is updated from time to time and you will need to check that you have the most up-to-date version when using this licence. For the legislation that applies to UK exports, please visit: <http://www.legislation.gov.uk>

You can see the original Export Control Order at  
[www.legislation.gov.uk/uksi/2008/3231/contents/made](http://www.legislation.gov.uk/uksi/2008/3231/contents/made)

You can see the original Schedule 2 at  
<http://www.legislation.gov.uk/uksi/2008/3231/schedule/2/made>

The following terms and acronyms used in this licence have the following meanings.

### Section 1 - Purpose

- 1 'Components' includes goods and software. Components are the goods or software which form a system or larger unit or are part of a mechanical or electrical complex.
- 2 'Military equipment' includes goods and software.
- 3 'You' means someone who has registered as a user with SPIRE, the electronic licensing system of the Export Control Organisation (ECO), a part of the Department for Business, Innovation and Skills.

### Section 2 - Goods and software

Note: Definitions of the goods and software shown below have the same meaning as that given in the Export Control Order 2008 (as amended).

- 1 The phrase 'Do not improve the performance of' means you may export modern replacement components or use a later standard for reliability or safety reasons, as long as they do not improve the way the goods or equipment works or give the goods or equipment new or extra functions.
- 2 'Cluster munitions' means conventional munitions designed to disperse or release 'explosive submunitions' (**see note below**).

- 3 'Explosive bomblets' means conventional munitions, weighing less than 20 kilograms each, which are not self-propelled and which are specially designed to be dispersed or released by a dispenser fixed to an aircraft, and are designed to work by detonating an explosive charge before, on or after impact.
- 4 'Explosive submunitions' means conventional munitions, weighing less than 20 kilograms each, which are dispersed or released by another conventional munition and are designed to work by detonating an explosive charge before, on or after impact (**see note below**).
- d. 'MANPADS' (Man Portable Air Defence Systems) are surface-to-air missile systems designed to be carried and fired by a single person, and other surface-to-air missile systems designed to be operated and fired by more than one person acting as a crew.

**Note: cluster munitions and explosive submunitions above do not include the following conventional munitions.**

- A munition or submunition designed to disperse flares, smoke, pyrotechnics or chaff, or a munition designed for an air-defence role only.
- A munition or submunition designed to produce electrical or electronic effects.
- A munition that has **all** of the following characteristics:
  - a. Each munition contains fewer than 10 explosive submunitions.
  - b. Each explosive submunition weighs more than 4 kilograms.
  - c. Each explosive submunition is designed to detect and engage a target object.
  - d. Each explosive submunition has an electronic self-destruction mechanism.
  - e. Each explosive submunition has an electronic self-deactivating feature.

The Directive on the Control of the Acquisition and Possession of Weapons (as amended) (Council Directive 91/477/EEC) sets out the restriction on possessing and the procedures for transferring certain firearms and weapons within the EU. For more information, visit:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1991:256:0051:0058:EN:PDF>

## **Section 4 - Who you can export or transfer goods and software to**

'Government' includes any person a government appoints to act on its behalf.

## Section 5 - Other restrictions that apply

- a 'WMD purposes' means used in connection with developing, producing, handling, operating, maintaining, storing, detecting, identifying or spreading chemical, biological or nuclear weapons or other nuclear explosive devices, or developing, producing, maintaining or storing missiles capable of delivering such weapons as defined in article 2(1) of the Export Control Order 2008.
- b 'Competent authority' means the Secretary of State or anyone authorised by another member state to grant export licences for dual-use items under the Export Control Order 2008.
- c The 'End User Advice Service' is provided by the Government and can be accessed through SPIRE. The Service is the process by which you can obtain advice from the ECO about any concerns you may have with the overseas entities (businesses or individuals) involved with your export transactions.

## Section 6 - Before exporting or transferring goods or software

'SPIRE' is the UK licensing authority's online licence application and registration system. You will need to register yourself and your business on SPIRE before you can apply for a licence to export controlled goods.

Website: <https://www.spire.bis.gov.uk>

## Section 7 - When exporting or transferring goods of software

- a. 'Tangible goods' are physical items which you can touch.
- b. 'Intangible goods' are items which you cannot touch for example, emails (not printed), phone calls and software (not loaded onto a CD).
- c. 'Declaration' means a document written for an official of Her Majesty's Government (HMG).

## Section 8 - Records that you must keep

You can contact the Communications-Electronics Security Group (CESG) at the following email address: <mailto:intrelexport@cesg.gsi.gov.uk>

ECO Compliance Inspectors should be copied into your email to CESG.