

# PROJET DE LOI

ENTITLED

## **The Export Control (Bailiwick of Guernsey) Law, 2006 \***

[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.*

© States of Guernsey

---

\* No. XIV of 2007; as amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019 (G.S.I. No. 38 of 2019). See also the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991 (No. XIII of 1991, Ordres en Conseil Vol. XXXIII, p. 217).

# PROJET DE LOI

ENTITLED

## **The Export Control (Bailiwick of Guernsey) Law, 2006**

### ARRANGEMENT OF SECTIONS

1. Export controls.
2. Transfer controls.
3. Technical assistance controls.
4. Trade controls.
5. General restriction on transfer, technical assistance and trade controls.
6. Exceptions from the general restriction on transfer, technical assistance and trade controls.
7. Control powers: supplementary.
8. Protection of certain freedoms.
9. Guidance about the exercise of certain functions under control orders.
10. Amendment to the 1972 Law.
11. Application of the 1972 Law to control orders.
12. Orders.
13. Interpretation.
14. Consequential repeals and amendments.
15. Citation.
16. Commencement.

SCHEDULE 1      Categories of goods, technology and technical assistance in respect of which transfer, technical assistance and trade controls may be made.

SCHEDULE 2 Consequential repeals and amendments.

# PROJET DE LOI

ENTITLED

## **The Export Control (Bailiwick of Guernsey) Law, 2006**

**THE STATES**, in pursuance of their resolution of the 27<sup>th</sup> day of October, 2004<sup>a</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### **Export controls.**

1. (1) [The Committee] may by order make provision for or in connection with the imposition of export controls in relation to goods of any description.

(2) For this purpose "**export controls**", in relation to any goods, means the prohibition or regulation of their exportation from the Bailiwick or their shipment as stores.

(3) Goods may be described in the order wholly or partly by reference to the uses to which the goods, or any information recorded on or derived from them, may be put.

[ (4) Without limiting the generality of subsection (1), export controls may be imposed for the purpose of the implementation, with or without modifications, of –

---

<sup>a</sup> Article XI of Billet d'État No. XVIII of 2004.

- (a) provisions of any Community directive or regulation,
- (b) provisions of any UK enactment, or
- (c) any international obligation.]

(5) ...

(6) For the avoidance of doubt, export controls may be imposed in relation to the removal from the Bailiwick of vehicles, vessels and aircraft (as an exportation of goods), whether or not they are moving under their own power or carrying goods or passengers.

---

## NOTES

*In section 1,*

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

*subsection (4) was substituted and subsection (5) repealed by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 2, with effect from 11 p.m. on 31st December, 2020.<sup>1</sup>*

*The following Orders have been made under section 1:*

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

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

*Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2012;*

*Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2013;*

*Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014;*

*Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2015;*

*Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2020.*

**Transfer controls.**

2. (1) [The Committee] may by order make provision for or in connection with the imposition of transfer controls in relation to technology of any description.

(2) For this purpose "**transfer controls**", in relation to any technology, means the prohibition or regulation of its transfer –

- (a) by a person or from a place within the Bailiwick to a person or place outside the Bailiwick,
- (b) by a person or from a place outside the Bailiwick to a person who, or a place which, is also outside the Bailiwick (but only where the transfer is by, or within the control of, a relevant person),
- (c) by a person or from a place within the Bailiwick to a person who, or a place which, is also within the Bailiwick (but only where there is reason to believe that the technology may be used outside the Bailiwick), or
- (d) by a person or from a place outside the Bailiwick to a person or place within the Bailiwick (but only where the transfer is by, or within the control of, a relevant person and there is reason to believe that the technology may be used outside the Bailiwick).

(3) Technology may be described in the order wholly or partly by reference to the uses to which it may be put.

(4) The power to impose transfer controls is subject to section 5.

(5) [ The Committee] may by order make such provision as they consider necessary or expedient for the purpose of the implementation of, or in connection with, any controls in a Community directive or regulation on the transfer of technology.

(6) In this Law –

**"transfer"**, in relation to any technology, means a transfer by any means (or combination of means), including oral communication and the transfer of goods on which the technology is recorded or from which it can be derived, other than the exportation of such goods, and

**"technology"** means information (including information comprised in software) that is capable of use in connection with –

- (a) the development, production or use of any goods or software, or
- (b) the development of, or the carrying out of, an industrial or commercial activity or an activity of any other kind whatsoever.

---

## NOTES

*In section 2, the words "The Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.*

*The following Order has been made under section 2:*

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

---

**Technical assistance controls.**

3. (1) [The Committee] may by order make provision for or in connection with the imposition of technical assistance controls in relation to technical assistance of any description.

(2) For this purpose –

**"technical assistance controls"**, in relation to any technical assistance, means the prohibition or regulation of participation in the provision outside the Bailiwick of that technical assistance, and

**"technical assistance"** means services which are provided or used, or which are capable of being used, in connection with the development, production or use of any goods or technology.

(3) Technical assistance may be described in the order wholly or partly by reference to the uses to which it (or the goods or technology in question) may be put.

(4) The power to impose technical assistance controls –

(a) shall only be exercised for the purpose of imposing controls corresponding to or connected with –

(i) any export controls or transfer controls imposed under section 1 or 2, or

[(ii) the implementation of any controls for the

purpose specified in section 5(2),]

(b) is subject to section 5.

(5) For the purposes of subsection (1) a person participates in the provision of technical assistance outside the Bailiwick if –

(a) he provides technical assistance outside the Bailiwick or agrees to do so, or

(b) he makes arrangements under which another person provides technical assistance outside the Bailiwick or agrees to do so.

(6) ...

(7) Technical assistance controls may be imposed on acts done outside the Bailiwick, but only if they are done by a person who is, or is acting under the control of, a relevant person.

---

## NOTES

*In section 3,*

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

*first, paragraph (ii) of subsection (4) was substituted and, second, subsection (6) was repealed by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 4, respectively paragraph (a) and paragraph (b), with effect from 11 p.m. on 31st December, 2020.<sup>2</sup>*

*The following Orders have been made under section 3:*

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



**Trade controls.**

4. (1) [The Committee] may by order make provision for or in connection with the imposition of trade controls in relation to goods of any description.

(2) For this purpose "**trade controls**", in relation to any goods, means the prohibition or regulation of –

- (a) their acquisition or disposal,
- (b) their movement, or
- (c) activities which facilitate or are otherwise connected with their acquisition, disposal or movement.

(3) Goods may be described in the order wholly or partly by reference to the uses to which the goods, or any information recorded on or derived from them, may be put.

(4) The power to impose trade controls –

- (a) shall only be exercised for the purpose of imposing controls corresponding to or connected with –

- (i) any export controls or transfer controls imposed under section 1 or 2, or

- [(ii) the implementation of any controls for the purpose specified in section 5(2),]

(b) is subject to section 5.

(5) ...

(6) For the purposes of this section –

(a) a person acquires goods if he buys, hires or borrows them or accepts them as a gift, and

(b) a person disposes of goods if he sells, lets on hire, lends or gives them.

(7) For the purposes of this section –

(a) the making of an agreement with another to acquire, dispose of or move goods, and

(b) the making of arrangements under which another person –

(i) acquires, disposes of or moves goods, or

(ii) agrees with a third person to acquire, dispose of or move goods,

are activities which facilitate the acquisition, disposal or movement of the goods.

(8) Trade controls may be imposed on acts done outside the Bailiwick, but only if they are done by a person who is, or is acting under the control of, a relevant person.

---

## NOTES

*In section 4,*

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

*first, paragraph (ii) of subsection (4) was substituted and, second, subsection (5) was repealed by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 5, respectively paragraph (a) and paragraph (b), with effect from 11 p.m. on 31st December, 2020.<sup>3</sup>*

*The following Order has been made under section 4:*

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

---

### **General restriction on transfer, technical assistance and trade controls.**

5. (1) Subject to section 6, the power to impose transfer controls, technical assistance controls or trade controls may only be exercised where authorised by this section.

(2) Transfer controls, technical assistance controls or trade controls may be imposed for the purpose of the implementation[, with or without modifications, of –]

[(a) provisions of any Community directive or regulation,

(b) provisions of any UK enactment, or

(c) any international obligation.]

(3) Transfer controls may be imposed in relation to any description of technology within one or more of the categories specified in Schedule 1 for such

controls.

(4) Technical assistance controls may be imposed in relation to any description of technical assistance within one or more of the categories specified in Schedule 1 for such controls.

(5) Trade controls may be imposed in relation to any description of goods within one or more of the categories specified in Schedule 1 for such controls.

---

**NOTE**

*In section 5, the words in the first pair of square brackets in subsection (2) and paragraph (a) and (b) thereof were substituted and paragraph (c) thereof was inserted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 6, with effect from 11 p.m. on 31st December, 2020.*

---

**Exceptions from the general restriction on transfer, technical assistance and trade controls.**

6. (1) Section 5 does not apply to the power to impose any transfer controls, technical assistance controls or trade controls if the control order which imposes them provides for its expiry no later than the end of the period of 12 months beginning with the day on which it is made.

(2) Section 5 does not apply in relation to provisions of a control order which –

- (a) amend an earlier control order, or
- (b) revoke and re-enact (with or without modifications) provisions of an earlier control order,

unless they impose new controls or strengthen the controls previously imposed.

(3) In subsection (2) "**an earlier control order**" does not include an order falling within subsection (1).

**Control powers: supplementary.**

7. (1) An order under any of the preceding provisions of this Law may (without prejudice to the generality of the power under which it is made) make provision –

- (a) for an activity to be prohibited unless authorised by a licence granted by any Department, council or committee of the States or such other person as may be specified in the order,
- (b) creating exceptions from any provision of the order,
- (c) requiring persons to keep (and produce) records,
- (d) requiring persons to provide information to any person specified in the order,
- (e) about the purposes for which information held in connection with anything done under or by virtue of the order may be used,
- (f) about the persons to whom any such information may be disclosed,
- (g) creating indictable offences, summary offences or offences triable either way (subject to the limitation that

no offence so created shall be punishable on indictment with imprisonment for a term exceeding 10 years), and

- (h) for the enforcement of the order (including provision as to the powers and duties of any person who is to enforce it).

(2) Such an order may –

- (a) amend, repeal or revoke or apply, (with or without modifications) provisions of this Law or any other enactment,
- (b) provide for any reference in the order to a document (including a technical list by reference to which any Community directive or regulation[, UK enactment or international obligation] operates) to take effect as a reference to that document as revised or re-issued from time to time,
- (c) make incidental, supplementary and transitional provision,
- (d) make different provision for different cases and different circumstances, and
- (e) be amended, repealed or revoked by a subsequent order made under this Law.

---

**NOTES**

*In section 7, the words in square brackets in subsection (2) were substituted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 7, with effect from 11 p.m. on 31st December, 2020.*

*The following Orders have been made under section 7:*

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

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

*Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2012;*

*Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2013;*

*Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2014;*

*Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2015;*

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

---

### **Protection of certain freedoms.**

8. (1) [ The Committee] may not make a control order which has the effect of prohibiting or regulating any of the following activities –

- (a) the communication of information in the ordinary course of scientific research,
- (b) the making of information generally available to the public, or
- (c) the communication of information that is generally available to the public,

unless the interference by the order in the freedom to carry on the activity in question is necessary (and no more than is necessary).

(2) The question as to whether any such interference is necessary

shall be determined by [the Committee] by reference to the circumstances prevailing at the time the order is made and having considered the reasons for seeking to control the activity in question and the need to respect the freedom to carry on that activity.

---

**NOTE**

*In section 8, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.*

---

**Guidance about the exercise of functions under control orders.**

9. (1) This section applies to licensing powers and other functions conferred by a control order on any person in connection with controls imposed under this Law.

(2) [ The Committee] may give guidance about any matter relating to the exercise of any licensing power or other function to which this section applies.

(3) Any person exercising a licensing power or other function to which this section applies shall have regard to any guidance which relates to that power or other function.

(4) In this section "**guidance**" means guidance stating that it is given under this section.

---

**NOTE**

*In section 9, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.*

---

**Amendment to the 1972 Law.**



**10.** In the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 ("**the 1972 Law**")<sup>b</sup>, after section 69 (power to take samples) insert –

**"Power to require furnishing of information, etc.**

**69A.** (1) Every person who is concerned (in whatever capacity) in the importation or exportation of goods for which an entry is required by or under this Law shall –

- (a) furnish to the Chief Revenue Officer, within such time and in such form as he may reasonably require, such information relating to the goods or to the importation or exportation as he may reasonably specify, and
- (b) if so required by an officer, produce or cause to be produced for inspection by the officer –
  - (i) at the principal place of business of the person upon whom the demand is made or at such other place as the officer may reasonably require, and
  - (ii) at such time as the officer may reasonably require,

any documents relating to the goods or to the importation or exportation.

---

<sup>b</sup> Ordres en Conseil Vol. XXIII, p. 573; Vol XXIV, p. 87; Vol. XXX1, p. 278; No. XIII of 1991; No. X of 2004 and Ordinance No. XXXII of 2005.

(2) Where, by virtue of subsection (1) above, an officer has power to require the production of any documents from any such person as is referred to in that subsection, he shall have the like power to require production of the documents concerned from any other person who appears to the officer to be in possession of them but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.

(3) An officer may take copies of, or make extracts from, any document produced under subsection (1) or (2) above.

(4) If it appears to him to be necessary to do so, an officer may, at a reasonable time and for a reasonable period, remove any document produced under subsection (1) or (2) above and shall, on request, provide a receipt for any document so removed and where a lien is claimed on a document produced under subsection (2) above, the removal of the document under this subsection shall not be regarded as breaking the lien.

(5) Where a document removed by an officer under subsection (4) above is reasonably required for the proper conduct of a business, the officer shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

(6) Where any documents removed under the powers conferred under this section are lost or damaged, the States of Guernsey Home Department shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

(7) Nothing in this section shall compel the production by

an advocate or other legal adviser of a document subject to legal professional privilege but an advocate or other legal adviser may be required to give the name and address of any client.

(8) If any person fails, without reasonable excuse, to comply with a requirement under this section, he shall be liable on summary conviction to a fine not exceeding level 4 on the uniform scale".<sup>4</sup>

**Application of the 1972 Law to control orders.**

11. (1) The provisions of this Law, insofar as they relate to the imposition of export controls, are provisions relating to customs and therefore customs Laws.

(2) It shall be the duty of the Chief Revenue Officer to take such action as he considers appropriate to secure the enforcement of any control orders to the extent he is not already subject to such a duty by virtue of subsection (1).

(3) The following sections of the 1972 Law shall apply as stated below to the extent that they are not already so applicable by virtue of subsection (1)

—

(a) section 55 (provisions as to detention of persons) shall apply to any person who has committed, or in respect of whom there are reasonable grounds to suspect of having committed, an offence for which he may be detained under any control order as it applies to the detention of any person for any offence for which he may be detained under the customs Laws or the excise Laws,

(b) sections 61 to 65 (provisions relating to proceedings,

finer and proof) shall apply in relation to offences, penalties and proceedings for offences created under any control order as they apply in relation to offences, penalties and proceedings for offences under the customs Laws or the excise Laws, and

- (c) section 69A (power to require furnishing of information, etc.) shall apply to any person concerned (in whatever capacity) in an activity requiring a licence under any control order as it applies to any person who is concerned (in whatever capacity) in the exportation of goods for which an entry is required by or under the 1972 Law, and accordingly references in section 69A of the 1972 Law to –

- (i) goods shall, as the context requires, be read as including software, technology and technical assistance, and

- (ii) exportation shall, as the context requires, be read as including any activity, including the transfer of technology or software or the provision of technical assistance, that requires a licence under any control order.

---

**NOTE**

*In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, the reference in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his*

authority.

---

### **Orders.**

**12.** (1) Any order made under this Law must be laid as soon as practicable before a meeting of the States and if, at that meeting, or their next meeting, the States resolve to annul the order, it shall cease to have effect, but without prejudice to anything done under it or to the making of a new order.

(2) [ The Committee] shall publish any order made under this Law, as soon as practicable after it is made, in such manner as it thinks fit (for example, by publication on a website).

---

### **NOTE**

*In section 12, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.*

---

### **Interpretation.**

**13.** (1) In this Law, unless the context otherwise requires –

**"1972 Law"** means the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972,

**"Bailiwick"** means the Bailiwick of Guernsey,

**"British national"** means an individual who is –

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen within the meaning of the British Nationality

Act 1981<sup>c</sup>

- (b) a person who under that Act is a British subject, or
- (c) a British protected person within the meaning of that Act,

**"Chief Revenue Officer"** has the meaning in section 1(1) of the 1972 Law,

**"Community directive or regulation"** means a provision of a directive or regulation (within the meaning of Article 249 of the Treaty establishing the European Community),

**"control order"** means an order made under section 1(1), 2(1), 3(1) or 4(1),

**"customs Laws"** has the meaning in section 1(1) of the 1972 Law,

**"[the Committee]"** means the States of Guernsey [Committee for Home Affairs],

**"enactment"** includes a Law, an Ordinance and any subordinate legislation and any provision or portion of a Law, an Ordinance or any subordinate legislation,

**"excise Laws"** has the meaning in section 1(1) of the 1972 Law,

**"export controls"** has the meaning given in section 1(2),

---

<sup>c</sup> An Act of Parliament, 1981 c. 61.

**"goods"** includes any objects of cultural interest including those of cultural interest in relation to the Bailiwick of Guernsey,

[ **"implementation"**, in relation to provisions of a Community directive or regulation, provisions of a UK enactment or any international obligation, includes their enforcement or enactment and the securing of their administration, execution, recognition, exercise or enjoyment, in or under domestic law,]

**"objects of cultural interest"** includes objects of historical or scientific interest,

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

**"relevant person"** means –

- (a) a British national,
- (b) a limited partnership which has separate legal personality pursuant to section 9A of the Limited Partnerships (Guernsey) Law 1995<sup>d</sup> or
- (c) a body incorporated under the law of any part of the Bailiwick,

**"shipment"** includes loading into an aircraft,

**"subordinate legislation"** means any regulation, rule, order, notice,

---

<sup>d</sup> Order in Council No. XII of 1995 as amended by No. IV of 2001.

rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect,

**"technical assistance"** and **"technical assistance controls"** have the meanings given in section 3(2),

**"technology"** has the meaning given in section 2(6),

**"trade controls"** has the meaning given in section 4(2),

**"transfer"** has the meaning given in section 2(6), [...]

**"transfer controls"** has the meaning given in section 2(2)[, and]

[ **"UK enactment"** means any enactment in force in any part of the United Kingdom.]

[ (1A) In this Law, a reference to **"Community directive or regulation"**, **"international obligation"** or **"UK enactment"** includes a reference to any Community directive or regulation, any international obligation or (as the case may be) any UK enactment, whether or not applicable in or binding upon the Bailiwick.]

(2) The Interpretation (Guernsey) Law, 1948<sup>e</sup>, shall apply to the interpretation of this Law throughout the Bailiwick.

(3) A reference in this Law to another enactment including a reference to an Act of Parliament is, unless the context otherwise requires, a reference thereto as from time to time amended, re-enacted (with or without modification),

---

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



extended or applied.

---

## NOTES

*In section 13,*

*the words in the first and second pairs of square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 7 and section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;*

*first, the definition of the expression "implementation" in subsection (1) was substituted, second, the word omitted in square brackets at the end of the definition of the expression "transfer" therein was repealed, third, the word and punctuation at the end of the definition of the expression "transfer controls" were substituted and the definition of the expression "UK enactment" in subsection (1) was inserted and, fourth, subsection (1A) was inserted by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, respectively regulation 8(a), regulation 8(b), regulation 8(c) and regulation 9, with effect from 11 p.m. on 31st December, 2020.*

*The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law 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), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*

*In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, the reference in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority.*

*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.*

---

## **Consequential repeals and amendments.**

**14.** Schedule 2 shall have effect.

**Citation.**

**15.** This Law may be cited as the Export Control (Bailiwick of Guernsey) Law, 2006.

**Commencement.**

**16.** (1) This Law shall come into force on the day appointed by order of [the Department] and different dates may be appointed for different provisions and for different purposes.

(2) [The Department] may by order make such transitional provisions and savings as it considers appropriate in connection with the coming into force of any provision of this Law.

---

**NOTE**

*The Law was brought into force on 1st May, 2010 by the Export Control (Commencement) (Bailiwick of Guernsey) Order, 2010, article 1.*

---

SCHEDULE 1

Section 5

CATEGORIES OF GOODS, TECHNOLOGY AND TECHNICAL ASSISTANCE  
IN RESPECT OF WHICH TRANSFER, TECHNICAL ASSISTANCE AND  
TRADE CONTROLS MAY BE MADE

1. (1) Trade controls may be imposed in relation to –
  - (a) military equipment,
  - (b) goods on which military technology is recorded or from which it can be derived, or
  - (c) goods intended, designed or adapted for use in the development or production of military equipment or military technology.
- (2) Transfer controls may be imposed in relation to –
  - (a) military technology, or
  - (b) technology intended, designed or adapted for use in the development or production of military technology.
- (3) Technical assistance controls may be imposed in relation to any services connected with the development, production or use of –
  - (a) any goods falling within subparagraph (1)(a), (b) or (c),  
or
  - (b) any technology falling within subparagraph (2)(a) or (b).

(4) In this paragraph (without prejudice to the generality of the terms) –

**"military equipment"** includes –

- (a) firearms and other weapons (whether or not intended, designed or adapted for military use or in military use), and
- (b) goods intended, designed or adapted for military use (whether or not in military use), and

**"military technology"** includes –

- (a) technology intended, designed or adapted for military use (whether or not in military use), and
- (b) technology intended, designed or adapted for use in connection with the development, production or use of military equipment or goods falling within subparagraph (1)(c).

(5) For the purposes of subparagraph (4) the reference to firearms and other weapons includes a reference to –

- (a) component parts of firearms or other weapons,
- (b) accessories for use with firearms or other weapons, and
- (c) ammunition, missiles or projectiles of any kind which

are intended, designed or adapted for use with firearms or other weapons.

2. (1) Transfer controls may be imposed in relation to any technology the transfer or use of which is capable of having a relevant consequence.

(2) Technical assistance controls may be imposed in relation to any technical assistance the provision or use of which is capable of having such a consequence.

(3) Trade controls may be imposed in relation to any goods the acquisition, disposal, movement or use of which is capable of having such a consequence.

3. (1) For the purposes of paragraph 2 a relevant consequence, in relation to any activity, is a consequence (direct or indirect) of a kind mentioned in the following Table.

(2) The Table referred to above is as follows –

Relevant Consequences

*Security of the Bailiwick, of the United Kingdom and of other countries*

A An adverse effect on –

- (a) the security of the Bailiwick or any part of it, or
- (b) the national security or the security of members of the armed forces of –

*Consolidated text*

- (i) the United Kingdom (or any dependency),
- (ii) ...
- (iii) any other State which is a friendly State in relation to the United Kingdom.

*Regional stability and internal conflict*

- B An adverse effect on peace, security or stability in any region of the world or within any country.

*Weapons of mass destruction*

- C The carrying out anywhere in the world of acts which facilitate the development, production or use of weapons of mass destruction.

*Breaches of international law and human rights*

- D The carrying out anywhere in the world of (or of acts which facilitate) –
- (a) acts threatening international peace and security,
  - (b) acts contravening the international law of armed conflict,
  - (c) internal repression in any country, or
  - (d) breaches of human rights.

*Terrorism and crime*

E The carrying out anywhere in the world of (or of acts which facilitate) acts of terrorism or serious crime anywhere in the world.

(3) The question of whether an activity involving goods, technology or technical assistance of any particular description is capable of having a relevant consequence is to be determined by [the Committee] at the time the order imposing the controls is made.

(4) In this paragraph –

**"country"** includes a territory but does not include the United Kingdom, the Channel Islands or the Isle of Man, and

**"dependency"** means the Isle of Man, the Bailiwick of Jersey or a British Overseas territory.

---

## NOTES

*In Schedule 1,*

*item A(b)(ii) in the Table in paragraph 3(2) was repealed by the Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 10, with effect from 11 p.m. on 31st December, 2020;*

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

---

SCHEDULE 2

Section 14

CONSEQUENTIAL REPEALS AND AMENDMENTS

**Repeal of provisions of the Import and Export (Control) (Guernsey) Law, 1946.**

1. (1) The following provisions of the Import and Export (Control) (Guernsey) Law, 1946<sup>f</sup> (which are concerned with the exportation of goods and related matters) are repealed.

(2) In Article 1 (control of importation and exportation) –

- (a) in paragraph (1), the words ", or exportation from" and the words "or the shipment as ships' stores",
- (b) in paragraph (3), the words ", exportation, or shipment as ships' stores" and ", exported or shipped as ships' stores", and
- (c) in paragraph (4), the words "or out of" and "or exportation".

(3) In Article 2 (duties of travellers) –

- (a) in paragraph (1), the words "or is about to leave", and
- (b) in paragraph (1)(a), the words "or exported".

(4) In Article 3 (penalty for illegal importation or exportation of goods) –

---

<sup>f</sup> Ordres en Conseil Vol. XII, p. 332 and as amended by Vol. XXIII, p. 573; and No. XVI of 1991.



- (a) in paragraph (1) –
  - (i) in subparagraph (a), the words "exported or shipped as ships' stores",
  - (ii) after subparagraph (a), the word "or" and the whole of subparagraph (b), and
  - (iii) the words from ", or the exporter" to "case may be,"
- (b) the whole of paragraph (1A),
- (c) in paragraph (2) –
  - (i) the words from ", exported or shipped" to "so shipped," and
  - (ii) the words from "or exportation" to "case may be,".

(5) In Article 5 (power to require entry and clearance), the words "or before shipment, as the case may be" and the words from "and of all goods" to the end.

**Amendment of the Import and Export (Control) (Guernsey) Law, 1946.**

2. (1) The Import and Export (Control) Guernsey Law, 1946 shall be amended as follows.

(2) In Article 3 (penalty for illegal importation or exportation of

goods), in paragraph (1) for the words "the agent of any of them" substitute "his agent".

(3) Article 5A (administrative provisions) shall be substituted for

—

**"Administrative Provisions."**

**5A.** The provisions of this Law are provisions relating to customs, and, therefore, "customs Laws" as defined in section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972."

**Repeal of provisions of the Import and Export (Control) Alderney Law, 1946.**

**3.** (1) The following provisions of the Import and Export (Control) Alderney Law, 1946<sup>g</sup> (which are concerned with the exportation of goods and related matters) are repealed.

(2) In Article 1 (control of importation and exportation) –

- (a) in paragraph 1, the words ", or exportation from" and the words "or the shipment as ships' stores",
- (b) in paragraph 3, the words ", exportation or shipment as ships' stores" and ", exported or shipped as ships' stores", and
- (c) in paragraph 4, the words "or out of" and "or exportation".

---

<sup>g</sup> Ordres en Conseil Vol. XII, p. 367.

- (3) In Article 2 (duties of travellers) –
  - (a) in paragraph 1, the words "or is about to leave", and
  - (b) in paragraph 1(a), the words "or exported".
- (4) In Article 3 (penalty for illegal importation or exportation of goods) –
  - (a) in paragraph 1 –
    - (i) in subparagraph (a), the words ", exported or shipped as ships' stores",
    - (ii) after subparagraph (a), the word "or" and the whole of subparagraph (b), and
    - (iii) the words from ", or the exporter" to "case may be,",
  - (b) in paragraph 2 –
    - (i) the words from ", exported or shipped" to "so shipped,",
    - (ii) the words "or exportation" to the first "case may be,", and
    - (iii) the words from ", exportation or shipment" to the second "case may be".

(5) In Article 5 (power to require entry and clearance), the words "or before shipment, as the case may be" and the words from "and of all goods" to the end.

**Amendment of the Import and Export (Control) Alderney Law, 1946.**

4. (1) The Import and Export (Control) Alderney Law, 1946 shall be amended as follows.

(2) In Article 3 (penalty for illegal importation or exportation of goods), in paragraph 1 for the words "the agent of any of them" substitute "his agent".

(3) After Article 5 (power to require entry and clearance) insert –

**"Administrative Provisions.**

5A. The provisions of this Law are provisions relating to customs, and, therefore, "customs Laws" as defined in section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972."

---

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

<sup>2</sup> Prior to its substitution, subsection (6) was amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.

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

<sup>4</sup> For subsequent amendments, see the consolidated text of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972.