

**2005 No. 468**

**CUSTOMS AND EXCISE**

**The Export of Goods, Transfer of Technology and Provision of  
Technical Assistance (Control) (Amendment) Order 2005**

|                               |                        |
|-------------------------------|------------------------|
| <i>Made</i> - - - -           | <i>2nd March 2005</i>  |
| <i>Laid before Parliament</i> | <i>4th March 2005</i>  |
| <i>Coming into force</i> - -  | <i>28th March 2005</i> |

The Secretary of State in exercise of the powers conferred upon her by sections 1, 2, 3, 5 and 7 of the Export Control Act 2002(a) hereby makes the following Order:

1. This Order may be cited as the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment) Order 2005 and shall come into force on 28th March 2005.

2. The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(b) shall be amended as set out in this Order.

3. In article 2, in the definition of “transfer”, after the words “ from a person or place within the United Kingdom” there shall be added “ except in articles 8 and 9 to the extent that those articles make provision in respect of transfers other than from a person or place within the United Kingdom”.

4. In article 16, in paragraphs (4) and (5), after the words “shall be guilty of an offence” there shall be added “and may be arrested”.

5. In article 21 at the end there shall be added the following—

“(8) Section 138 of the Customs and Excise Management Act 1979(c) (provision as to arrest 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 is liable to be arrested under article 16(4) or (5) of this Order as that section applies to the arrest of any person for offences for which he is liable to be arrested under the customs and excise Acts.

(9) Section 77A of the Customs and Excise Management Act 1979(d) (provision as to information powers) shall apply to any person concerned (in whatever capacity) in an activity requiring a licence under this Order for the transfer of software or technology or the provision of technical assistance 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 that Act,

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(a) 2002 c. 28.

(b) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561, 2004/2741 and 2005/232.

(c) 1979 c.2. Section 138(1) was amended by the Police and Criminal Evidence Act 1984 (c. 60), sections 114 and 119 and Schedule 7, Part 1, and the Finance Act 1988 (c. 39), section 11; section 138(2) was amended by the Police and Criminal Evidence Act 1984 (c. 60), section 114(1) and Schedule 7, Part 1; section 138(3) was amended by the Police and Criminal Evidence Act 1984 (c.60), section 114(1); section 138(4) was substituted by the Police and Criminal Evidence Act 1984 (c.60) and amended by S.I. 1989/1341.

(d) Section 77A inserted by section 10 of the Finance Act 1987 (c.16) and amended by S.I. 1992/3095.

and accordingly references in section 77A of the Customs and Excise Management Act 1979 to goods shall, as the context requires, be read as including software, technology and technical assistance and references to exportation shall, as the context requires, be read as including the transfer of technology or software or the provision of technical assistance.”

2nd March 2005

*Nigel Griffiths*  
Parliamentary Under Secretary of State  
for Small Business and Enterprise,  
Department of Trade and Industry

## **EXPLANATORY NOTE**

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

This Order amends the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 ('the 2003 Order').

It provides that the provisions relating to arrest of persons contained in section 138 of the Customs and Excise Management Act 1979 ('the 1979 Act'), allowing the arrest by any customs officer or a member of Her Majesty's armed forces or coastguard, shall apply to certain offences related to transfers of technology or the provision of technical assistance contained in the 2003 Order.

The Order also provides that the provisions relating to customs officers' information gathering powers contained in section 77A of the 1979 Act apply to persons concerned in an activity requiring a licence under the 2003 Order for the transfer of software or technology and the provision of technical assistance.

Finally, the Order amends the definition of "transfer" in the 2003 Order to clarify its meaning.

A regulatory impact assessment has not been produced for this instrument as it has no or minimal impact on the costs of business.

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