



STATUTORY INSTRUMENTS.

S.I. No. 443 of 2009



CONTROL OF EXPORTS (DUAL USE ITEMS) ORDER 2009

(Prn. A9/1563)

CONTROL OF EXPORTS (DUAL USE ITEMS) ORDER 2009

I, MARY COUGHLAN, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by sections 3 and 4 of the Control of Exports Act 2008 (No.1 of 2008), and for the purposes of giving full effect to Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items¹, hereby order as follows:

1. This Order may be cited as the Control of Exports (Dual Use Items) Order 2009.

2. (1) In this Order “Council Regulation” means Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

(2) In this Order a reference to an Annex is a reference to an Annex of the Council Regulation.

(3) A word or expression used in this Order and which is also used in the Council Regulation has, unless the context otherwise requires, the same meaning in this Order as it has in the Council Regulation.

3. The Minister is the competent authority in the State for the purposes of the Council Regulation.

4. (1) The Minister may issue an authorisation for the purposes of Article 4(5), 5(2), 5(3), 6(2), 6(3) or 8(1) of the Council Regulation.

(2) The Minister may issue a global authorisation for the purposes of Article 9(5) of the Council Regulation.

(3) An authorisation issued pursuant to paragraph (1) or (2), may be issued subject to such terms and conditions as the Minister considers appropriate and are specified in the authorisation.

(4) The Minister may annul, suspend, modify or revoke an authorisation issued pursuant to paragraph (1) or (2).

5. An authorised officer within the meaning of section 7 of the Control of Exports Act 2008 (No. 1 of 2008) may exercise any of the functions conferred on him or her under that section for the purposes of enforcing the Council Regulation and this Order.

¹ OJ L134, 29.5.2009, p.1

6. A person shall comply with any obligation imposed on him or her by the Council Regulation.

7. An exporter shall not, except under and in accordance with an authorisation issued for the purposes of Article 4(5) of the Council Regulation, export dual-use items not listed in Annex 1, where he or she has grounds for suspecting that those items are or may be intended, in their entirety or in part, for any of the uses referred to in Article 4(1) of that Regulation.

8. A broker shall not, except under and in accordance with an authorisation issued for the purposes of Article 5(2) of the Council Regulation—

- (a) provide brokering services of dual-use items not listed in Annex 1, for any of the uses referred to in Article 4(1) of that Regulation, or
- (b) provide brokering services of dual-use items for military end-use and destinations referred to in Article 4(2) of that Regulation.

9. A broker shall not, except under and in accordance with an authorisation issued for the purposes of Article 5(3) of the Council Regulation, provide brokering services of dual-use items, where he or she has grounds for suspecting that the items in question are or may be intended for any of the uses referred to in Article 4(1) of that Regulation.

10. A person shall not, except under and in accordance with an authorisation issued for the purposes of Article 6(2) of the Council Regulation, provide transit of non-Community dual-use items listed in Annex 1, if the items are or may be intended, in their entirety or in part, for uses referred to in Article 4(1) of that Regulation.

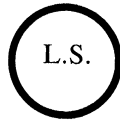
11. A person shall not, except under and in accordance with an authorisation issued for the purposes of Article 6(3) of the Council Regulation provide transit of-

- (a) non-Community dual-use items not listed in Annex 1, if the items are or may be intended, in their entirety or in part, for uses referred to in Article 4(1) of that Regulation, or
- (b) non-Community dual-use items, where such items are or may be intended, in their entirety or in part, for military end-use and destinations referred to in Article 4(2) of that Regulation.

12. (1) The Minister may, for reasons of public security or human rights considerations, notify an exporter that he or she shall not export dual-use items not listed in Annex 1.

(2) Where the Minister has notified an exporter pursuant to paragraph (1), the exporter shall not, except under and in accordance with an authorisation issued for the purposes of Article 8(1) of the Council Regulation, export dual-use items not listed in Annex 1.

13. The European Communities (Control of Exports of Dual-Use Items) Regulations 2000 (SI No. 317 of 2000) are revoked.



GIVEN under my Official Seal,
3 November 2009.

MARY COUGHLAN,
Minister for Enterprise, Trade and Employment.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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