EXPLANATORY MEMORANDUM TO

THE EXPORT CONTROL (AMENDMENT) (NO. 2) REGULATIONS 2025

Year No. 1197

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Minister Chris Bryant MP, Minister of State at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

2.2 Matt Sheldon, Deputy Director for Export Control and Sanctions, at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Vikura Parmar at the Department for Business and Trade, vikura.parmar@businessandtrade.gov.uk, can be contacted with any queries regarding the instrument. Alternatively, the department can be contacted at 0208 215 4594.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Export Control (Amendment) (No. 2) Regulations 2025 introduce a series of legislative updates to the UK's export controls framework.

4.2 This instrument amends the Export Control Order 2008 (S.I. 2008/3231) (the "2008 Order"), 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 (Recast) (EUR 428/2009) (the "assimilated Dual-Use Regulation") and Regulation (EU) 2019/125 of the European Parliament and of the Council 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 (the "assimilated Torture Goods Regulation").

4.3 Specifically, this instrument amends and updates the controls on specific emerging technologies, reflecting the United Kingdom commitment with like-minded countries to update export controls for national security purposes. This includes moving existing controls from the 2008 Order to the assimilated Dual-Use Regulation. This will avoid duplication of controls in Northern Ireland while aligning with the recent changes to corresponding EU regulations which apply directly in Northern Ireland. At the same time this instrument will introduce additional new controls into the assimilated Dual-Use Regulation.

4.4 They also update the UK's implementation of controls on trade in goods that could be used for capital punishment, torture and other cruel, inhuman, or degrading treatment

or punishment, and revise the status of Armenia and Azerbaijan in UK export control legislation to reflect recent changes in the UK's export control policy towards these countries. Additionally, they correct minor drafting errors from a previous instrument and revise specific control entries to ensure consistency with international regimes.

Where does the legislation extend to, and apply?

4.5 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the same as the extent of the instruments which it amends: the United Kingdom for the 2008 Order, and Great Britain (England and Wales and Scotland) for the assimilated Dual-Use Regulation and the assimilated Torture Goods Regulation.

4.6 The territorial application of this instrument (that is, where the instrument produces a practical effect) is also the same as the territorial application of the instruments that it amends: the United Kingdom for the 2008 Order, and Great Britain (England and Wales and Scotland) for both the assimilated Dual-Use Regulation and the assimilated Torture Goods Regulation.

5. Policy Context

What is being done and why?

5.1 This instrument is being introduced to ensure the UK's export control regime remains up to date and aligned with international commitments and recent updates to EU regulations. These amendments are necessary to maintain the effectiveness and clarity of the UK's export control framework, avoid regulatory divergence between Great Britain and Northern Ireland, and ensure that UK controls reflect the latest international standards.

5.2 Part 2 of this instrument amends the 2008 Order. Regulation 3 amends the provisions in Schedule 2 to the 2008 Order to reflect updates to controls on the exports of conventional weapons agreed through the multilateral export control regime known as the Wassenaar Arrangements and corrects typographical errors made in S.I. 2025/532. Regulation 4 amends Schedule 3 to the 2008 Order to repeal previous controls relating to specific emerging technologies (introduced via S.I. 2024/346 and S.I. 2025/532). These controls are effectively moved from the 2008 Order to the assimilated Dual-Use Regulation further to amendments made by Part 3 of this instrument, discussed below. Regulation 5 updates the country listings in Schedule 4 to the 2008 Order to reflect recent changes in the UK's export control policy regarding Armenia and Azerbaijan, as set out in the recent Written Ministerial Statement of 13 October 2025 by Stephen Doughty, which announced the lifting of the UK arms embargo on both countries. The amendment moves Armenia and Azerbaijan to the appropriate part of the Schedule, ensuring the controls applied to these countries are consistent with current UK policy objectives and international obligations.

5.3 Part 3 of this instrument amends Annex I of the assimilated Dual-Use Regulation, which lists dual-use goods, software and technology subject to export controls. Regulations 7 to 10 introduce the controls moved from the 2008 Order in Part 2 of this instrument together with new controls on specific emerging technologies that the United Kingdom, along with a number of other like-minded countries, has committed to implement in order to strengthen the controls for national security purposes. The new controls relate to electronics and semiconductor manufacturing equipment and special materials. These changes ensure alignment with recent changes to the corresponding EU regulation - Regulation (EU) 2021/821 of the European Parliament

and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (the "EU Dual-Use Regulation"). The EU Dual-Use Regulation applies directly to Northern Ireland. Including these controls in the assimilated Dual-Use Regulation rather than the 2008 Order ensures there is no duplication of controls in Northern Ireland. Regulation 11 corrects a typographical error made in S.I. 2025/532. Regulations 12 and 13 amend the dual-use list in line with the UK's commitments as a member of the multilateral export control regimes, the Missile Technology Control Regime and the Wassenaar Arrangements.

5.4 Part 4 amends Article 2, Annex II and Annex III of the assimilated Torture Goods Regulation, which restricts trade in goods that could be used for capital punishment, torture and other cruel, inhuman, or degrading treatment or punishment. The corresponding Regulation (EU) 2019/125 (the "EU Torture Goods Regulation"), which applies in Northern Ireland under the Windsor Framework, has recently been amended, creating a regulatory divergence between Great Britain and Northern Ireland. The amendments in this instrument remove this divergence aligning the controls in these goods. The Annex to this explanatory memorandum reflects the specific items that have been added.

What was the previous policy, how is this different?

5.5 The 2008 Order and the assimilated Dual-Use Regulation form the legal basis for the United Kingdom's export controls. These amendments update the lists of items subject to control in line with international agreements to ensure the controls remain aligned with international commitments and recent changes in corresponding EU Regulations.

5.6 Controls on goods that could be used for torture, capital punishment, or other cruel, inhuman or degrading treatment are governed by the assimilated Torture Goods Regulation in Great Britain, and the EU Torture Goods Regulation in Northern Ireland under the Windsor Framework. Recently, the EU Torture Goods Regulation was amended to add new items to Annexes II and III. These new controls apply in Northern Ireland but not in Great Britain, creating a regulatory divergence. Without amending the assimilated Regulation, the UK cannot legally require exporters in Great Britain to comply with controls on these new items.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument is made under powers in the Export Control Act 2002 ("the 2002 Act"), the assimilated Dual-Use Regulation and the assimilated Torture Goods Regulation.

6.2 The powers under the 2002 Act include the power to impose export controls and trade controls in relation to any description of goods within one or more of the categories specified in the Schedule to that Act. These powers are used to:

- amend Schedule 2 to the 2008 Order to reflect changes agreed to the Wassenaar Arrangement Munitions List;
- omit the controls in Schedule 3 to the 2008 Order;
- insert those omitted controls and additional controls in Annex I of the assimilated Dual-Use Regulation, to reflect commitments the UK has made with like-minded international partners.

6.3 For completeness, the amendments to the assimilated Dual-Use Regulation described above have been made under the powers in the 2002 Act when read with paragraphs 3 and 4 of Schedule 8 to the European Union (Withdrawal) Act 2018 ("EUWA"). That is on the basis the assimilated Dual-Use Regulation is assimilated direct legislation, and those provisions of the EUWA provide that a power to make subordinate legislation conferred before the EUWA entered into force (as were the powers in the 2002 Act) may be read, so far as the context requires or permits, as being capable of being exercised to modify assimilated direct legislation. The context requires or permits the exercise in this instance as:

- No other power is capable of making these changes. The usual power to update the control lists in the assimilated Dual-Use Regulation is Article 15 of that regulation itself. That only confers a limited power to update the dual use lists where that is in conformity with the relevant obligations and commitments the UK has accepted as a member of international non-proliferation regimes and export control arrangements, or by ratification of relevant international treaties. That does not apply to these controls which are being implemented in line with commitments the UK has made with like-minded nations, but not obligations or commitments in a non-proliferation regime, export control arrangement or relevant treaty.
- Control of the items makes them subject to the export control in Article 3 of the assimilated Dual-Use Regulation; this is a control that falls within the 2002 Act powers.
- This approach avoids the regulatory duplication that would otherwise be placed on Northern Ireland were the amendments to be made in the 2008 Order, as both the 2008 Order and the EU Dual-Use Regulation apply there.

6.4 The 2002 Act also contains powers to make provision in connection with trade controls. Under those powers, Schedule 4 to the 2008 Order sets out countries and destinations subject to stricter export or trade controls. This instrument updates this Schedule to reflect recent changes in the UK's export control policy regarding Armenia and Azerbaijan. These destinations have effectively been 'moved' from Part 2 of this Schedule to Part 4, meaning that they are no longer 'embargoed destinations' (per the definition in Article 2) subject to the controls set out in Articles 12A, 16 and 20; but are subject to transit controls for Category B goods.

6.5 By contrast to section 6.3 above, the power under Article 15 of the assimilated Dual-Use Regulation is capable of and has been used to make amendments to Annex I to the assimilated Dual-Use Regulation in line with the UK's commitments as a member of the multilateral export control regime, the Missile Technology Control Regime.

6.6 The power under Article 24 of the assimilated Torture Goods Regulation allows the Secretary of State to amend the Annexes to this regulation and make provision for connected purposes. Under this power, Annexes II and III, which list certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment subject to export controls are amended.

Why was this approach taken to change the law?

6.7 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation was undertaken for this instrument. This is because the amendments are technical in nature and are intended to update the existing controls in line with international agreements, recent changes to EU regulations, and UK policy developments. A consultation was not considered appropriate given the significance of the threat to national security and, in accordance with the Consultation Principles, the absence of alternative policy options that would achieve the same outcome.

8. Applicable Guidance

8.1 Comprehensive guidance on strategic export controls is already available on the GOV.UK website. The consolidated list of strategic military and dual-use items that require export authorisation is also published on GOV.UK and will be amended to reflect the changes to the control lists included in this instrument. A Notice to Exporters will be published giving details of these latest changes. These notices are automatically circulated to organisations and individuals registered with the Export Control Joint Unit within the Department for Business and Trade.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the amendments are primarily technical and administrative, implementing routine updates to maintain alignment with international commitments and recent EU changes. These changes are not expected to result in significant costs or benefits for businesses, charities, voluntary bodies, or the public sector. The overall effect is to maintain existing regulatory standards and ensure legal clarity, with only minimal administrative adjustments required for compliance.

Impact on businesses, charities and voluntary bodies

9.2 There is no significant impact on businesses, charities, or voluntary bodies, as the amendments do not introduce new substantive requirements or restrictions. The changes simply amend and update existing controls, update country listings, and correct minor errors - all of which are expected to have a negligible effect on day-to-day operations for exporters and related organisations.

9.3 The legislation applies to activities that are undertaken by small businesses. Maintaining the effectiveness of the updated controls is essential to addressing national security threats and upholding human rights standards, which could be undermined if the controls were mitigated for small businesses.

9.4 There is no significant impact on the public sector, as the amendments will have minimal effect on the operation of the existing export control regime.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Department for Business and Trade will monitor the implementation and impact of this instrument through regular engagement with stakeholders, including exporters, industry bodies, and relevant government departments. Any issues raised will be fully considered with a view to finding an appropriate solution.

10.2 The underlying legislation amended by this instrument does not contain a statutory review clause. As these amendments update the scope of existing export controls and implement the United Kingdom's international commitments, a formal review is considered disproportionate given the absence of any discernible economic impact on business activities. In these circumstances, it is not considered appropriate to include a review provision.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The Department for Business and Trade has consulted with the SI Registrar concerning the instrument correcting three minor typographical amendments made in S.I. 2025/532. It was agreed that the instrument can be exempt from the free issue procedure based on the proportionality of the correcting provisions.

11.2 Section 13 sets out the relevant statements required under the relevant European Union Acts (as defined in that section). While this instrument is not made under any power in those Acts, section 6 sets out additional information regarding the exercise of the powers to make certain provisions of this instrument, when read with provisions of the EUWA.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").

13.2 It does however relate to the withdrawal of the United Kingdom from the European Union because by the virtue of the Windsor Framework, Council Regulation (EC) No. 428/2009 and Council Regulation (EU) 2019/125 applied to and in the UK in respect of Northern Ireland. In May 2021, the EU replaced Council Regulation (EC) No 428/2009 with a new Dual-Use Regulation (EU) 2021/821 (Recast), which continues to apply to and in the UK in respect of Northern Ireland by virtue of the Windsor Framework. Any changes to the Dual-Use Regulation (EU) 2021/821 apply directly to and in Northern Ireland. Any changes to the Council Regulation (EU) 2019/125 apply directly to and in Northern Ireland.