

Reprint
as at 19 December 2018



Customs Export Prohibition Order 2017 (LI 2017/213)

Patsy Reddy, Governor-General

Order in Council

At Wellington this 7th day of August 2017

Present:

Her Excellency the Governor-General in Council

This order is made under section 56 of the Customs and Excise Act 1996—

- (a) on the advice and with the consent of the Executive Council; and
- (b) after the precondition specified in that section has been met.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the New Zealand Customs Service.

Schedule
Prohibited weapons and dual-use weapon-related exports

4

Order

1 Title

This order is the Customs Export Prohibition Order 2017.

2 Commencement

This order comes into force on 1 October 2017.

Order: confirmed, on 19 December 2018, by section 11(a) of the Subordinate Legislation Confirmation Act (No 2) 2018 (2018 No 56).

3 Prohibited pounamu exports

- (1) The exportation of pounamu in its natural state, and partly or wholly processed pounamu, is prohibited, except with the consent of, and subject to any conditions not inconsistent with this prohibition as are imposed by, the Minister of Customs.
- (2) The Minister may give his or her consent under subclause (1) only on written advice—
 - (a) from Te Rūnanga o Ngāi Tahu; or
 - (b) if the pounamu is extracted from the catchment of the Arahura river, from the Māwhera Incorporation.
- (3) This prohibition does not apply to—
 - (a) articles made from pounamu (for example, jewellery, pendants, or sculptures containing pounamu);
 - (b) consignments that are being exported by a single exporter and in which the total weight of pounamu does not exceed 5 kg.

- (4) In this clause,—

Māwhera Incorporation has the meaning given to it by section 8 of the Ngāi Tahu Claims Settlement Act 1998

pounamu has the meaning given to it by section 2 of the Ngai Tahu (Pounamu Vesting) Act 1997

Te Rūnanga o Ngāi Tahu means Te Rūnanga o Ngāi Tahu as established by section 6 of Te Runanga o Ngai Tahu Act 1996.

4 Prohibited fisheries exports

- (1) The exportation of live New Zealand green-lipped mussels with a shell size of less than 50 mm in length is prohibited, except with the consent of, and subject

to any conditions not inconsistent with this prohibition as are imposed by, the Minister for Primary Industries.

- (2) This clause is revoked at the close of 30 September 2019.

5 Prohibited weapons and dual-use weapon-related exports

The exportation of the goods or electronic publications specified in the Schedule is prohibited, except with the consent of, and subject to any conditions not inconsistent with this prohibition as are imposed by, the Secretary of Foreign Affairs and Trade.

6 Prohibited goods or electronic publications for certain uses

- (1) The exportation of the goods or electronic publications specified in subclause (2) but not specified in the Schedule is prohibited, except with the consent of, and subject to any conditions not inconsistent with this prohibition as are imposed by, the Secretary of Foreign Affairs and Trade.
- (2) The goods and electronic publications referred to in subclause (1) are goods or electronic publications that are determined by the Secretary of Foreign Affairs and Trade to be goods or electronic publications that are or may be intended for use relating, directly or indirectly, to any or all of the following:
- (a) the development, production, or deployment of nuclear explosive devices (as defined in the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987) and their means of delivery:
 - (b) the development, production, or deployment of biological weapons (as defined in the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987) and their means of delivery:
 - (c) the development, production, or deployment of chemical weapons (as defined in the Chemical Weapons (Prohibition) Act 1996) and their means of delivery:
 - (d) a military end-use, if the country of destination is subject to a United Nations Security Council arms embargo and the subject of regulations under section 2 of the United Nations Act 1946:
 - (e) use as parts or components of military items that fall within categories ML1–ML22 that have been unlawfully exported from New Zealand.
- (3) For the purpose of subclause (2)(d), **military end-use** means—
- (a) incorporation into military items that fall within categories ML1–ML22; or
 - (b) use of production or testing of analytical equipment and components in relation to the development, production, or maintenance of military items referred to in paragraph (a); or
 - (c) use of any unfinished products in a plant for the production of military items referred to in paragraph (a).

- (4) For the purpose of this clause, **categories ML1–ML22** means categories ML1–ML22 set out in the New Zealand Strategic Goods List maintained by the Ministry of Foreign Affairs and Trade.

7 **Revocation**

The Customs Export Prohibition Order 2014 (LI 2014/256) is revoked.

Schedule

Prohibited weapons and dual-use weapon-related exports

cls 5, 6

Nuclear weapon-related dual-use goods and related electronic publications

- 1 Dual-use goods that may have application in a nuclear weapons programme (including associated software and technologies).*
- 2 Any electronic publication used for the purpose of transferring any software or technology described in item 1 by electronic means to a person or place outside New Zealand.

Chemical weapons precursors and related electronic publications

- 3 Precursor chemicals and dual-use goods used in their production, development, or use (including associated software and technologies),* except where those chemicals are subject to prohibitions and consents applying by virtue of section 10 of the Chemical Weapons (Prohibition) Act 1996.
- 4 Any electronic publication used for the purpose of transferring any software or technology described in item 3 by electronic means to a person or place outside New Zealand.

Biological agents and related electronic publications

- 5 Biological agents and dual-use goods used in their production, development, or use (including associated software and technologies).*
- 6 Any electronic publication used for the purpose of transferring any software or technology described in item 5 by electronic means to a person or place outside New Zealand.

Certain conventional weapons, other dual-use goods, and related electronic publications

- 7 Certain conventional weapons and other dual-use goods that are intended for military use or may have military applications or may be used for the production of military goods or goods that may have military applications (including associated software and technologies).*

- 8 Any electronic publication used for the purpose of transferring any software or technology described in item 7 by electronic means to a person or place outside New Zealand.

***Note**

The New Zealand Strategic Goods List, which lists the items, software, and technologies concerned, is available on the Ministry of Foreign Affairs and Trade Internet site (<http://www.mfat.govt.nz>).

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 1 October 2017, prohibits the exportation of various goods under the Customs and Excise Act 1996 without the relevant ministerial or official consent.

The prohibited exports are—

- certain New Zealand pounamu (greenstone):
- certain green-lipped mussels:
- dual-use goods that may have application in a nuclear weapons programme and related electronic publications:
- certain chemical weapons precursors and related electronic publications:
- biological agents and related electronic publications:
- certain conventional weapons, and other dual-use goods that are intended for military use or may have military applications or may be used for the production of military goods or goods that may have military applications and related electronic publications.

This order continues prohibitions that were formerly in place under the Customs Export Prohibition Order 2014. That order expires on the close of 30 September 2017.

This order is a confirmable instrument under section 47B of the Legislation Act 2012. It is revoked at the close of 31 December 2018, unless earlier confirmed by an Act of Parliament. That stated time is the applicable deadline under section 47C(1)(b) of that Act. If confirmed in that way, this order expires on the close of 30 September 2020 under section 57 of the Customs and Excise Act 1996 (except for clause 4 concerning the prohibition on exportation of certain green-lipped mussels, which is revoked at the close of 30 September 2019).

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 10 August 2017.

Reprints notes

1 *General*

This is a reprint of the Customs Export Prohibition Order 2017 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Subordinate Legislation Confirmation Act (No 2) 2018 (2018 No 56): section 11(a)