



Customs Export Prohibition Order 2011

Anand Satyanand, Governor-General

Order in Council

At Wellington this 27th day of June 2011

Present:

His Excellency the Governor-General in Council

Pursuant to section 56 of the Customs and Excise Act 1996, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and being of the opinion that the prohibitions specified in this order are necessary in the public interest, makes the following order.

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Schedule
Prohibited weapons and dual-use weapon-related exports

Order

- 1 Title**
This order is the Customs Export Prohibition Order 2011.
- 2 Commencement**
This order comes into force on 1 October 2011.
- 3 Expiry**
This order expires on the close of 30 September 2014.
- 4 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 such conditions (if any) not inconsistent with this prohibition that are imposed by, the Minister of Customs.
- (2) The Minister may give his or her consent as provided in subclause (1) only on written advice—
- (a) from Te Runanga o Ngai 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 Runanga o Ngai Tahu means Te Runanga o Ngai Tahu as established by section 6 of Te Runanga o Ngai Tahu Act 1996.

5 Prohibited fisheries exports

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 such conditions (if any) not inconsistent with this prohibition that are imposed by, the Minister of Fisheries.

6 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 such conditions (if any) not inconsistent with this prohibition that are imposed by, the Secretary of Foreign Affairs and Trade.

7 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 such conditions (if any) not inconsistent with this prohibition that 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.

8 Revocation

The Customs Export Prohibition Order 2008 (SR 2008/240) is revoked.

Schedule

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Prohibited weapons and dual-use weapon-related exports

1 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 subclause (1) by electronic means to a person or place outside New Zealand.

2 Chemical weapons precursors and related electronic publications

- (1) 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.
- (2) Any electronic publication used for the purpose of transferring any software or technology described in subclause (1) by electronic means to a person or place outside New Zealand.

3 Biological agents and related electronic publications

- (1) Biological agents and dual-use goods used in their production, development, or use (including associated software and technologies).*
- (2) Any electronic publication used for the purpose of transferring any software or technology described in subclause (1) by electronic means to a person or place outside New Zealand.

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

- (1) 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).*
- (2) Any electronic publication used for the purpose of transferring any software or technology described in subclause (1) 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>).

Rebecca Kitteridge,
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 2011, prohibits the exportation of various goods under the Customs and Excise Act 1996 except with 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 2008. That order expires on the close of 30 September 2011.

This order also removes controls over the export of toheroa since toheroa, taken in contravention of the Fisheries Act 1996, can be seized under section 175C of the Customs and Excise Act 1996.

This order expires on the close of 30 September 2014.

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Customs Export Prohibition Order 2011

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Date of notification in *Gazette*: 30 June 2011.

This order is administered by the New Zealand Customs Service.
