



# In Focus

## Register of Arms Brokers Bill [HL] (HL Bill 7 of 2016–17)

### Key Provisions

The [Register of Arms Brokers Bill \[HL\]](#) is a private member's bill introduced by Baroness Jolly (Liberal Democrat). The Bill received its first reading in the House of Lords on 23 May 2016, and is scheduled to have its second reading on 10 June 2016. The Bill seeks to make provision for the establishment, maintenance and publication of a register of arms brokers. If enacted, the Bill would require arms brokers to register every three years, and would ensure that the applicant's criminal history and tax status were considered before being allowed to register. The provisions would apply to the whole of the United Kingdom.

The Bill defines an arms broker as any person involved in financing, transporting or facilitating the manufacture, export or import of military equipment or military technology. The Bill also stipulates that it would be an offence to undertake any such activity without being registered. A person guilty of this offence would be liable on conviction to imprisonment for a term not exceeding one year, a fine, or both.

Writing about the need for the Bill, Baroness Jolly has stated:

Irresponsible arms brokers have been implicated in the transfer of arms to conflict and human rights crisis zones around the world. Currently, UK law does not require those seeking to engage in the brokering and trafficking of conventional arms to register with national authorities, despite the fact that a register of arms brokers would be an invaluable tool enabling better enforcement of existing controls. This Bill reflects growing international commitments to enhance controls over arms brokers by establishing a registration requirement based on a 'fit-and-proper person' test to ensure that those with convictions for serious offences, including export control violations cannot engage in arms brokering.<sup>1</sup>

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### Licensing Arms Brokers

The Government has defined arms brokering as "arranging or facilitating the supply of goods between overseas countries".<sup>2</sup> Activities that might be considered to be brokering include: buying and selling goods on behalf of others; supply chain transactions of multinational defence firms; and provision of insurance or transport services for the movement of military goods.

In the UK, the brokering of military or dual-use goods are governed by trade controls.<sup>3</sup> The Export Control Act 2002 replaced existing export control powers contained in the Import, Export and Customs Powers (Defence) Act 1939, and extended export controls, including those on trade

(trafficking and brokering) in controlled goods.<sup>4</sup> The Act came into force in May 2004. The specific controls introduced under the main provisions of the Act are contained in the Export Control Order 2008.<sup>5</sup> Any person or entity wishing to carry out a controlled brokering activity requires a trade control licence. Licences are issued by the Export Control Organisation (ECO), which are part of the Department for Business, Innovation and Skills.<sup>6</sup> Brokering without the required licence is a criminal offence which is subject to a maximum sentence of ten years imprisonment.<sup>7</sup> All applications for individual export and trade control licences are assessed on a case-by-case basis against the [Consolidated EU and National Arms Export Licensing Criteria](#) (the Consolidated Criteria). The Consolidated Criteria was first introduced in 2000, and brought together the UK's national export licensing criteria and the [EU Code of Conduct on Arms Exports](#).<sup>8</sup>

The UK has also ratified the [Arms Trade Treaty](#), which provides an international legal framework for the regulation of the global conventional arms trade.<sup>9</sup> The final text was adopted by the UN General Assembly on 2 April 2013, and was ratified by the UK on 2 April 2014. Primary legislation was not required but secondary legislation under the Export Control Act 2002 was amended, and the [UK's Consolidated Criteria was updated](#).

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## Pre-licensing Register of Arms Brokers

The [House of Commons Committees on Arms Export Controls](#) have repeated on several occasions “strong recommendations [...] that the Government establish a register of UK arms brokers”.<sup>10</sup> For instance, in 2013, the Committees called for a “full review of the case for a pre-licence register of arms brokers”.<sup>11</sup> On 17 April 2014, the Coalition Government launched the consultation, [A Pre-Licensing Register of Arms Brokers](#), which sought views from businesses and civil society stakeholders on the introduction of a register. The consultation closed on the 30 May 2014, and the [Conservative Government published its response](#) in July 2015. The Government concluded “that there was no consensus or sufficiently powerful arguments in favour of implementing a comprehensive register”, and that it was “not convinced” that a register “would substantially enhance the enforcement of brokering controls”. The Government stated that it would be taking no further action.<sup>12</sup>

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<sup>1</sup> Text supplied by Baroness Jolly on request from the Library.

<sup>2</sup> Department for Business, Innovation and Skills, [A Pre-licensing Register of Arms Brokering: Call for Evidence](#), April 2014, p 3.

<sup>3</sup> *ibid.*, p 12. Dual-use goods are items that can be used in both a civil and military way.

<sup>4</sup> Department for Business, Innovation and Skills, ‘[Trade Controls \(Trafficking and Brokering\)](#)’, 22 November 2013; and House of Commons Library, [UK Arms Export Control Policy](#), 8 May 2015, p 2.

<sup>5</sup> Further information on arms export control legislation and government policy can be found in the House of Commons Library briefing, [UK Arms Export Control Policy](#), 8 May 2015.

<sup>6</sup> Department for Business, Innovation and Skills, ‘[Guidance: Trade Control Licences for Brokering](#)’, 12 December 2012; and House of Commons Library, [UK Arms Export Control Policy](#), 8 May 2015, p 2.

<sup>7</sup> Department for Business, Innovation and Skills, [Pre-licensing Register of Arms Brokering: Call for Evidence](#), April 2014, p 12.

<sup>8</sup> Further information on EU arms export control measures can be found in the House of Commons Library briefing, [UK Arms Export Control Policy](#), 8 May 2015.

<sup>9</sup> House of Commons Library, [UK Arms Export Control Policy](#), 8 May 2015, p 12; and House of Commons Library, [The Arms Trade Treaty](#), 21 November 2014, p 1.

<sup>10</sup> House of Commons Committees on Arms Export Controls press release, ‘[Government Must Ensure that UK Continues to Work at the Fore-front of Negotiations for a Strong International Arms Trade Treaty](#)’, 19 August 2009.

<sup>11</sup> House of Commons Committees on Arms Export Controls, [First Joint Report of the Business, Innovation and Skills, Defence, Foreign Affairs and International Development Committees of Session 2013–14](#), 17 July 2013, HC 205 of session 2013–14, p 10.

<sup>12</sup> Department for Business, Innovation and Skills, [A Pre-Licensing Register of Arms Brokers: Government Response](#), July 2015, pp 5–6.

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