



Jersey

CUSTOMS AND EXCISE (CUSTOMS TARIFF AND IMPORT DUTY) (JERSEY) ORDER 2019

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CUSTOMS AND EXCISE (CUSTOMS TARIFF AND IMPORT DUTY) (JERSEY) ORDER 2019

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THE MINISTER FOR HOME AFFAIRS makes this Order under Articles 6, 19 and 73 of the [Customs and Excise \(Jersey\) Law 1999](#) and Regulation 3 of the [EU Legislation \(Customs Union, Import and Export Control\) \(Jersey\) Regulations 2018](#), and having consulted the Minister for Treasury and Resources, the Minister for External Relations and the Agent of the Impôts –

Commencement [[see endnotes](#)]

1 Interpretation

(1) In this Order –

“Agent” means the Agent of the Impôts or any proper officer of the Impôts;

“Customs Law” means the [Customs and Excise \(Jersey\) Law 1999](#);

“Customs Union Arrangement” means the arrangement made between the Governments of Jersey and the United Kingdom in relation to a customs union, set out in Part 2 of the Schedule to the Crown Dependencies Customs Union (Jersey) (EU Exit) Order 2019 of the United Kingdom (S.I. 2019/256);

“free circulation procedure” has the meaning given by Article 3(3);

“import duty” has the meaning given by Article 2;

“TCTA” means the Taxation (Cross-border Trade) Act 2018 of the United Kingdom.

(2) Where a word or expression used in this Order is also a word or expression occurring in the TCTA, that word or expression has the same meaning, unless otherwise expressly indicated, for the purposes of this Order as it is given by the TCTA.

(3) For the purposes of this Order, goods are dutiable goods if they are not domestic goods, and a reference to “domestic goods” is to goods within the meaning given to that expression by section 33(1) to (4) of the TCTA but applying as though references in those provisions to the United Kingdom were references to the British Islands.

2 Import duty

(1) A duty to be known as “import duty” is charged in accordance with this Order by reference to the importation of dutiable goods into Jersey, except the importation –

(a) of goods which are exempted under Article 4; and

- (b) of such goods as may be specified, by UK tariff regulations having effect in Jersey under Article 7 or by Regulations under Article 33A of the Customs Law (as inserted by Article 6 and the Schedule), as not being subject to such duty.
- (2) For the purposes of this Order and of the operation of the Customs Law, the definition “duty” in that Law is to be taken as including import duty, and import duty charged in accordance with this Order is to be collected and paid in accordance with that Law.

3 Obligation to declare goods for a customs procedure on importation

- (1) Dutiable goods which are presented to the Agent on importation must be declared for a customs procedure by the making of a customs declaration.
- (2) It is the customs procedure for which the goods are declared which determines when a liability to import duty is incurred.
- (3) The customs procedures for which goods may be declared are either –
 - (a) a procedure under which the goods are released for free circulation in Jersey (“free circulation procedure”); or
 - (b) a special Customs procedure.
- (4) In the case of goods declared for a free circulation procedure –
 - (a) the liability to import duty is incurred at the time when entry of the goods is made in accordance with Article 25 of the Customs Law; and
 - (b) Part 4 of the Customs Law applies in relation to the entry and those goods.
- (5) In the case of goods declared for a special Customs procedure –
 - (a) sections 4(2) to (7) (when liability to import duty is incurred) and, to the extent required for the application of section 4, section 19 (reliefs) of the TCTA apply, as though references in those provisions to HMRC were to the Agent and references to an HMRC officer were to any proper officer of the Impôts; and
 - (b) the Agent may take any such action or do any such thing as may be necessary to give effect, in Jersey, to the requirements set out in Schedule 2 to the TCTA relating to special Customs procedures.

4 Importation of goods from within customs union

- (1) Subject to the provisions of the Customs Law, no customs duty is to be charged in respect of goods imported directly into Jersey from the United Kingdom, Guernsey or the Isle of Man, where –
 - (a) the goods were wholly obtained in the United Kingdom, Jersey or the Isle of Man, as the case may be; or
 - (b) all liability to customs duties in respect of the importation of the goods into the United Kingdom, Guernsey or the Isle of Man, as the case may be, has been discharged.
- (2) This Article ceases to have effect upon the coming into force of provision to the same or similar effect made by Regulations under Article 33A(4)(c) of the Customs Law.

5 Persons liable to import duty

- (1) If an entry is made under Article 25 of the Customs Law in respect of any dutiable goods, the person making the entry is the person liable to pay import duty on those goods.
- (2) Without prejudice to Articles 30 to 33 of the Customs Law, where goods are liable to forfeiture under either Article 27 or 32 of that Law –
 - (a) a liability to import duty is incurred at the time when the goods become liable to forfeiture; and
 - (b) any person who is in possession or control of the goods when they enter Jersey is the person liable to pay that duty.

6 Customs tariff: amendment of the Customs Law

The Customs Law is amended in accordance with the Schedule.

7 Customs tariff: UK regulations to have effect in Jersey

- (1) In this Article –
 - (a) the expressions “Customs Tariff”, “Competent Authority”, “correspondent”, “Jersey Courts” and “United Kingdom Courts” have the same meanings as in the Customs Union Arrangement; and
 - (b) “UK tariff regulations” means any regulations, directions, notices or other instruments, however described, that are made in the United Kingdom for the purpose of –
 - (i) establishing and maintaining in force the Customs Tariff,
 - (ii) amending the Customs Tariff, or
 - (iii) making any other provision in relation to the Customs Tariff.
- (2) The UK tariff regulations have effect in Jersey as they have effect from time to time in the United Kingdom –
 - (a) with the substitution of –
 - (i) references to the Competent Authority of Jersey for references to the Competent Authority of the United Kingdom,
 - (ii) references to enactments of Jersey for references to the correspondent law of the United Kingdom, and
 - (iii) references to the Jersey Courts for references to the United Kingdom Courts; and
 - (b) subject to such other modifications as may be necessary to give them effect in Jersey.
- (3) The Agent must publish such guidance as to the effect of paragraph (2) as appears to the Agent to be useful to persons in Jersey, including guidance as to –
 - (a) the titles and, where relevant, the statutory instrument numbers, of such UK tariff regulations as appear to the Agent to be particularly relevant to persons in Jersey; and
 - (b) the effect of the substitutions and modifications to those UK tariff regulations that appear to the Agent to be made by paragraphs (2)(a) and (2)(b).

- (4) The Agent may publish the guidance by such means and in such manner as the Agent considers appropriate, including by way of a link to a website on which UK tariff regulations are published.
- (5) The first guidance must be published as soon as practicable after the commencement of this Order.
- (6) This Article ceases to have effect on the coming into force of Regulations under Article 33A of the Customs Law, unless those Regulations expressly provide for its continuance.

8 Valuation of goods for purposes of import duty

- (1) For the purposes of import duty, the value of goods is the transaction value of the goods when sold for export to Jersey.
- (2) The “transaction value” means (subject to any provision of Regulations made under Article 33B of the Law) the total amount payable for the goods, or in connection with the importation of the goods into Jersey.

9 Place of origin of goods for purposes of import duty

- (1) For the purposes of import duty, goods are to be regarded as originating from a country or territory if they are wholly obtained in the country or territory.
- (2) If goods are obtained in 2 or more countries or territories, they are to be regarded as originating from the last country or territory in which substantial processing of the goods, that is economically justified, has taken place.
- (3) Processing of goods is to be regarded as substantial only if –
 - (a) it results in the manufacture of a new product or represents an important stage of manufacture; and
 - (b) it takes place in an undertaking equipped for the purpose.
- (4) It is for the person making entry of the goods to show that goods originate from a particular country or territory.

10 Rulings as to origin or tariff information

- (1) This Article applies where HMRC officers have, in accordance with a system established for that purpose by public notice under section 24 of the TCTA, given any ruling determining –
 - (a) any issue as to the classification of goods or as to the amount of import duty to which goods are liable; or
 - (b) the place of origin of the goods,in respect of goods imported or proposed to be imported into Jersey or into any other member of the customs union.
- (2) Where this Article applies, such a ruling as mentioned in paragraph (1) (including any decision made on review of, or appeal against, such a ruling) is binding in Jersey and enforceable by the Agent in the same way and to the same extent as if it were a decision under the Customs Law, except that Articles 68 and 69 of that Law do not apply so as to permit any review of the ruling.

- (3) In paragraph (1), the reference to the customs union is to the customs union between the United Kingdom and the Crown Dependencies, within the meaning stated in Paragraph 1 of the Customs Union Arrangement.

11 Determination of disputes

- (1) This Article applies where there is a dispute as to –
- (a) whether any, or how much, import duty is payable; or
 - (b) who is liable to pay import duty.
- (2) Where this Article applies, the importer must pay the amount demanded by the Agent, but the importer may, within the period of 3 months beginning with the date of the payment –
- (a) if the dispute is in relation to the value of the goods concerned, require the matter to be referred to the arbitration of a person appointed for the purpose by the Royal Court (the “arbitrator”); or
 - (b) in any other case, apply to the Royal Court for a declaration as to –
 - (i) the amount of import duty, if any, properly due in respect of the goods, or
 - (ii) the proper person liable to pay import duty in respect of the goods.
- (3) The Royal Court may not appoint as arbitrator a person who is a States’ employee within the meaning of the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#), or who otherwise holds a paid office under the States.
- (4) The procedure on any matter referred under paragraph (2)(a) is to be determined by the arbitrator, and the decision of the arbitrator on the matter is final.
- (5) If the arbitrator decides that a lesser amount, or no amount, of import duty is properly payable in respect of the goods, the amount overpaid must be repaid by the Agent, together with such interest on the overpaid amount, from the date of the payment, as the arbitrator may determine.
- (6) An amount repaid under paragraph (5) is to be accepted by the importer in satisfaction of any claims in respect of the importation of the goods, and of all damages and expenses incidental to the dispute, other than the costs of the proceedings.
- (7) In considering a matter under this Article, the Royal Court or the arbitrator must have regard to any relevant ruling which is binding in Jersey under Article 10.

12 Citation and commencement

This Order may be cited as the Customs and Excise (Customs Tariff and Import Duty) (Jersey) Order 2019 and comes into force on the commencement of Article 2 of the [European Union \(Repeal and Amendment\) \(Jersey\) Law 2018](#).

SCHEDULE¹

(Article 6)

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	Project No (where applicable)
Customs and Excise (Customs Tariff and Import Duty) (Jersey) Order 2019	R&O.117/2019	11 p.m. on 31 December 2020 (R&O.189/2020)	

°Projects available at statesassembly.gov.je

Table of Endnote References

¹ *spent, omitted*