



Jersey

SINGLE-USE PLASTICS ETC. (RESTRICTIONS) (JERSEY) LAW 2021

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SINGLE-USE PLASTICS ETC. (RESTRICTIONS) (JERSEY) LAW 2021

A LAW to prohibit the supply and importation of certain single-use plastic items and to set a price for the supply of reusable carrier bags, and for connected purposes.

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|--|---------------------------|
| <i>Adopted by the States</i> | <i>21st July 2021</i> |
| <i>Sanctioned by Order of Her Majesty in Council</i> | <i>10th November 2021</i> |
| <i>Registered by the Royal Court</i> | <i>19th November 2021</i> |
| <i>Coming into force</i> | <i>22nd July 2022</i> |

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

(1) In this Law –

“Agent of the Impôts” is to be construed in accordance with Article 4 of the [Customs and Excise \(Jersey\) Law 1999](#);

“authorised officer” means a person authorised, by the Minister, the Agent of the Impôts or the Chief Inspector, to carry out the functions of an authorised officer under this Law;

“Chief Inspector” is to be construed in accordance with Article 2 of the [Weights and Measures \(Jersey\) Law 1967](#);

“commercial activity” includes an operation for charitable purposes;

“gsm” means grammes per square metre;

“import” has the same meaning as given by Article 1(1) of the [Customs and Excise \(Jersey\) Law 1999](#);

“micron” means one thousandth (0.001) of a millimetre;

“Minister” means the Minister for Infrastructure;

“prohibited item” means an item of which the supply or importation is prohibited or restricted under this Law;

“supply” means doing any of the following acts in the course of a commercial activity –

(a) selling, hiring out or lending an item;

- (b) entering into a hire purchase agreement to furnish an item;
 - (c) providing an item in exchange for anything of value other than money;
 - (d) providing an item in, or in connection with, the performance of a statutory function; or
 - (e) giving an item as a prize or otherwise making a gift of an item,
- and also includes any offer, agreement, exposure or possession of an item for the purposes of supply;

“trader” means a person acting for purposes relating to that person’s commercial activity, whether acting in person or through another person acting in the trader’s name or on the trader’s behalf.

- (2) For the purposes of this Law an item is made of recyclable material if the item consists, in a recyclable form, only of material of a specified description and does not consist of, or contain, any additional material which cannot be recycled.

2 Prohibition on supply of single-use items

- (1) Where this Article applies, a trader must not supply an item of a type and description specified in the table in paragraph 1 of the Schedule.
- (2) This Article applies in relation to any supply which takes place before, during or after a transaction, and disregarding –
 - (a) whether the transaction takes place in person, or electronically; and
 - (b) whether a charge is, or is not, made for or in relation to the supply of the item in question.
- (3) In relation to carrier bags the Minister may, in guidance under Article 14, suspend or disapply this Article in relation to all or any of the following –
 - (a) specified types and descriptions of such bags;
 - (b) stocks of such bags existing in Jersey before the commencement of this provision;
 - (c) the supply of such bags in specified circumstances or for specified purposes.
- (4) Where the Minister, the Chief Inspector or an authorised officer reasonably suspects that a trader is acting in breach of paragraph (1), an authorised officer may by notice request the trader to stop supplying items of the type and description specified in the notice.
- (5) Before serving a notice under paragraph (4), an authorised officer must give, to the person on whom the notice is to be served, a reasonable opportunity to make representations or to comply with the request in the notice on a voluntary basis, unless in all the circumstances it is not expedient to give such an opportunity.
- (6) A notice under paragraph (4) –
 - (a) must contain, in addition to the request mentioned in that paragraph and details of the alleged breach, the following information, namely –

- (i) the type of item supplied, and where necessary a description of the item sufficient to identify it,
 - (ii) a statement that an appeal may be made against the notice in accordance with Article 9, and
 - (iii) such other information as the Minister may reasonably consider necessary; and
 - (b) must be given in writing or by means of electronic communication, and be delivered to the registered or administrative office of the person in question or, if the address of that office cannot be ascertained, may be given to a person having control or management of the place in which the supply of the item took place.
- (7) A person who intentionally and without reasonable excuse fails to comply with a notice under paragraph (4) commits an offence and is liable to a fine of level 2 on the standard scale.

3 Price of certain restricted items

- (1) A trader must not supply, to any person, an item of a type and description specified in the first column of the table in paragraph 2 of the Schedule, except for a price at or above the amount specified in relation to that item in the second column of that table.
- (2) Where the Minister, the Chief Inspector or an authorised officer reasonably suspects that a trader is acting in breach of paragraph (1), an authorised officer may by notice request the trader to stop supplying items of the type and description specified in the notice.
- (3) A notice under paragraph (2) –
 - (a) must contain, in addition to the request mentioned in that paragraph and details of the alleged breach, the following information, namely –
 - (i) the type of item supplied, and where necessary a description of the item sufficient to identify it,
 - (ii) a statement that an appeal may be made against the notice in accordance with Article 9, and
 - (iii) such other information as the Minister may reasonably consider necessary; and
 - (b) must be given in writing or by means of electronic communication, and be delivered to the registered or administrative office of the person in question or, if the address of that office cannot be ascertained, may be given to a person having control or management of the place in which the supply of the item took place.
- (4) Before serving a notice under paragraph (2), an authorised officer must give, to the person on whom the notice is to be served, a reasonable opportunity to make representations or to comply with the request in the notice on a voluntary basis, unless in all the circumstances it is not expedient to give such an opportunity.
- (5) A person who intentionally and without reasonable excuse fails to comply with a notice under paragraph (2) commits an offence and is liable to a fine of level 2 on the standard scale.

- (6) For the purposes of this Article and paragraph 2 of the Schedule, “price” means the selling price as defined in Regulation 1 of the [Price Indicators \(Jersey\) Regulations 2008](#).

4 Importation of single-use items prohibited

- (1) A trader must not import an item prohibited under Article 2.
- (2) Where the Agent of the Impôts, the Chief Inspector, or an authorised officer reasonably suspects that a trader is acting in breach of the prohibition in paragraph (1), the Agent, Chief Inspector or officer may by notice request the trader to stop importing items of the type and description specified in the notice.
- (3) A notice under paragraph (2) –
- (a) must contain, in addition to the request mentioned in that paragraph and details of the alleged breach, the following information, namely –
 - (i) the type of item imported, and where necessary a description of the item sufficient to identify it,
 - (ii) a statement that an appeal may be made against the notice in accordance with Article 9, and
 - (iii) such other information as the Minister may reasonably consider necessary; and
 - (b) must be given in writing or by means of electronic communication, and be delivered to the registered or administrative office of the person in question or, if the address of that office cannot be ascertained, may be given to a person having control or management of the place in which the supply of the item took place.
- (4) Before serving a notice under paragraph (2), an authorised officer must give, to the person on whom the notice is to be served, a reasonable opportunity to make representations or to comply with the request in the notice on a voluntary basis, unless in all the circumstances it is not expedient to give such an opportunity.
- (5) A person who intentionally and without reasonable excuse fails to comply with a notice under paragraph (2) commits an offence and is liable to a fine of level 2 on the standard scale.

5 Powers of authorised officers

- (1) An authorised officer may –
- (a) enter into an agreement to secure the provision of a product; or
 - (b) make a purchase of any goods,
- for the purpose of ascertaining whether or not an offence under this Law is being or has been committed.
- (2) In paragraph (1), “product” and “goods” –
- (a) may include, but are not limited to, prohibited items; and
 - (b) have the same meanings as given by Article 1(1) of the [Consumer Protection \(Unfair Practices\) \(Jersey\) Law 2018](#), except that sub-

paragraph (d) in the definition of “product” in that provision does not apply for the purposes of this Law.

- (3) An authorised officer may enter any premises, other than premises used only as a private dwelling, at all reasonable hours, for the purpose of ascertaining whether or not an offence under this Law is being or has been committed.
- (4) If required to do so, an authorised officer exercising the power conferred by paragraph (3) must produce evidence of their authority.
- (5) The power conferred by paragraph (3) includes –
 - (a) power to inspect any item; and
 - (b) the same powers of seizure, access and copying, and retention, as are conferred on a police officer by Articles 21 to 24 (except Article 24(3)) of the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#), and in the application of those provisions for the purposes of this Law –
 - (i) for a reference to a police officer, there is substituted a reference to an authorised officer,
 - (ii) for the references in Article 23(3) to the Force or the Honorary Police, there are substituted references to the Chief Inspector, and
 - (iii) for the reference in Article 24(5) to the police, there is substituted a reference to the Chief Inspector.
- (6) A person who intentionally obstructs an authorised officer acting in execution of powers conferred by this Article commits an offence and is liable to a fine of level 3 on the standard scale.

6 Power to disclose information

- (1) This Article applies to the Agent of the Impôts, the Chief Inspector and the Minister.
- (2) Each person to whom this Article applies may, for the purpose of facilitating the exercise of a function under this Law by any other such person, authorise disclosure to one or more of those persons of any information obtained in relation to the importation or suspected importation of prohibited items.
- (3) The information may be disclosed –
 - (a) in such manner as the person authorising the disclosure may direct; and
 - (b) whether or not the disclosure is requested by or on behalf of the person to whom the disclosure is made.

7 Defence of due diligence

- (1) In any proceedings against a trader for an offence under Article 2, 3 or 4, it is a defence for the trader to prove –
 - (a) that the commission of the offence was due to one of the following matters, namely –

- (i) a mistake,
 - (ii) reliance on information supplied to the trader by another person,
 - (iii) the act or default of another person, not being a person under the trader's direction or control,
 - (iv) an accident, or
 - (v) another cause beyond the trader's control; and
- (b) that the trader took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence, including by any person under the trader's direction or control.
- (2) A trader may not seek to rely on the defence provided by paragraph (1) by reason of a matter in either sub-paragraph (a)(ii) or (iii) without leave of the court to do so, unless –
- (a) the trader has served on the Attorney General a notice in writing giving all such information identifying the other person concerned or assisting in the identification as was in the trader's possession; and
 - (b) that notice is served no later than 7 clear days before the date of the hearing.

8 Forfeiture

- (1) The Minister may apply to the Royal Court for an order for the forfeiture of any items on the grounds that there has been a contravention of a prohibition or restriction in this Law in respect of those items.
- (2) The Minister must serve a copy of the application on any person appearing to the Minister to be the owner of, or otherwise to have an interest in, the items, together with a notice advising the person of his or her rights under paragraph (3).
- (3) Any person on whom notice is served under paragraph (2) and any other person claiming to be the owner of, or otherwise to have an interest in, the items is entitled to appear at the hearing of the application and make representation as to why the items should not be forfeited.
- (4) The Court may infer for the purposes of this Article that there has been a contravention of a prohibition or restriction in relation to any items if it is satisfied that any such provision has been contravened in relation to items that are representative of those items, whether by reason of being of the same design or part of the same consignment or batch or otherwise.
- (5) Where it is satisfied that there has been a contravention of a prohibition or restriction in this Law, the Court must order the items in question to be forfeited.
- (6) If any items are forfeited under this Article, the Court must order their destruction or disposal in accordance with any directions it may give, including by releasing them to such person and upon such terms as the Court may specify.

9 Appeals

- (1) A person on whom a notice is served under Article 2, 3 or 4, and any person having an interest in the items in respect of which the notice is served, may appeal to the Royal Court within one month of service of the notice on the grounds that service of the notice on that person, or any requirement in the notice, was unreasonable.
- (2) Where an appeal is made under this Article the Royal Court may direct that the notice that is the subject of the appeal ceases to have effect until the appeal is determined.
- (3) On hearing the appeal the Royal Court may –
 - (a) uphold, dismiss or vary the notice; and
 - (b) make such order as to the costs of the appeal as it thinks fit.
- (4) Rules of Court under the [Royal Court \(Jersey\) Law 1948](#) may make further provision as to the conduct of an appeal under this Article.

10 Orders to enforce this Law

- (1) The Attorney General may apply to the Royal Court for an injunction (including an interim injunction) or other order, against any person who appears to the Attorney General to be responsible for a contravention of a prohibition or restriction in this Law.
- (2) The Royal Court, on an application under this Article, may grant an injunction or other order, on such terms as it thinks fit, to secure compliance with this Law.

11 Undertakings

- (1) This Article applies where it appears to the Chief Inspector that a person has engaged, is engaging or is likely to engage in conduct which would, if proved, constitute an offence under this Law.
- (2) Where this Article applies, the Chief Inspector may accept an undertaking from the person that the person will not, as the case may require –
 - (a) continue or repeat the conduct;
 - (b) engage in such conduct in the course of the person's business or another business; or
 - (c) consent to or connive in the carrying out of such conduct by a body corporate with which the person is connected.
- (3) Having accepted an undertaking under this Article, the Chief Inspector –
 - (a) may notify the Attorney General of the terms of the undertaking and the identity of the person who gave it; and
 - (b) may accept a further undertaking from the person to publish the undertaking, or may arrange for publication in accordance with Article 12.
- (4) A person is “connected” with a body corporate for the purposes of paragraph (2) if the person is –

- (a) a director, manager, secretary or other similar officer of the body corporate or a person purporting to act in such a capacity; or
- (b) a person who is an associate of the body corporate or has a controlling interest in the body corporate.

12 Publication of undertakings, etc.

- (1) The Chief Inspector may arrange for the publication, in such form and manner as he or she considers appropriate, of details of –
 - (a) an undertaking given to that officer by or on behalf of any person as to compliance with this Law;
 - (b) an application made by the Attorney General for an injunction or other order for the purposes of enforcing this Law; and
 - (c) an undertaking given to, or injunction or other order made by, the Royal Court in proceedings on such an application.
- (2) The Chief Inspector may arrange for the dissemination, in such form and manner as he or she thinks fit, of information and advice concerning the operation of this Law.

13 Liability of officers etc.

- (1) Where an offence committed by an entity listed in paragraph (2) is proved to have been committed with the consent or connivance of any person specified in the case of that entity in paragraph (3), the person specified is also guilty of the offence and liable in the same manner as the entity to the penalty provided for that offence.
- (2) The entities mentioned in paragraph (1) are –
 - (a) a limited liability partnership;
 - (b) a separate limited partnership;
 - (c) an incorporated limited partnership or other body corporate.
- (3) The persons to whom liability for an offence may attach in accordance with paragraph (1) are –
 - (a) in the case of a limited liability partnership, a person who is a partner of the partnership;
 - (b) in the case of a separate limited partnership or an incorporated limited partnership –
 - (i) a general partner, or
 - (ii) a limited partner who is participating in the management of the partnership;
 - (c) in the case of a body corporate other than an incorporated limited partnership, a director, manager, secretary or other similar officer of the body corporate; or
 - (d) any person purporting to act in any capacity described in subparagraphs (a) to (c).
- (4) Where the affairs of a body corporate are managed by its members, paragraphs (1) to (3) apply in relation to acts and defaults of a member in

connection with the member's functions of management as if the member were a director of the body corporate.

14 Guidance

- (1) The Minister may issue guidance as to the application of this Law, and in particular as to the type or technical specification of carrier bags or other items to which this Law does not apply.
- (2) The Minister must publish any guidance issued under this Article, by such means as the Minister reasonably considers will draw the guidance to the attention of those who may be affected by this Law.

15 Regulations and Orders

- (1) The States may by Regulations amend the Schedule.
- (2) Regulations under paragraph (1) may make all such consequential, incidental or supplementary provision, including provision –
 - (a) extending the categories of single-use plastic items to which this Law applies; and
 - (b) amending any enactment (other than the [Human Rights \(Jersey\) Law 2000](#)),
as may reasonably be considered necessary to give full effect to an amendment made by the Regulations.
- (3) The Minister may by Order amend the price specified in relation to any item in the table in paragraph 2 of the Schedule.

16 Citation and commencement

This Law may be cited as the Single-Use Plastics etc. (Restrictions) (Jersey) Law 2021 and comes into force –

- (a) if the day on which this Law is registered falls before the end of the period of 12 months beginning with the day on which this Law is adopted by the States, immediately after the end of that period; or
- (b) if the day on which this Law is registered falls after the end of the period mentioned in sub-paragraph (a), 7 days after that day.

SCHEDULE

(Articles 2 and 3)

RESTRICTED ITEMS**1 Prohibited items**

| Type of item | Technical specification |
|--------------------------------------|---|
| Lightweight plastic carrier bag | With or without handle, made of plastic with a wall thickness of 15 microns and above but less than 50 microns |
| Very lightweight plastic carrier bag | With or without handle, made of plastic with a wall thickness of less than 15 microns and not meeting the “OK compost HOME” (or equivalent) certification |
| Paper carrier bag | With or without handle, made of paper to a weight of 50 gsm and above but less than 170 gsm |

2 Restricted items and their price

| Technical specification | Price (inclusive of GST, if applicable) |
|--|--|
| Carrier bag with or without handle, made of recyclable plastic, with a wall thickness of 50 microns or above | £0.70 |
| Carrier bag with or without handle, made of recyclable paper to a weight of 170 gsm or above | £0.70 |