



Jersey

EU LEGISLATION (CUSTOMS UNION, IMPORT AND EXPORT CONTROL) (JERSEY) REGULATIONS 2018

Arrangement

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Made

6th December 2018

Coming into force

13th December 2018

THE STATES have made these Regulations under Articles 5A, 5B and 6A of the European Union Legislation (Implementation) (Jersey) Law 2014¹ –

1 Interpretation

- (1) In these Regulations –
 - “1999 Law” means the Customs and Excise (Jersey) Law 1999²;
 - “Jersey arrangement” means an arrangement, within the meaning of section 31 of the TCTA, recording the commitments of the Government of the United Kingdom and the Government of Jersey in relation to a customs union between the United Kingdom and the Crown Dependencies;
 - “TCTA” means the Taxation (Cross-border Trade) Act 2018 of the United Kingdom.
- (2) Unless otherwise indicated, an expression used in these Regulations and also used in the Jersey arrangement has the same meaning for the purposes of these Regulations as the meaning that the expression has in the Jersey arrangement.

2 1999 Law amended

- (1) Article 6 of the 1999 Law is amended in accordance with this Article.
- (2) For the heading to Article 6 there is substituted –
 - “**EU and British Islands customs requirements**”.
- (3) After Article 6(1) there is inserted –

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- “(1A) The powers of the Agent of the Impôts conferred by paragraphs (2) and (3) are exercisable for the purposes of implementing –
- (a) the arrangements for Jersey which are set out in the Treaties;
 - (b) a Jersey arrangement, within the meaning of the EU Legislation (Customs Union, Import and Export Control) (Jersey) Regulations 2018³;
 - (c) such provision as may be made by Orders under those Regulations.”.
- (4) In Article 6(2) –
- (a) for “For the purpose of implementing the arrangements for Jersey set out in the Treaties, the” there is substituted “The”;
 - (b) in sub-paragraph (b) after “EU” there is inserted “or United Kingdom”;
 - (c) for sub-paragraph (c) there is substituted –
 - “(c) may give effect to arrangements made –
 - (i) between member States, between member States and the United Kingdom, or between Jersey and the United Kingdom (in each case, with or without other countries or territories),
 - (ii) for securing, by the exchange of information or otherwise, the due administration of customs laws, and the prevention or detection of fraud or of evasion of such laws.”.
- (5) In Article 6(3) –
- (a) for “into or from the EU” there is substituted “into or from the EU or the British Islands”;
 - (b) in sub-paragraph (a) for “provision of the EU” there is substituted “provision, of or under the arrangements mentioned in paragraph (1A)(a) or (b),”.
- (6) In Article 6(4) –
- (a) for “the arrangements for Jersey set out in the Treaties” there is substituted “any arrangement falling within paragraph (1A)(a), (1A)(b) or (2)(c)”;
 - (b) at the end there is inserted “or any enactment, other than the Human Rights (Jersey) Law 2000⁴.”.
- (7) For Article 6(5) there is substituted –
- “(5) An Order under this Article may, in particular and without derogation to the power conferred by paragraph (4), make provision for the purposes of –
 - (a) applying, and maintaining consistency with, customs tariffs and customs laws of the United Kingdom; and
 - (b) maintaining a system of customs control of ships, aircraft, goods, passengers and crew similar to that of the United Kingdom,
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and may make all such further provision (by way of transitional, consequential, incidental, supplementary or savings provision) as may be considered necessary or expedient.

- (6) But the provision which may be made by an Order under this Article does not include provision –
 - (a) imposing or increasing taxation;
 - (b) imposing a penalty of imprisonment for more than 2 years for a criminal offence; or
 - (c) taking effect from a date earlier than the making of the Order.
- (7) A person who fails to comply with this Article or an Order made under this Article is liable, in the absence of any provision to contrary effect in the Order, to a fine and to imprisonment for a term not exceeding 2 years.”.

3 Orders in relation to customs and excise matters

- (1) The appropriate Minister may by Order make provision, subject to and in accordance with this Regulation, for the purposes of –
 - (a) implementation of a Jersey arrangement, including in particular –
 - (i) applying, and maintaining consistency with, the Customs Tariff,
 - (ii) compliance with relevant international obligations,
 - (iii) maintaining correspondence with Customs Law of the United Kingdom, and
 - (iv) maintaining a system of customs control of ships, aircraft, goods, passengers and crew similar to that of the United Kingdom;
 - (b) application to Jersey, and implementation of, any provision of the Guernsey arrangement or of the Isle of Man arrangement which does not otherwise apply;
 - (c) without prejudice to sub-paragraph (a), making, in the absence of any Jersey arrangement, any such provision as may be made under clauses (i) to (iv) of that sub-paragraph;
 - (d) without prejudice to sub-paragraph (a), making such provision as may be appropriate to prevent or remedy any breach, arising from a relevant change, of an international obligation that applies or extends to Jersey and relates to customs matters;
 - (e) making such similar provision, in relation to domestic goods within the meaning given to that expression by section 33 of the TCTA, as may be made under subsection (8) of that section.
- (2) The provision which may be made by Orders under this Regulation includes provision –

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- (a) amending any enactment, including any Law other than the European Union Legislation (Implementation) (Jersey) Law 2014⁵ or the Human Rights (Jersey) Law 2000⁶;
 - (b) made by reference to or by incorporation (whether by reference, annexation or otherwise) of any provision of the TCTA or of Regulations (a “UK provision”) made under it –
 - (i) to such extent and subject to such exceptions, adaptations and modifications as may be specified in the Order concerned, and
 - (ii) including, where it is considered necessary or expedient to do so, provision that a reference to the UK provision is to be read as a reference to that provision as amended, substituted, extended or applied from time to time;
 - (c) making provision equivalent to any Order in Council of the United Kingdom made under the TCTA;
 - (d) treating anything done (including the making of any agreement, or the acceptance of any international obligation) by the government of a country or territory as if done by the Government of Jersey;
 - (e) applying or replicating, with or without modifications, provision relating to import or excise duty (or any duty of a country or territory, however described, of a similar character to import or excise duty) as that provision has effect from time to time;
 - (f) containing whatever may be considered necessary or expedient by way of transitional, consequential, incidental, supplementary or savings provision.
- (3) Before making an Order for any purpose under this Regulation, the appropriate Minister proposing to do so must consult –
- (a) the Agent of the Impôts; and
 - (b) any other appropriate Minister having responsibility for matters to which the Order relates.
- (4) In any proceedings before a court relating to, or arising out of, an Order under this Regulation or under Article 6 of the 1999 Law, the court must, when interpreting a provision of that Order that corresponds to a provision of Customs Law of the United Kingdom, have due regard to any relevant decision of a court of the United Kingdom.
- (5) The powers of an appropriate Minister under this Regulation are exercisable in addition to, and without derogation from, the powers of the Minister under Article 6 of the 1999 Law to make Orders in relation to such arrangements as described in paragraph (2) of that Article.
- (6) In this Regulation –
- “appropriate Minister” means –
- (a) for the purposes of an Order relating primarily to taxation or excise duty (other than one to which sub-paragraph (c) applies), the Minister for Treasury and Resources;

- (b) for the purposes of an Order relating primarily to the implementation of any international obligation, the Minister for External Relations;
- (c) for the purposes of an Order relating primarily to impôts and the control of imports and exports, or making general provision in relation to customs and excise, the Minister for Home Affairs; or
- (d) for the purposes of any Order, the Chief Minister;

“excise duty” means duty charged under Part 6 of the 1999 Law;

“Guernsey arrangement” means an arrangement, within the meaning of section 31 of the TCTA, recording the commitments of the Government of the United Kingdom and the Government of Guernsey in relation to a customs union;

“import duty” means any duty imposed by the 1999 Law on goods imported into, exported from or grown, produced or manufactured in Jersey, and includes both customs and excise duty;

“Isle of Man arrangement” means an arrangement, within the meaning of section 31 of the TCTA, recording the commitments of the Government of the United Kingdom and the Government of Isle of Man in relation to a customs union.

4 Citation and commencement

These Regulations may be cited as the EU Legislation (Customs Union, Import and Export Control) (Jersey) Regulations 2018 and come into force 7 days after the day on which they are made.

L.-M. HART

Deputy Greffier of the States

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- 1* chapter 17.245
2 chapter 24.660
3 R&O.128/2018
4 chapter 15.350
5 chapter 17.245
6 chapter 15.350