

PROJET DE LOI

ENTITLED

The Duty on Goods (Additional) (Horticultural Containers) Law, 1959 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Ordres en Conseil Vol. XVIII, p. 95; as amended by the Duty on Goods (Additional) (Horticultural Containers) (Amendment) Law, 1965 (Ordres en Conseil Vol. XX, p. 92); the Duty on Goods (Additional) (Horticultural Containers) (Amendment) (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 246); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991 (No. XIII of 1991, Ordres en Conseil Vol. XXXIII, p. 217).

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The Duty on Goods (Additional) (Horticultural Containers) Law, 1959

ARRANGEMENT OF SECTIONS

1. Levy of horticultural duty.
- 1A. Application of duty.
- 1B. Levy of duty on containers manufactured from local materials.
2. Payment of horticultural duty, detention of goods and recovery of duty and charges.
3. Prohibition on landing goods other than at harbours and airport.
4. Refund of horticultural duty.
5. Exemptions.
6. Furnishing of information, etc.
7. Powers of inspection.
8. Powers of entry on ships and aircraft.
9. Supply of false information.
10. Obstruction.
11. Offences by corporate bodies.
12. Interpretation.
13. Exclusion of Alderney.
14. Commencement.

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The Duty on Goods (Additional) (Horticultural Containers) Law, 1959

THE STATES, in pursuance of their Resolution of the seventeenth day of December, nineteen hundred and fifty-eight, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in this Island.

Levy of horticultural duty.

1. (1) In addition to the duties on any goods imported into this Island chargeable under the provisions of any enactment for the time being in force there shall, as respects goods to which this section applies imported into this Island and which, in the opinion of the Chief Revenue Officer, are to be used, or after having been manufactured into containers are to be used, for the export of horticultural produce, be charged such rates of duty (hereinafter referred to as "**horticultural duty**") as the States may, from time to time, by Ordinance prescribe.

(2) This section shall apply to the following goods, that is to say –

- (a) boxes and cardboard containers,
- (b) wood for box making, cardboard, leather-board and other similar materials for making containers.

(3) An Ordinance made under the provisions of this section may prescribe different rates of horticultural duty for the different classes of goods to which this section applies and may prescribe different rates of such duty for different categories of goods within those classes.

NOTES

The following Ordinance has been made under section 1:

Horticultural Containers (Rates of Additional Duty) (Repeal) Ordinance, 1982.

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, with effect from 30th September, 1991, the reference in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority.

[Application of duty.]

1A. The amount of any horticultural duty charged as respects any goods to which section one of this Law applies [or of any duty charged as respects any container to which section one B of this Law applies] shall be paid into the General Revenue of the States of Guernsey and may be applied for such purposes and in such manner as the States may, from time to time, by Resolution direct and any such Resolution may direct that different amounts shall be applied for different purposes and in different manners.]

NOTES

Section 1A was inserted by the Duty on Goods (Additional) (Horticultural Containers) (Amendment) Law, 1965, section 1, with effect from 22nd July, 1965.

In section 1A, the words in square brackets were inserted by the Duty on Goods (Additional) (Horticultural Containers) (Amendment) (Guernsey) Law, 1978, section 1(a), with effect from 1st May, 1977.

[Levy of duty on containers manufactured from local materials.]

1B. (1) Where a person manufactures a container which is used or, in the opinion of the Chief Revenue Officer, is to be used for the export of horticultural produce and such container is manufactured wholly or mainly from one or more of the materials set out in paragraph (b) of subsection (2) of section one of this Law, which materials have been grown or produced in this Island, duty shall be charged upon such containers at the rates for the time being prescribed in respect of containers of the like nature to which section one of this Law applies.

(2) The States may, from time to time, by Ordinance provide for all or any of the following matters –

- (a) the charging, levying and securing the payment of duty charged under the provisions of subsection (1) of this section,
- (b) for the detention of containers or materials to which the said subsection (1) applies,
- (c) the refunding of such duty or exemption therefrom,
- (d) the registration of persons who manufacture containers from materials grown or produced in this Island and for the furnishing of information by such persons,
- (e) entry into, and inspection of, premises for any purpose connected with the exercise of any power conferred by the provisions of any such Ordinance,
- (f) such incidental and supplementary matters for which the States deem it necessary or expedient for the purposes of any such Ordinance to provide.

(3) Save as expressly provided by that Ordinance, any person who contravenes or attempts to contravene or fails to comply with any of the provisions of any Ordinance made under the last preceding subsection shall be guilty of an offence against that Ordinance.

(4) The States may, from time to time, by Ordinance prescribe the penalties which shall be incurred by any person guilty of an offence under any Ordinance made under the provisions of the last preceding subsection and different penalties may be so prescribed for different offences so however that no penalty so prescribed shall exceed a fine of [level 2 on the uniform scale] in respect of any one offence.]

NOTES

Section 1B was inserted by the Duty on Goods (Additional) (Horticultural Containers) (Amendment) (Guernsey) Law, 1978, section 1(b), with effect from 1st May, 1977.

In section 1B, the words and figure in square brackets in subsection (4) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, with effect from 30th September, 1991, the reference in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority.

Payment of horticultural duty, detention of goods and recovery of duty and charges.

2. (1) Horticultural duty charged as respects any goods to which section one of this Law applies shall be paid by the importer thereof and until such duty is paid any such goods may be detained at the direction of the Chief Revenue Officer in such place as he may direct and during any such detention any such goods shall be at the risk of the importer.

(2) As soon as may be after the detention of any goods under the provisions of subsection (1) of this section the Chief Revenue Officer shall notify, in writing, the importer of such goods of the fact of such detention and the reason therefor.

(3) If on the expiration of twenty-one days after the date of such notification as aforesaid the horticultural duty as respects any goods detained under the provisions of subsection (1) of this section has not been paid, the President of the [Committee] or any person authorised by him in that behalf may order the sale, destruction or other disposal of the goods concerned.

(4) Where the proceeds of the sale of any goods in pursuance of the provisions of the last preceding subsection exceed the aggregate of the amount of the horticultural duty chargeable as respects those goods and the expenses

incurred in connection with any action taken under the provisions of this section, there shall be paid to the importer the amount by which such proceeds of sale exceed such aggregate amount.

(5) Where the proceeds of the sale of any goods in pursuance of the provisions of subsection (3) of this section does not exceed the aggregate of the amount of the horticultural duty chargeable as respects those goods and the expenses incurred in connection with any action taken under the provisions of this section, the amount by which such aggregate amount exceeds such proceeds of sale shall be recoverable as a civil debt from the importer of the goods concerned.

(6) The amount of any horticultural duty chargeable as respects any goods to which section one of this Law applies which has not been paid or has not been recovered under the preceding provisions of this section shall be recoverable as a civil debt from the importer of the goods concerned.

(7) The expenses incurred in connection with the detention of any goods in pursuance of the provisions of subsection (1) of this section, not otherwise recovered under the provisions of subsections (4), (5) or (6) of this section, shall be recoverable as a civil debt from the importer of the goods concerned.

NOTES

In section 2, the word in square brackets in subsection (3) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, with effect from 30th September, 1991, the references in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority.

Prohibition on landing goods other than at harbours and airport.

3. (1) Except with the permission of the Chief Revenue Officer, a person shall not land or unload or attempt to land or unload goods in this Island to which section one of this Law applies otherwise than at the harbours of Saint Peter

Port or Saint Sampson or at La Villiaze Airport.

(2) Any person who contravenes the provisions of the last preceding subsection shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the uniform scale].

NOTES

In section 3, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, with effect from 30th September, 1991, the reference in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority.

Refund of horticultural duty.

4. (1) The exporter of every consignment of empty containers which are, or are manufactured or made from, goods to which section one of this Law applies and as respects which goods horticultural duty has been paid may, at least twenty-four hours before the date on which such goods are to be delivered for export, submit an application in the form prescribed by the [Committee] to the Chief Revenue Officer for a refund of such horticultural duty, which application shall contain the following particulars, that is to say –

- (a) the total weight of the consignment,
- (b) the materials, that is to say, wood, cardboard, leatherboard or other material of which the containers are made,
- (c) the name and address of the consignee,
- (d) the date on which the consignment is to be delivered for export:

PROVIDED that no refund shall be paid in pursuance of the provisions of this section as respects any consignment of empty containers, the total weight of which is less than one ton.

(2) For the purposes of this section, the expression "**consignment**" means a consignment of goods to which section one of this Law applies and all of which goods are consigned to the same consignee.

NOTES

In section 4, the word in square brackets in subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, with effect from 30th September, 1991, the reference in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority.

Exemptions.

5. Horticultural duty shall not be charged on goods, to which section one of this Law applies, if it is shown to the satisfaction of the Chief Revenue Officer that –

- (a) such goods are being imported solely for the purpose of the re-export thereof and are in fact re-exported to Alderney or Sark by way of transshipment,
- (b) such goods were previously imported into this Island and on that occasion horticultural duty was paid.

NOTE

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, with effect from 30th September, 1991, the reference in this section to the

"Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority.

Furnishing of information, etc.

6. (1) The importer or exporter, as the case may be, of any goods to which section one of this Law applies shall, for the purposes of sections one, four and five of this Law, furnish to the Chief Revenue Officer such information relating to the goods as he may require and any such importer or exporter, as the case may be, shall produce to the Chief Revenue Officer and permit him to inspect and take copies of any invoice, bill of lading or other book or document relating to the goods as the Chief Revenue Officer may require.

(2) Any person who, without reasonable cause, refuses or fails to comply with any requirement made in pursuance of the provisions of the last preceding subsection shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 1 on the uniform scale] and, in addition to such fine, to a penalty at the rate of five pounds in respect of each day or part of a day during which such failure to so comply continues.

NOTES

In section 6, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, with effect from 30th September, 1991, the references in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority.

Powers of inspection.

7. The Chief Revenue Officer may inspect and open any consignment of goods imported into this Island which he has reasonable cause to believe consists of, or contains, goods to which section one of this Law applies.

NOTE

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, with effect from 30th September, 1991, the reference in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority.

Powers of entry on ships and aircraft.

8. (1) For the purpose of exercising any of their functions authorised by any of the provisions of this Law, the Chief Revenue Officer or any other States Revenue Officer authorised by the [Committee] in writing in that behalf, may, at all reasonable times, enter upon any ship or aircraft.

(2) Any States Revenue Officer authorised under the provisions of this section to enter upon any ship or aircraft shall, if so required, produce evidence of his authority before so entering.

NOTES

In section 8, the word in square brackets in subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12(1), with effect from 30th September, 1991, the reference in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority; and, by virtue of the provisions of section 12(2) of the 1991 Law, the references in this section to a "States Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to a person authorised by the Committee for Home Affairs to act as an officer of Customs and Excise.

Supply of false information.

9. A person who knowingly or recklessly –

(a) furnishes any information as may be required in

pursuance of section six of this Law, or

- (b) makes any application in pursuance of the provisions of section four of this Law,

which is false in a material particular shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the uniform scale].

NOTE

In section 9, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Obstruction.

10. Any person who wilfully obstructs the Chief Revenue Officer acting in the exercise of his powers under the provisions of this Law shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 1 on the uniform scale].

NOTES

In section 10, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, with effect from 30th September, 1991, the reference in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority.

Offences by corporate bodies.

11. Where a person convicted of an offence under this Law is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence

to prevent the commission of the offence.

Interpretation.

12. In this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"[Committee]" means the States [Committee for Home Affairs],

"Chief Revenue Officer" includes any States Revenue Officer acting by or under the authority of the Chief Revenue Officer,

"importer" and "exporter" includes any person who, whether as owner, consignor or consignee, agent or broker, is in possession of or in any way entitled to the custody or control of any goods or containers,

"horticultural produce" includes fruit, tomatoes, mushrooms, potatoes, broccoli, flowers, ferns, foliage, bulbs or any other horticultural produce grown in this Island but does not include produce which is preserved,

"preserved" means treated by drying, tinning, bottling, corking, pickling or deep freezing.

NOTES

In section 12, the words in the first and second pairs of square brackets in the definition of the expression "Committee" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 7 and section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016.¹

The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12(1),

with effect from 30th September, 1991, the references in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority; and, by virtue of the provisions of section 12(2) of the 1991 Law, the reference in this section to a "States Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to a person authorised by the Committee for Home Affairs to act as an officer of Customs and Excise.

Exclusion of Alderney.

13. This Law shall not apply to the Island of Alderney.

Commencement.

14. This Law shall come into force on such day as the States may by Ordinance appoint.

NOTE

The Law was brought into force on 7th September, 1959 by the Duty on Goods (Additional) (Horticultural Containers) (Commencement) Ordinance, 1959.

¹ The words "Committee for Home Affairs" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(a), with effect from 6th May, 2004.

² The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Board of Administration and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(a), Schedule 2, paragraph 2(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.