

GUERNSEY STATUTORY INSTRUMENT

2014 No. 45

The Import (Control) (Guernsey) (Amendment) Order, 2014

Made

27th June, 2014

Coming into operation

1st August, 2014

THE HOME DEPARTMENT, in exercise of the powers conferred upon it by article 1 of the Import and Export (Control) (Guernsey) Law, 1946^a and of all other powers enabling it in that behalf, hereby makes the following Order:-

Amendment to principal Order.

1. The principal Order is amended as follows.

2. In article 14(1) of the principal Order, omit the definitions of "EU Area" and "in free circulation in the customs territory", and insert the following definitions in the appropriate alphabetical order –

"European Union" means Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom", and

^a Ordres en Conseil Vol. XII, p. 332, as amended by Vol. XXIII, p. 573; Vol. XXXIII, p. 249; Order in Council No. XIV of 2007 and Recueil d'Ordonnances Tome XXIX, p. 406.

""**goods in free circulation in the European Union**" means goods which, prior to their importation into the Island, have satisfied the conditions in Article 29 of the Treaty on the Functioning of the European Union,".

3. For Schedule 3 to the principal Order, substitute the schedule in the Schedule to this Order.

4. In Schedule 6 to the principal Order, for paragraph 2, substitute the following paragraphs –

"2. Subject to the exceptions in paragraph 3 –

- (a) any other toxic chemical or precursor listed in the Table below,
- (b) any chemical mixture containing any such toxic chemical or precursor,
- (c) any good containing any such toxic chemical or precursor, or
- (d) any good containing a chemical mixture which contains any such toxic chemical or precursor,

originating in or consigned from a state which is not a Party to the Chemical Weapons Convention.

3. Notwithstanding paragraph 2, the following may be imported–

- (a) goods or chemical mixtures which contain one per cent or less by weight of a chemical listed in Category C of the Table below,
- (b) goods or chemical mixtures which contain ten per cent or less by weight of a chemical listed in Category D of the Table below, or
- (c) consumer goods that are either packaged for retail sale for personal use or packaged for individual use."

5. In Schedule 6 to the principal Order, for the paragraph immediately following the cross-heading "**TABLE**", substitute the following paragraph –

"Schedule 2 to the United Kingdom Open General Import Licence dated the 1st March, 2014, which came into force on the 7th March, 2014, as amended, has effect as this Table."

6. In Schedule 7 to the principal Order –

- (a) immediately after paragraph 10, insert the following paragraph –

"10A. Without limiting any other prohibition in this Order, any goods the importation of which is prohibited under any Community Regulation.", and

- (b) in the Interpretation part, immediately after "In this Schedule,", insert the following definition –

""Community Regulation" means a provision of a regulation (within the meaning of Article 288 of the Treaty on the Functioning of the European Union) given effect in the Island under section 2 of the European Communities (Bailiwick of Guernsey) Law, 1973, and".

7. In Schedule 8 to the principal Order –

(a) in paragraph 2, for subparagraphs (a) to (i), substitute the following subparagraphs –

- "(a) goods in free circulation in the European Union, or
- (b) goods which are intended to be re-exported outside the European Union and are subject to inward processing relief arrangements (suspension system) pursuant to Council Regulation (EEC) No. 2913/92 and Commission Regulation (EEC) No. 2454/93.",

(b) for the paragraph immediately after the cross-heading "**TABLE 2**", substitute the following table and explanatory note –

Column 1	Column 2	Column 3	Column 4
1	ex 2612	Uranium ore concentrates	World Area (other than when consigned from the European

Column 1	Column 2	Column 3	Column 4
			Union)
2	ex 2844	Plutonium, uranium 233, uranium enriched in the isotopes 233 or 235, natural uranium and mixtures, compounds and alloys containing any of the foregoing, including spent or irradiated nuclear reactor fuel elements (cartridges).	World Area (other than when consigned from the European Union).

Explanatory Note: Where a tariff heading in Column 2 is preceded by the word "ex", that entry comprises only the goods classified under the relevant tariff heading in the Combined Nomenclature of the European Union (Council Regulation (EEC) 2658/87 (O.J. No. L256, 7.9.87) and which are of the description given in Column 3.", and

- (c) in the part entitled "Interpretation of Table 2", omit paragraphs 2, 3 and 4.

Interpretation.

8. (1) In this Order, "the principal Order" means the Import (Control) (Guernsey) Order, 2010^b.

(2) In this Order, a reference to any enactment is a reference to the enactment as from time to time amended, varied, re-enacted (with or without modification), extended or applied.

(3) The provisions of the Interpretation (Guernsey) Law, 1948^c apply to the interpretation of this Order as they apply to the interpretation of an enactment.

Citation.

9. This Order may be cited as the Import (Control) (Guernsey) (Amendment) Order, 2014.

Commencement.

10. This Order comes into force on the 1st August, 2014.

Dated this 27th day of June, 2014



Deputy Francis Quin

Deputy Minister of the Home Department

For and on behalf of the Department

^b G.S.I. No. 39 of 2010; as amended by G.S.I. No. 68 of 2010, G.S.I. No. 8 of 2012, G.S.I. No. 23 of 2012 and G.S.I. No. 47 of 2013.

^c Ordres en Conseil Vol. XIII, p. 355.

SCHEDULE

Article 3

"SCHEDULE 3

GOODS THAT CANNOT BE IMPORTED WITHOUT A LICENCE

Article 1(1)(a)

Medicinal products

1. Any medicinal product, subject to the exceptions specified in paragraphs 2, 3 and 4.
2. Paragraph 1 does not apply to the following –
 - (a) a controlled drug within the meaning of section 1 of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974,
 - (b) a product specified for the purposes of section 28(1) of the Medicines Law, under article 1 (general sale list) of the Medicines (Human) (General Sale List) (Bailiwick of Guernsey) Order, 2009, or
 - (c) a homeopathic medicinal product, within the meaning given by article 1(5) of Directive 2001/83/EC, registered in a Member State pursuant to that directive.
3. Notwithstanding paragraph 1, a medicinal product may be imported –
 - (a) by the holder of any recognised marketing authorisation or licence in force in respect of the product,

- (b) by a dentist, doctor, pharmacist (within the respective meanings given by section 136(1) of the Medicines Law) or a recognised veterinary surgeon (within the meaning given by section 8 of the Veterinary Surgery and Animal Welfare Ordinance, 1987) for the purpose of using, administering, or dispensing the product as part of his professional practice,
- (c) by a person lawfully conducting a retail pharmacy business, for the purpose of sale or supply in the course of that business,
- (d) by the States Analyst for analytical purposes,
- (e) by the States of Guernsey Health and Social Services Department, or
- (f) in accordance with a written authorisation issued by the Director of Public Health.

4. Notwithstanding paragraph 1, an individual may import a legitimate medicine solely for personal use, if the quantity imported on each occasion does not exceed –

- (a) six months' supply for one person at the normal prescribed or recommended dose for the legitimate medicine, or
- (b) where there is no normal prescribed or recommended dose for that legitimate medicine, a quantity that could reasonably be required for administration to one individual over a period of six months.

5. In this Schedule –

"**Directive 2001/83/EC**" means Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code Relating to Medicinal Products for Human Use,

"**for personal use**", in relation to the importation of a legitimate medicine by an individual, means importation of the legitimate medicine for administration to the individual himself or herself or to another individual in his or her personal care,

"**legitimate medicine**" means any medicinal product that –

- (a) is registered, authorised or otherwise approved for human use by a competent authority in accordance with the laws of any country, or
- (b) is otherwise widely and generally used as a medicine for human use in any country,

"**licence**" has the meaning given by section 136(1) of the Medicines Law,

"**medicinal product**" or "**product**" has the meaning given to the expression "**medicinal product**" by section 133(1) of the Medicines Law,

"**Medicines Law**" means the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008,

"person lawfully conducting a retail pharmacy business" means --

- (a) a person lawfully conducting a retail pharmacy business, within the meaning of section 47 of the Medicines Law, or
- (b) a person who is authorised by the regulatory authority under section 29 of the Medicines Law to conduct a pharmacy related business in Sark,

"personal care" means --

- (c) care by a parent or guardian for a person under the age of 18 years, or
- (d) care for someone who is disabled or otherwise unable to care for themselves, and

"recognised marketing authorisation" has the meaning given by section 136(1) of the Medicines Law.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Import (Control) (Guernsey) Order, 2010 ("**the principal Order**").

Articles 2, 4, 5, 6(b) and 7 of this Order makes amendments to the principal Order to align several import prohibitions with the United Kingdom Open General Import Licence dated 1st March, 2014.

Article 3 replaces Schedule 3 to the principal Order, which prohibits the importation of medicinal products subject to certain exceptions. The new Schedule 3 tailors the import ban more closely to the public health risks sought to be averted or minimised.

Paragraph 2 of the new Schedule 3 excludes controlled drugs from the import ban. This is because the importation of controlled drugs is regulated under the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974. Also excluded from the import ban are medicinal products which are considered to be low-risk, that is, registered homeopathic medicines and medicinal products on the general sale list.

Paragraph 3 of the new Schedule 3 continues exceptions to the import ban that were in the previous Schedule 3, and extends these exceptions to registered veterinary surgeons and persons lawfully conducting a retail pharmacy business.

Paragraph 4 of the new Schedule 3 permits the importation of legitimate medicines for personal use. Only medicinal products that are registered, authorised or otherwise approved for human use in accordance with the laws of any country, or are otherwise widely and generally used as a medicine in any country, may be imported under this exception. Quantity restrictions apply to such personal use importations.

A key objective of the new Schedule 3 is to prevent emerging drugs of concern being imported into Guernsey, even if it is for personal use. It is also aimed at preventing or reducing the likelihood of other medicinal products being imported for reasons other than legitimate personal use, and thus reducing the public health risks arising from inappropriate use of these medicinal products.

Article 6(a) makes an amendment to the principal Order to prohibit the importation of any goods the importation of which is prohibited under any Community Regulation that is directly applicable to the Bailiwick.

This Order comes into force on the 1st August, 2014.