

# PROJET DE LOI

ENTITLED

## **The Import and Export (Control) (Alderney) Law, 1946 \***

*[CONSOLIDATED TEXT]*

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. 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. XII, p. 367; as amended by the Uniform Scale of Fines (Alderney) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 306); the Fees (Alderney) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 396); the Export Control (Bailiwick of Guernsey) Law, 2006 (No. XIV of 2007). See also the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 (Ordres en Conseil Vol. XXIII, p. 573); the Criminal Justice (Bailiwick of Guernsey) Law, 1979 (Ordres en Conseil Vol. XXVII, p. 172); the Fees (Alderney) Law, 2011 (No. XX of 2012); the Fees (Alderney) Ordinance, 2018 (Alderney Ordinance No. XVII of 2018); the Resolution of the States of Alderney of 15th January, 1997 (Billet d'État, 15th January, 1997, Article V).

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## **The Import and Export (Control) (Alderney) Law, 1946**

### ARRANGEMENT OF ARTICLES

1. Control of Importation and Exportation.
2. Duties of travellers.
3. Penalty for Illegal Importation or Exportation of Goods.
4. Notice of Seizure to be Given.
5. Power to Require Entry and Clearance.
- 5A. Administrative Provisions.

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## **The Import and Export (Control) (Alderney) Law, 1946**

### **Control of Importation and Exportation.**

1. (1) The States Finance Committee may by order make such provisions as the Committee thinks expedient for prohibiting or regulating, in all cases or any specified classes of cases, and subject to such exceptions, if any, as may be made by or under the order, the importation into[...] the Island [...] of all goods or goods of any specified description.

(2) An order made under this Article may contain such provisions as appear to the States Finance Committee to be necessary for securing the due operation and enforcement of the order.

(3) If, for the purposes of obtaining any licence, authority or permission for the importation[...] of any goods which, without such licence, authority or permission, are prohibited to be imported[...] by an order made under this Article, any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be liable to a fine not exceeding [level 2 on the Alderney uniform scale], or to imprisonment with or without hard labour, for a term not exceeding six months, or to both such fine and imprisonment.

(4) For the avoidance of doubt it is hereby declared that, without prejudice to the provisions of the enactments relating to customs (impôts) with respect to ships and aircraft, the taking into [...] the Island of ships or aircraft may be

prohibited or regulated by an order made under this Article as an importation [...] of goods, notwithstanding that the ships or aircraft are conveying goods or passengers, and whether or not they are moving under their own power.

(5) Every order made by the States Finance Committee under this Article –

- (a) shall come into force on the date prescribed thereby,
- (b) may be amended or revoked by a subsequent order, and
- (c) shall remain in force until revoked.

(6) The President of the States Finance Committee shall, immediately on the making thereof, cause every order made under this Article to be published.

[ (7) A person shall, in respect of a licence granted under this Law or any order made under it, pay to the Clerk of the States such fee as the States may prescribe by Ordinance in accordance with the Fees (Alderney) Law, 1989, as amended.]

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## NOTES

*In Article 1,*

*the words omitted in, first, square brackets in paragraph (1), second, the first and second pairs of square brackets in paragraph (3) and, third, square brackets in paragraph (4) were repealed by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, respectively paragraph 3(2)(a), paragraph 3(2)(b) and paragraph 3(2)(c), with effect from 1st May, 2010;*

*the words in the third pair of square brackets in paragraph (3) were substituted by the Uniform Scale of Fines (Alderney) Law, 1989, section 2(2),*

with effect from 1st October, 1989;

paragraph (7) was inserted by the Fees (Alderney) Law, 1989, section 1, Schedule (as amended by the Fees (Alderney) (Amendment) Law, 2003, section 1), with effect from 17th July, 2003.

The following Orders have been made under Article 1:

Import and Export of Goods (Control) (Alderney) (Amendment) Order 1997;

Import and Export of Goods (Control) (Alderney) (Amendment) Order 2001;

Import and Export of Goods (Control) (Alderney) (Amendment) (No 2) Order 2001;

Import and Export of Goods (Control) (Alderney) (Amendment No 7) Repeal Order, 2001;

Import (Control) (Alderney) Order, 2010;

Import (Control) (Alderney) (Amendment) Order, 2012;

Import (Control) (Alderney) (Amendment No. 3) Order, 2012;

Import (Control) (Alderney) (Amendment) Order, 2013;

Import (Control) (Alderney) (Amendment No. 2) Order, 2013;

Import (Control) (Alderney) (Amendment) Order, 2014;

Import (Control) (Alderney) (Amendment No. 2) Order, 2014;

Import (Control) (Alderney) (Amendment) Order, 2015;

Import (Control) (Alderney) (Amendment No. 2) Order, 2015;

Import (Control) (Alderney) (Amendment No. 3) Order, 2015;

Import (Control) (Alderney) (Amendment) Order, 2019;

Import (Control) (Alderney) (Amendment) Order, 2020 (A.S.I. No. 1 of 2020);

Import (Control) (Alderney) (Amendment) Order, 2020 (A.S.I. No. 2 of 2020);

Import (Control) (Alderney) (Amendment) (No.2) Order, 2020.

In accordance with their Resolution of 15th January, 1997 on Article V of the Billet d'État of that date, the States of Alderney resolved that the mandate of the States of Alderney Policy and Finance Committee should include, inter alia, being, for all legislative and other purposes, the States Finance Committee with responsibility for matters affecting, inter alia, import and export control.

In accordance with the provisions of the Criminal Justice (Bailiwick of Guernsey) Law, 1979, section 2(2), with effect from 21st January, 1980, and subject to the provisions of section 2(3) of that Law, no person shall be sentenced by a Court to imprisonment with hard labour and accordingly the power conferred under paragraph (3) of this Article shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before that date.

In accordance with the provisions of the Fees (Alderney) Law, 2011, section

*3, Schedule, Part II, paragraph 2, with effect from 1st January, 2019, the fees referred to in paragraph (7) of this Article may be prescribed in accordance with that Law.*

*In accordance with the provisions of the Fees (Alderney) Ordinance, 2018, section 1, Schedule 1, Part I and Part II, with effect from 1st January, 2019, the fees payable hereunder are as set out therein.*

*In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, section 1(5), with effect from 1st October, 2004, any reference in this enactment to "impôt" shall be construed as a reference to excise duty.*

*The Fees (Alderney) Law, 1989 has since been repealed by the Fees (Alderney) Law, 2011, section 8(1), with effect from 1st January, 2019, subject to the saving in section 8(5) of the 2011 Law.*

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### **Duties of travellers.**

2. (1) Any person who, on any occasion, arrives in [...] the Island (which person is hereinafter in this Article referred to as "**the traveller**") shall, if on that occasion he is required so to do by a customs officer of the States –

- (a) declare whether or not he has with him any goods prohibited to be imported [...] under this Law, and
- (b) produce any such goods as aforesaid which he has with him,

and such officer, and any person acting under his directions, may search the traveller and examine and search his luggage for the purpose of ascertaining whether he has with him any such goods as aforesaid:

PROVIDED that no female shall be searched in pursuance of this paragraph except by a female.

- (2) If any person refuses to make a declaration, fails to produce

any goods or refuses to allow himself or his luggage to be searched in accordance with the provisions of paragraph (1) of this Article, or makes a statement which is false in a material particular, he shall be liable to a fine not exceeding [level 2 on the Alderney uniform scale], or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both such fine and such imprisonment.

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## NOTES

*In Article 2,*

*the words omitted in the first and second pairs of square brackets in paragraph (1) were repealed by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, respectively paragraph 3(3)(a) and paragraph 3(3)(b), with effect from 1st May, 2010;*

*the words in square brackets in paragraph (2) were substituted by the Uniform Scale of Fines (Alderney) Law, 1989, section 2(2), with effect from 1st October, 1989.*

*In accordance with the provisions of the Criminal Justice (Bailiwick of Guernsey) Law, 1979, section 2(2), with effect from 21st January, 1980, and subject to the provisions of section 2(3) of that Law, no person shall be sentenced by a Court to imprisonment with hard labour and accordingly the power conferred under paragraph (2) of this Article shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before that date.*

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## **Penalty for Illegal Importation or Exportation of Goods.**

3. (1) If any goods –
- (a) are imported[...] in contravention of an order made under this Law, [...]
- (b) ...

the goods shall be forfeited and the importer[...] of the goods, or [his agent], shall be liable to a fine not exceeding [level 2 on the Alderney uniform scale].

(2) If any goods are imported[...] a customs officer of the States may require any person possessing or having control of the goods to furnish proof that the importation [...] is not unlawful by virtue of an order made under this Law, and, if such proof is not furnished to the satisfaction of the States Finance Committee then, unless the contrary be proved, the goods shall be deemed to be goods whereof the importation[...] is prohibited and shall be forfeited.

In any proceedings taken by virtue of this paragraph, a statement signed by the President of the States Finance Committee that such proof as aforesaid has not been furnished to the satisfaction of the States Finance Committee shall, unless the contrary be proved, be sufficient evidence that no such proof has been furnished to the satisfaction of the States Finance Committee.

(3) Goods forfeited under any of the provisions of this Article shall

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- (a) if the goods are found in a place within the territorial waters of the Island, become the property of the States, or
- (b) if the goods are found outside the Island, become the property of His Majesty.

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## NOTES

*In Article 3,*

*the words omitted in, first, the first pair of square brackets, second, the second pair of square brackets, third, the third pair of square brackets in paragraph (1) were repealed and, fourth the words in the fourth pair of square brackets therein were substituted by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, respectively paragraph 3(4)(a)(i), paragraph 3(4)(a)(ii), paragraph 3(4)(a)(iii) and paragraph 4(2),*



*with effect from 1st May, 2010;*

*subparagraph (b) of paragraph (1) was repealed by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, paragraph 3(4)(a)(ii), with effect from 1st May, 2010;*

*the words in the fifth pair of square brackets in paragraph (1) were substituted by the Uniform Scale of Fines (Alderney) Law, 1989, section 2(2), with effect from 1st October, 1989;*

*the words omitted in the first, second and third pairs of square brackets in paragraph (2) were repealed by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, respectively paragraph 3(4)(b)(i), paragraph 3(4)(b)(ii) and paragraph 3(4)(b)(iii), with effect from 1st May, 2010.*

*The following Order has been made under Article 3:*

*Import and Export of Goods (Control) (Amendment) (Alderney) Order, 1994.*

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#### **Notice of Seizure to be Given.**

4. Where any seizure of goods as forfeited goods is made under this Law otherwise than out of the possession or in the presence of the owner of the goods or his agent, the seizing officer shall give notice in writing of such seizure and of the grounds thereof to the owner of the goods seized or to his agent, if known, either by delivering the notice to him personally or by letter addressed to him and transmitted by post to his last known place of abode or business.

#### **Power to Require Entry and Clearance.**

5. The States Finance Committee may require due entry and clearance, in such manner as that Committee may direct, on importation [...] of all imported goods [...].

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#### **NOTE**

*In Article 5, the words omitted in square brackets were repealed by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, paragraph 3(5), with effect from 1st May, 2010.*

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**[Administrative Provisions.]**

**5A.** The provisions of this Law are provisions relating to customs, and, therefore, "**customs Laws**" as defined in section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972.]

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**NOTES**

*The Law received Royal Sanction on 29th October, 1946 and was registered on the Records of the Island of Guernsey and came into force on 16th November, 1946.*

*Article 5A was inserted by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, paragraph 4(3), with effect from 1st May, 2010.*

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