

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Import Duties (Bailiwick of Guernsey) (Amendment) Law, 1953.

(Registered on the Records of the Island of Guernsey
on the 5th day of October, 1953.)



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1953.

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ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 5th day of October, 1953, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present:— Ernest de Garis, Esquire, O.B.E., Sir John Leale, Arthur Falla, Walter John Sarre, William Robert Freake Clark, Ernest Francis Lainé, Bertram Bartlett, Esquires, Donald Carey Brock, Esquire, C.B.E., Osmond Priaulx, Stephen James Falla, Wilfred John Corbet and Théophile Le Messurier Allez, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 1st day of August, 1953, ratifying a *Projet de Loi* entitled "The Import Duties (Bailiwick of Guernsey) (Amendment) Law, 1953",—the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island, and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace.

The 1st day of August, 1953.

PRESENT,

The Queen's Most Excellent Majesty

LORD CHANCELLOR

LORD PRESIDENT

CHANCELLOR OF THE DUCHY OF LANCASTER

MR. SECRETARY LYTTTELTON

SIR THOMAS DUGDALE.

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 15th day of July, 1953, in the words following viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February, 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:—

‘ 1. That, in pursuance of their Resolution of the 10th day of December, 1952, the States of Deliberation at a meeting held on the 29th day of April, 1953, approved a Bill or “Projet de Loi” entitled “The Import Duties (Bailiwick of Guernsey) (Amendment) Law, 1953” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the Chief Pleas of the Island of Sark at a meeting held on the 20th day of May, 1953, considered the said Bill or “Projet de Loi” when a resolution was passed concurring in the application thereof to Sark. 3. That the said Bill or “Projet de Loi”

is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or "Projet de Loi" of the States of Guernsey entitled "The Import Duties (Bailiwick of Guernsey) (Amendment) Law, 1953" and to order that the same shall have force of Law in the Bailiwick of Guernsey.'

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Bailiwick of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant-Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers, for the time being, in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. G. AGNEW.

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Import Duties (Bailiwick of Guernsey) (Amendment) Law, 1953.

THE STATES, in pursuance of their Resolution of the tenth day of December, 1952, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

1. There shall be substituted for section fifteen of the Import Duties Act (Bailiwick of Guernsey), 1932 (hereafter in this Law referred to as "the principal Law") the following section:—

"Determination of value of dutiable goods. 15. (1) For the purposes of this Law, the value of any goods which are chargeable with duty under this Law and which are to be charged by reference to their value shall, subject to the provisions of section four of this Law, be taken to be that laid down by the Schedule to this Law, and duty shall be paid on that value:

PROVIDED that, in the case of goods imported under a contract of sale, duty shall be deemed to have been paid on that value if duty is tendered and accepted on a declared value based on the contract price.

(2) For the purpose of the proviso to the foregoing subsection—

- (a) the declared value of any goods is their value as declared by the Master of the vessel from which such goods have been unloaded in making the declaration prescribed by section eleven or section twelve, as the case may be, of this Law;
- (b) that value shall be deemed to be based on the contract price if, but only if, it represents that price properly adjusted to take account of circumstances differentiating the contract from such a contract of sale as is contemplated by the Schedule to this Law;
- (c) the rate of exchange to be used for determining the equivalent in sterling of any foreign currency shall be the current selling rate in the United Kingdom at the time of the importation of the goods.

(3) The Board may make regulations for the purpose of giving effect to the foregoing provisions of this section, and in particular for requiring any importer or other person concerned with the importation of goods to furnish to the Appropriate Authority in such form as the Board may require, such information as is in the opinion of the Board necessary for a proper valuation of the goods, and to produce any books of account or other documents of whatever nature relating to the purchase, importation or sale of the goods by that person.

(4) If any person contravenes or fails to comply with any regulation made under this section he shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding fifty pounds.”.

2. The Order in Council dated the 8th day of August, 1932, and registered on the 20th day of August, 1932, authorising the levying of duties on the importation of potatoes, the proviso to section four and sections sixteen and seventeen of the principal Law are hereby repealed.

3. There shall be inserted at the end of the principal Law, as the Schedule thereto, the Schedule to this Law.

4. The Import Duties Laws (Bailiwick of Guernsey), 1932 to 1947, and this Law may be cited together as the Import Duties (Bailiwick of Guernsey) Laws, 1932 to 1953.

Section fifteen

SCHEDULE

Value of Imported Goods.

1. (1) The value of any imported goods shall be taken to be the normal price, that is to say the price which they would fetch, at the time of the importation thereof, on a sale in the open market between buyer and seller independent of each other.

(2) The normal price of any imported goods shall be determined on the following assumptions:—

(a) that the goods are treated as having been delivered to the buyer at the port or place of importation; and

- (b) that the seller will bear freight, insurance, commission and all other costs, charges and expenses incidental to the sale and the delivery of the goods at that port or place; but
- (c) that the buyer will bear any duty or tax chargeable in the Bailiwick:

Provided that, in the case of goods imported from or after transit through or after transshipment in the United Kingdom, any charges made or costs or expenses incurred after the arrival of the goods in the United Kingdom shall not be taken into account.

2. A sale in the open market between buyer and seller independent of each other pre-supposes—

- (a) that the price is the sole consideration; and
- (b) that the price made is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him (other than the relationship created by the sale of the goods in question); and
- (c) that no part of the proceeds of the subsequent re-sale, use or disposal of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

3. Where the goods to be valued—

- (a) are manufactured in accordance with any patented invention or are goods to which any registered design has been applied; or
- (b) are imported under a foreign trade mark, or are imported for sale (whether or not after further manufacture) under a foreign trade mark;

the normal price shall be determined on the assumption that the price covers the right to use the patent, design or trade mark in respect of the goods.

4. For the purpose of the last foregoing paragraph, the expression "trade mark" includes a trade name and a get-up, and a foreign trade mark is a trade mark used for the purpose of indicating that goods in relation to which it is used are those of—

- (a) a person by whom the goods to be valued have been grown, produced, manufactured, selected, offered for sale or otherwise dealt with outside the Bailiwick; or
- (b) a person associated in business with any such person as is referred to in sub-paragraph (a) of this paragraph; or
- (c) a person to whom any such person as is mentioned in sub-paragraph (a) or (b) of this paragraph has assigned the goodwill of the business in connection with which the trade mark is used.

5. Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both of them.

JAMES E. LE PAGE,

Her Majesty's Greffier.