

STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – CUSTOMS AND EXCISE (IMPORT AND EXPORT CONTROL) (JERSEY) ORDER 2006

**Presented to the States on 17th October 2006
by the Minister for Home Affairs**

STATES GREFFE

REPORT

On 13th October 2006, the Minister for Home Affairs made a decision delegating certain of her functions under the Customs and Excise (Import and Export Control) (Jersey) Order 2006.

The terms of the delegation were recorded in a ministerial decision as follows –

Delegation of the power to grant a licence to import and/or export goods under Article 4 of the Customs and Excise (Import and Export Control) (Jersey) Order 2006 to the Agent of the Impôts

The Customs and Excise (Jersey) Law 1999 was adopted by the States on 13th April 1999, sanctioned by Order of Her Majesty in Council on 24th November 1999 and registered in the Royal Court on 24th December 1999.

The Law came into force on 1st November 2000 with the exception of the following provisions –

- (a) Article 19; and
- (b) those parts of Part I of the Fourth Schedule that relate to the repeal of the Import and Export (Control) (Jersey) Law 1946.

The Island, via the Minister for Home Affairs, controls the import and export of items that are not the subject of specific legislation by an Order made under the Import and Export (Control) (Jersey) Law 1946. The latest Order is the Import and Export Control (Jersey) (Order) 1992.

The 1992 Order controls imports and/or exports by setting a licensing regime for restricted goods. These goods are listed in the Schedules to the 1992 Order and it is an offence to import or export them, as the case may be, without a licence issued either by the Minister or the Agent of the Impôts.

Article 19 of the Customs and Excise (Jersey) Law 1999 was intended to replace the 1946 Law and allow an order to be made under the 1999 Law. However, on the advice of the Attorney General, Article 19 was not enacted at the same time as the rest of the Law due to potential problems with certain legal technicalities. These potential problems have now been resolved

The Customs and Excise (Jersey) Law 1999 (Appointed Day) (No. 2) Act 2000 will bring into force Article 19 together with the part of the Fourth Schedule to that Law that relates to the repeal of the Import and Export (Control) (Jersey) Law 1946.

The Customs and Excise (Import and Export Control) (Jersey) Order 2006 will revoke and replace the 1992 Order and will come into force on the same day as Article 19 of the Customs and Excise (Jersey) Law 1999.

Article 4 of the 2006 Order confers a power to grant a licence to import and/or export goods on the Minister of Home Affairs.

To ensure that the 2006 Order will be in accord with proposed new local Export Control legislation, currently in draft form, the Agent of the Impôts is not included in the Order for this function.

However, Article 28(1)(b) of the States of Jersey Law 2005 allows a Minister to delegate, wholly or partly functions conferred upon or vested in the Minister by or under this Law or any other enactment or any enactment of the United Kingdom having effect in Jersey to an officer.

The States of Jersey Law 2005 defines an “officer” as a States’ employee within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005 and includes a member of the States of Jersey Police Force and an officer appointed under paragraph 1(1) of Part 1 of Schedule 2 to the Immigration Act 1971 as extended to Jersey by the Immigration (Jersey) Order 1993.

Article 4(1) of the States of Jersey Customs and Excise (Jersey) Law 1999 clearly shows that the Agent of the Impôts is a States' employee within the meaning of Article 2 of the Employment of States of Jersey Employees (Jersey) Law 2005.

On the basis of the foregoing therefore, the Minister's functions relating to licences in Article 4 of the 2006 Order may be delegated to the Agent of the Impôts.