

STATES OF JERSEY



USER PAYS CHARGES: USE OF THE TRADE MARKS “JERSEY ROYAL” OR “JERSEY ROYALS” (WORDS) AND THE JERSEY ROYAL LOGO

**Lodged au Greffe on 20th August 2010
by the Minister for Economic Development**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to refer to their Act dated 24th June 2003 in which they agreed that no new ‘user pays’ charges should be introduced without the prior approval of the States; and –

to agree to the introduction of a fee for the use of the trade mark using the words “Jersey Royal” or “Jersey Royals” (words) and the Jersey Royal Logo, as shown in the attached report from the Minister for Economic Development dated 20th August 2010.

MINISTER FOR ECONOMIC DEVELOPMENT

REPORT

Executive Summary

Certification marks and trade marks

Following an application to use the words Jersey Royal on potato vodka and in order to further protect the brand image, the Department of Agriculture and Fisheries, on behalf of the States of Jersey, applied to the UK patent office to register the Jersey Royal Logo.

The Jersey Royal (Logo) and Jersey Royal/Jersey Royals (words) have now been registered as both a certification mark and an ordinary trade mark in the UK and Jersey.

Certification Authority

Permission to use the marks is granted by the Certification Authority which is in effect the States of Jersey, and where this relates to potato or potato products there is no charge to the producer. However, a charge should be introduced where the Jersey Royal (Logo) and/or Jersey Royal/Jersey Royals (words) are used on non-potato goods, e.g. clothing, etc.

Application Panel

An Application Panel – consisting of a representative from Trading Standards, the Chief Officer, Economic Development Department and the Minister or Assistant Minister, Economic Development Department – will assess any application to use the trade mark on non-potato goods and may grant permission to the applicant to use the trade mark provided that the product meets the highest standards.

Licence

Should permission be granted, then a licence agreement, specifying the annual licence fee, will be issued and signed by the Economic Development Department and the applicant.

Introduction

The Jersey Royal potato was granted a Protected Designation of Origin (PDO) in 1996 under Article 17 of Council Regulation (EEC) No. 2081/92. This protected the Island's (growers') interests by establishing that the name could only be used by producers in a clearly defined area (Jersey) who comply with specified rules of production.

In order to further protect the brand image, the Department of Agriculture and Fisheries, on behalf of the States of Jersey, applied to the UK patent office to register the Jersey Royal (Logo) and Jersey Royal/Jersey Royals (words) in 2002 following an application to use the words on potato vodka.

In addition, there has been an approach to use the trade marked words "Jersey Royal" on non-potato goods, and whilst the trade marks are registered in the UK and in Jersey, there is no formal mechanism in place to deal with any such applications.

Certification marks and trade marks

The Jersey Royal (Logo) and Jersey Royal/Jersey Royals (words) have been registered as both a certification mark and an ordinary trade mark in the UK and Jersey.

A certification (trade) mark is a mark indicating that the goods or services in connection with which it is used are certified by the proprietor of the mark in respect of origin, material and mode of manufacture of goods or performance of services, quality, accuracy or other characteristics.

A trade mark is any sign capable of being represented graphically which is capable of distinguishing goods or services of one undertaking from those of other undertakings, and may, in particular, consist of words (including personal names), designs, letters, numerals or the shape of goods or their packaging.

To summarise: a trade mark is used by the owner/producer of the goods, whereas a certification (trade) mark is used by others who the proprietor allows to use, provided the goods meet the required specifications and that they, the owner, does not trade in the goods and services themselves.

The Jersey Royal (Logo) and Jersey Royal/Jersey Royals (words) are registered as certification marks because, in effect, the States of Jersey are the proprietor of the mark and ensure that any Jersey Royals Potatoes sold meet their criteria and that any other goods also meet prescribed quality standards. Additionally, the Jersey Royal (Logo) and Jersey Royal/Jersey Royals (words) are registered as ordinary trade marks.

Regulation

The certification marks “Jersey Royal” and “Jersey Royals” are the property of the States of Jersey, Department of Agriculture and Fisheries, the Certification Authority (now Economic Development). Goods, i.e. Jersey Royal Potatoes, produced under the certification marks shall correspond to the quality standards (specifications) as laid down by the Certification Authority. Permission to use the marks is granted by the Certification Authority and permission can be revoked whenever the mark is not used in accordance with the terms and conditions laid down by the Certification Authority.

The Department of Agriculture and Fisheries (for this purpose now the Economic Development Department), as the Certification Authority, can authorise the use of the Logo and words within all the classes outlined above, provided they are satisfied that the use of the Logo meets their criteria.

Jersey Royal Logo



Charging

On the recommendation of our trade mark lawyers, a charge should be introduced for the use of the trade mark in all classes for non-potato goods where such permission is granted. This will also enable administration costs to be recovered.

Before permission is granted to use the certification (trade) mark, an Application Panel – consisting of a representative from Trading Standards, the Chief Officer, Economic Development Department and the Minister or Assistant Minister, Economic Development Department – will assess any application to use the certification (trade) mark and make a recommendation to the Certification Authority to either approve or reject the application.

Businesses may be granted permission to use the trade mark and/or Logo provided that they meet the highest standards and pay the appropriate fees, and where the use will underpin the brand. Should these criteria be met and approval given, a licence agreement will then be issued and signed on behalf of the Economic Development Department (“*Licensor*”) and by the applicant.

It is proposed to introduce a £150 application fee with an annual licence fee of up to 10% (to be reviewed annually) of turnover – payable no later than 31st March in the year following licence expiry.

Financial and manpower implications

There are no manpower implications and any financial implications will be positive

Recommendation

Introduce a £150 application fee, with an annual licence fee of up to 10% (to be reviewed annually) of turnover – payable no later than 31st March in the year following licence expiry for the use of the trade mark in all classes for non-potato goods, to be reviewed annually.

20th August 2010