

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Food and Drugs (Guernsey) Law, 1970

(Registered on the Records of the Island of Guernsey
on the 30th day of June, 1970.)



1970.

VII
1970

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 30th day of June, 1970, before John Henry Loveridge, Esquire, C.B.E., Deputy Bailiff; present:—Bertram Guy Blampied, Esquire, O.B.E., Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., Albert Victor Dorey, Esquire, Laurence Francis de Vic Carey, Esquire, C.B., C.B.E., D'Arcy George Le Tissier, William Burton Fox, Esquires, Edward James Lainé, Esquire, C.B.E., D.F.C., Edward Martel and Walter Francis Robin, Esquires, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 29th day of May, 1970, ratifying a *Projet de Loi* entitled "The Food and Drugs (Guernsey) Law, 1970", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 29th day of May 1970

PRESENT,

The Queen's Most Excellent Majesty

LORD PRESIDENT

LORD SHEPHERD

MR SHORE

SIR ARTHUR IRVINE

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 30th day of April 1970, 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 13th day of December 1967, the States of Deliberation at a meeting held on the 28th day of January 1970 approved a Bill or “Projet de Loi” entitled “The Food and Drugs (Guernsey) Law, 1970” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. 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 Food and Drugs (Guernsey) Law,

1970" and to order that the same shall have force of law in the Islands of Guernsey, Herm and Jethou.'

"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 Islands of Guernsey, Herm and Jethou.

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 Food and Drugs (Guernsey) Law, 1970

ARRANGEMENT OF SECTIONS

PART I

GENERAL PROVISIONS AS TO FOOD AND DRUGS

Section

1. Offences in connection with preparation and sale of injurious foods and adulterated drugs.
2. General protection for purchasers of food and drugs.
3. Defences available in proceedings under section two.
4. Power of the States to make Ordinances as to composition of food, etc.
5. Power of Board to obtain particulars of certain food ingredients.
6. False labelling or advertisement of food or drugs.
7. Power of the States to make Ordinances as to labelling and description of food.
8. Punishment for sale, etc., of food unfit for human consumption.
9. Examination and seizure of suspected food.
10. Food offered as prizes, etc.
11. Power to examine food in course of transit.
12. Punishment for sale, etc., of products of knackers' yards.
13. Power of the States to make Ordinances as to food hygiene.

Section

14. Power of Royal Court to disqualify caterer.
15. Registration of premises; manufacture and sale of ice-cream and of sausages, etc.
16. Extension of section fifteen to other businesses.
17. Applications for registration.
18. Refusal or cancellation of registration.
19. Licensing of vehicles, etc.
20. Sale of ice-cream from stalls, etc.
21. Prevention of spread of disease by ice-cream.
22. Sale of horseflesh.
23. Cases of food poisoning to be notified.
24. Inspection and control of infected food.
25. Misuse of designation "cream" in relation to cream substitutes.

PART II

SAMPLING, ENFORCEMENT AND LEGAL PROCEEDINGS

26. Powers of sampling.
27. Right to have samples analysed.
28. Provisions as to samples taken for analysis.
29. Provision as to cases in which division of sample into parts is impracticable.
30. Examination by Board of food not for sale.
31. Power to enter premises.
32. Power to enter ships, aircraft, vehicles, etc.
33. Restriction on movement of imported food.
34. Persons obstructing execution of Law.
35. Punishment of offences.
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37. Prosecutions.
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Section

41. Conditions under which warranty may be pleaded as defence.
42. Offences in relation to warranties and certificates of analysis.
43. Appeals.
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MISCELLANEOUS AND GENERAL

47. Ordinances and orders.
48. Protection for authorised officers acting in good faith.
49. Temporary continuance of licence or registration on death.
50. Power to require occupier to permit works to be executed by owner.
51. Power of the Board to require information as to ownership.
52. Notices to be given in writing; forms of notices, etc.
53. Service of notices, etc.
54. Interpretation.
55. Repeals.
56. Citation and commencement.

SCHEDULES

FIRST SCHEDULE—*Diseases to which subsection (1) of section twenty-one applies.*

SECOND SCHEDULE—*Provisions as to manner in which samples taken or purchased for analysis are to be dealt with.*

THIRD SCHEDULE—*Laws repealed.*

PROJET DE LOI

ENTITLED

The Food and Drugs (Guernsey) Law, 1970

THE STATES, in pursuance of their Resolution of the thirteenth day of December, nineteen hundred and sixty-seven, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

PART I

GENERAL PROVISIONS AS TO FOOD AND DRUGS

Offences in connection with preparation and sale of injurious foods and adulterated drugs.

1. (1) No person shall add any substance to food, use any substance as an ingredient in the preparation of food, abstract any constituent from food, or subject food to any other process or treatment, so as, in any such case, to render the food injurious to health, with intent that the food shall be sold for human consumption in that state.

(2) No person shall add any substance to, or abstract any constituent from, a drug so as to affect injuriously the quality, constitution or potency of the drug, with intent that the drug shall be sold in that state.

(3) Subject to the provisions of this section, no person shall—

(a) sell for human consumption, offer, expose or advertise for sale for human consumption, or have in his possession for the purpose of

such sale, any food rendered injurious to health by means of any operation described in subsection (1) of this section, or

- (b) sell, offer, expose or advertise for sale, or have in his possession for the purpose of sale, any drug injuriously affected in its quality, constitution or potency by means of any operation described in subsection (2) of this section.

(4) A person who contravenes any of the foregoing provisions of this section shall be guilty of an offence.

(5) In determining for the purposes of this Law whether an article of food is injurious to health, regard shall be had not only to the probable effect of that article on the health of a person consuming it, but also to the probable cumulative effect of articles of substantially the same composition on the health of a person consuming such articles in ordinary quantities.

(6) In proceedings under this section for an offence consisting of the advertisement for sale of any food or drug, it shall be a defence for the person charged to prove that, being a person whose business it is to publish, or arrange for the publication of, advertisements, he received the advertisement for publication in the ordinary course of business.

2. (1) If a person sells to the prejudice of the purchaser any food or drug which is not of the nature, or not of the substance, or not of the quality, of the food or drug demanded by the purchaser, he shall, subject to the provisions of the next following section, be guilty of an offence.

General protection for purchasers of food and drugs.

(2) In proceedings under this section it shall not be a defence to allege that the purchaser bought

for analysis or examination and therefore was not prejudiced.

(3) In this section, except so far as it relates to drugs, the reference to sale shall be construed as a reference to sale for human consumption.

Defences
available in
proceedings
under
section two.

3. (1) In proceedings under section two of this Law for an offence consisting of the sale of food to which any substance has been added, or in the preparation of which any substance has been used as an ingredient, or from which any constituent has been abstracted, or which has been subjected to any other process or treatment, other than food thereby rendered injurious to health, it shall be a defence for the person charged to prove that the operation in question was not carried out fraudulently, and that the article was sold having attached thereto a notice of adequate size, distinctly and legibly printed and conspicuously visible, stating explicitly the nature of the operation, or was sold in a wrapper or container displaying such a notice.

(2) The provisions of the foregoing subsection shall apply in relation to proceedings for an offence consisting of the sale of a drug to which any substance has been added, or from which any constituent has been abstracted, other than a drug thereby injuriously affected in its quality, constitution or potency, as they apply in relation to any such offence as is therein mentioned.

(3) In proceedings under section two of this Law in respect of any food or drug containing some extraneous matter, it shall be a defence for the defendant to prove that the presence of that matter was an unavoidable consequence of the process of collection or preparation.

(4) In proceedings under section two of this Law in respect of diluted whisky, brandy, rum or gin, it shall be a defence for the defendant to prove that the spirit in question had been diluted with water only and that its strength was still not lower than thirty-five degrees under proof.

4. (1) The States may, so far as appears to them to be necessary or expedient in the interests of the public health, or otherwise for the protection of the public, from time to time by Ordinance make provision for any of the following purposes, that is to say:—

Power of the States to make Ordinances as to composition of food, etc.

- (a) for requiring, prohibiting, or regulating the addition of any specified substance, or any substance of any specified class, to food intended for sale for human consumption or any class of such food, or the use of any such substance as an ingredient in the preparation of such food, and generally for regulating the composition of such food;
- (b) for requiring, prohibiting or regulating the use of any process or treatment in the preparation of any food intended for sale for human consumption, or any class of such food;
- (c) for prohibiting or regulating the sale, possession for sale, offer or exposure for sale, consignment or delivery, of food which does not comply with the Ordinance or in relation to which an offence against the Ordinance has been committed or would have been committed if any relevant act or omission had taken place in the Island, or for prohibiting or regulating the importation of any such food as aforesaid;

(d) for prohibiting or regulating the sale, possession for sale, or offer, exposure or advertisement for sale, of any specified substance, or of any substance of any specified class, with a view to its use in the preparation of food for human consumption, and the possession of any such substance for use in the preparation of food intended for sale for human consumption.

(2) In the exercise of the powers conferred upon them by this section the States shall have regard to the desirability of restricting, so far as practicable, the use of substances of no nutritional value as foods or as ingredients of foods.

(3) Any Ordinance made under this section may apply to cream, and to any food containing milk; but except as aforesaid such Ordinance shall not apply to milk.

(4) Any Ordinance so made may provide, in relation to such cases as may be specified and subject to such exceptions as may be allowed by or under the Ordinance, that, where any food is certified by the States Analyst as being food to which the Ordinance applies so far as it is made under paragraph (c) of subsection (1) of this section, that food may be treated for the purposes of section nine of this Law (under which food may be seized and destroyed on the order of the Magistrate's Court) as being unfit for human consumption:

Provided that nothing in any such Ordinance shall be taken as prejudicing the generality of the powers conferred by the said section nine.

Power of
Board to
obtain
particulars
of certain
food in-
gredients.

5. (1) The Board may by order require every person who at the date of the order or at any subsequent time carries on a business which includes the production, importation or use of substances of any class specified in the order to furnish to the Board, within

such time as may be so specified, such particulars as may be so specified of the composition and use of any such substance sold in the course of that business for use in the preparation of food for human consumption, or used for that purpose in the course of that business.

(2) Without prejudice to the generality of the foregoing subsection, an order made thereunder may require the following particulars to be furnished in respect of any substance, that is to say:—

- (a) particulars of the composition and chemical formula of the substance,
- (b) particulars of the manner in which the substance is used or proposed to be used in the preparation of food,
- (c) particulars of any investigations carried out by or to the knowledge of the person carrying on the business in question, for the purpose of determining whether and to what extent the substance, or any product formed when the substance is used as aforesaid, is injurious to, or in any other way affects, health,
- (d) particulars of any investigations or inquiries carried out by or to the knowledge of the person carrying on the business in question for the purpose of determining the cumulative effect on the health of a person consuming the substance in ordinary quantities.

(3) No particulars furnished in accordance with an order under this section, and no information relating to any individual business obtained by means of such particulars, shall, without the previous consent in writing of the person carrying on the business in question, be disclosed except—

- (a) in accordance with directions of the Board, so far as may be necessary for the purpose of enabling the States to exercise the powers conferred upon them by section four of this Law,
- (b) for the purposes of any proceedings for an offence against the order or any report of those proceedings;

and if any person discloses any such particulars or information in contravention of this subsection he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or both, or on conviction on indictment to imprisonment for a term not exceeding two years, or to a fine not exceeding five hundred pounds, or both.

False labelling or advertisement of food or drug.

6. (1) A person who gives with any food or drug sold by him, or displays with any food or drug exposed by him for sale, a label, whether attached to or printed on the wrapper or container or not, which—

- (a) falsely describes the food or drug, or
- (b) is calculated to mislead as to its nature, substance or quality,

shall be guilty of an offence, unless he proves that he did not know, and could not with reasonable diligence have ascertained, that the label was of such a character as aforesaid.

(2) Subject to the next following subsection, a person who publishes, or is a party to the publication of, an advertisement, not being such a label so given or displayed by him as aforesaid, which—

- (a) falsely describes any food or drug, or

(b) is calculated to mislead as to the nature, substance or quality of any food or drug,

shall be guilty of an offence; and in any proceedings under this subsection against the manufacturer, producer or importer of the food or drug, it shall rest on the defendant to prove that he did not publish, and was not a party to the publication of, the advertisement.

(3) In proceedings under the last foregoing subsection it shall be a defence for the defendant to prove either—

(a) that he did not know, and could not with reasonable diligence have ascertained, that the advertisement was of such a character as is described in that subsection, or

(b) that, being a person whose business it is to publish, or arrange for the publication of, advertisements, he received the advertisement for publication in the ordinary course of business.

(4) It is hereby declared that, for the purposes of this section, a label or advertisement which is calculated to mislead as to the nutritional or dietary value of any food is calculated to mislead as to the quality of the food.

(5) In proceedings for an offence under this section the fact that a label or advertisement in respect of which the offence is alleged to have been committed contained an accurate statement of the composition of the food or drug shall not preclude the court from finding that the offence was committed.

(6) In this section, except so far as it relates to drugs, references to sale shall be construed as references to sale for human consumption.

Power of the
States to
make
Ordinances
as to
labelling and
description
of food.

7. (1) Without prejudice to the provisions of the last foregoing section, the States may from time to time by Ordinance make provision for imposing requirements as to, and otherwise regulating, the labelling, marking or advertising of food intended for sale for human consumption, and the descriptions which may be applied to such food.

(2) An Ordinance made under this section may make provision for any purpose authorised by paragraph (c) of subsection (1) of section four of this Law in the case of an Ordinance under that section.

(3) An Ordinance made under this section may apply to cream, and to any food containing milk; but except as aforesaid such Ordinance shall not apply to milk.

Punishment
for sale, etc.,
of food
unfit for
human con-
sumption.

8. (1) Subject to the provisions of this section, any person who—

- (a) sells, or offers or exposes for sale, or has in his possession for the purpose of sale or of preparation for sale, or
- (b) deposits with, or consigns to, any person for the purpose of sale or of preparation for sale,

any food intended for, but unfit for, human consumption shall be guilty of an offence.

(2) Subject as aforesaid, where food in respect of which an offence under paragraph (a) of the foregoing subsection has been committed was sold to the offender by some other person, that person also shall be guilty of an offence.

(3) Where a person is charged with an offence under paragraph (b) of subsection (1) of this section, or under the last foregoing subsection, it shall be a defence for him to prove either—

- (a) that he gave notice to the person with whom he deposited, or to whom he consigned or sold, the food in question that it was not intended for human consumption, or
- (b) that, at the time when he delivered or dispatched it to that person, either it was fit for human consumption or he did not know, and could not with reasonable diligence have ascertained, that it was unfit for human consumption.

9. (1) An authorised officer may at all reasonable times examine any food intended for human consumption which has been sold, or is offered or exposed for sale, or is in the possession of, or has been deposited with or consigned to, any person for the purpose of sale or of preparation for sale, and, if it appears to him to be unfit for human consumption, may seize it and remove it in order to have it dealt with by the Magistrate's Court.

Examination and seizure of suspected food.

(2) An officer who seizes any food under the foregoing subsection shall inform the person in whose possession the food was found of his intention to make a complaint to the Chief Officer of Police to have it dealt with by the Magistrate's Court and any person who under section eight of this Law might be liable to a prosecution in respect of the food shall, if he attends before the Magistrate's Court upon the application for its condemnation, be entitled to be heard and to call witnesses.

(3) If it appears to the Magistrate's Court that any food brought before it, whether seized under the provisions of this section or not, is unfit for human consumption, the Court shall condemn it and order it to be destroyed or to be so disposed of as to prevent it from being used for human consumption.

(4) If the Magistrate's Court refuses to condemn any food seized under this Part of this Law by an authorised officer, the Board shall compensate the owner of the food for any depreciation in its value resulting from its seizure and removal.

(5) A decision of the Magistrate's Court under this section shall be final.

Food
offered as
prizes, etc.

10. (1) Section eight and section nine of this Law shall apply—

- (a) in relation to any food which is intended for human consumption and is offered as a prize or reward in connection with any entertainment to which the public are admitted, whether on payment of money or not, as if the food were, or had been, exposed for sale by each person concerned in the organisation of the entertainment;
- (b) in relation to any food which is intended for human consumption and is offered as a prize or reward or given away for the purpose of advertisement, or in furtherance of any trade or business, as if the food were, or had been, exposed for sale by the person offering or giving away the food; and
- (c) in relation to any food which is intended for human consumption and is exposed or deposited in any premises for the purpose of being so offered or given away as aforesaid, as if the food were, or had been, exposed for sale by the occupier of the premises.

(2) In this section the expression "entertainment" includes any social gathering, amusement, exhibition, performance, game, sport or trial of skill.

11. If an authorised officer has reason to suspect that any vehicle or container contains any food which is intended for sale for human consumption, or is in the course of delivery after sale for human consumption, he may examine the contents of the vehicle or container, and for that purpose may, if necessary, detain the vehicle or container; and if the officer finds any food which appears to him to be intended for, but unfit for, human consumption, he may deal with it as food falling within subsection (1) of section nine of this Law and subsection (2) to subsection (5) of that section shall apply accordingly.

Power to examine food in course of transit.

12. No person shall sell, or offer or expose for sale, or have in his possession for the purpose of sale or of preparation for sale, for human consumption any part of, or product derived wholly or partly from, an animal which has been slaughtered in a knacker's yard or of which the carcase has been brought into a knacker's yard.

Punishment for sale, etc., of products of knackers' yards.

13. (1) The States may from time to time by Ordinance make such provision as appears to them to be expedient for securing the observance of sanitary and cleanly conditions and practices in connection with—

Power of the States to make Ordinances as to food hygiene.

- (a) the sale of food for human consumption, or
- (b) the importation, preparation, transport, storage, packaging, wrapping, exposure for sale, service or delivery of food intended for sale or sold for human consumption,

or otherwise for the protection of the public health in connection with the matters aforesaid.

(2) Without prejudice to the generality of the foregoing subsection, an Ordinance made under this section may make provision—

- (a) for imposing requirements as to the construction, lay-out, drainage, equipment, maintenance, cleanliness, ventilation, lighting, water-supply and use, of premises in, at or from which food is sold for human consumption, or offered, exposed, stored or prepared for sale, for human consumption, including any parts of such premises in which apparatus and utensils are cleansed, or in which refuse is disposed of or stored;
- (b) for imposing requirements as to the provision, maintenance and cleanliness of sanitary and washing facilities in connection with such premises, the disposal of refuse and the maintenance and cleanliness of apparatus, equipment, furnishings and utensils used in such premises, and in particular for imposing requirements that every sanitary convenience situated in such premises shall be supplied with water through a suitable flushing appliance;
- (c) for prohibiting or regulating the use of any specified materials, or of materials of any specified class, in the manufacture of apparatus or utensils designed for use in the preparation of food for human consumption, and the sale or importation for sale of apparatus or utensils designed for such use and containing any specified materials, or materials of any specified class;
- (d) for prohibiting spitting on premises where food is sold for human consumption, or offered, exposed, stored or prepared for sale for human consumption, including any

parts of such premises where apparatus and utensils are cleansed;

- (e) for imposing requirements as to the clothing worn by persons in such premises;
- (f) for securing the inspection of animals intended for slaughter, and of carcasses of animals, for the purpose of ascertaining whether meat intended for sale for human consumption is fit for such consumption;
- (g) for requiring the staining or sterilization in accordance with the Ordinance of meat which is unfit for human consumption, or which is derived from animals slaughtered in knackers' yards or from carcasses brought into knackers' yards, or which, though not unfit for human consumption, is not intended therefor;
- (h) for regulating generally the treatment and disposal of any food unfit for human consumption;
- (i) for prohibiting or regulating the sale for human consumption, or the offer, exposure, or distribution for sale for human consumption, of shellfish taken from beds or other layings for the time being designated by or under the Ordinance.

(3) In the last foregoing subsection "animals" includes poultry.

(4) An Ordinance under this section may make different provisions in relation to different classes of business; and, without prejudice to the foregoing provisions of this section or section forty-seven of this Law, any such Ordinance imposing requirements in respect of premises may—

- (a) impose on the occupier of the premises and,

in the case of requirements of a structural character, on any owner of the premises who either lets them for use for a purpose to which the Ordinance applies or permits them to be so used after notice from the Board, responsibility for compliance with those requirements;

- (b) provide, subject to such limitations and safeguards as may be specified, for conferring, in relation to particular premises, exemptions from the operation of specified provisions of the Ordinance made for the purposes of paragraph (a) or paragraph (b) of subsection (2) of this section while there is in force a certificate of the Board to the effect that compliance with those provisions cannot reasonably be required with respect to the premises or any activities carried on therein.

(5) If any person who has incurred, or is about to incur expenditure in securing that the requirements of the Ordinance made under this section, being requirements of a structural character, are complied with in respect of any premises owned or occupied by him claims that the whole or any part of the expenditure ought to be borne by any other person having an interest in the premises, he may apply to the Royal Court, and the Royal Court may make such order concerning the expenditure or its apportionment as appears to the Royal Court, having regard to all the circumstances of the case, including the terms of any contract between the parties, to be just and equitable; and any order made under this subsection may direct that any such contract as aforesaid shall cease to have effect in so far as it is inconsistent with the terms of the order.

(6) An Ordinance made under this section may impose in respect of accommodation in home-going ships, and in respect of vehicles, stalls and places other than premises, any such requirements as may be imposed thereunder in respect of premises.

(7) Subject as hereinafter provided, references in this section to food shall be construed as references to food other than milk:

Provided that any Ordinance under this section may apply to any food containing milk.

14. (1) Where a person is proceeded against for an offence against an Ordinance made under section thirteen of this Law in respect of any premises used as catering premises or of any business carried on at such premises, the following provisions of this section shall have effect.

Power of
Royal Court
to disqualify
caterer.

(2) If the person is convicted of the offence and the Royal Court thinks it expedient to do so having regard to the gravity of the offence or, in the case of an offence committed in respect of premises, to the unsatisfactory nature of the premises, or having regard to any offences against an Ordinance made under the said section thirteen of which the person has previously been convicted, the Royal Court may, on the application of the Board, make an order disqualifying that person from using those premises as catering premises for such period not exceeding two years as may be specified in the order:

Provided that an order under this section shall not be made against any person unless the Board has not less than fourteen days before the date of the hearing, given that person written notice of its intention to apply for an order to be made against him.

(3) A person subject to an order under this section shall be guilty of an offence if, while the order is in force—

- (a) he uses the premises to which the order relates as catering premises, or
- (b) he participates in the management of any business in the course of which the premises are so used by another person.

(4) A person so subject may, at any time after the expiration of six months from the date on which the order came into force and from time to time thereafter, apply to the Royal Court to revoke the order, and on any such application the Royal Court may, if it thinks proper having regard to all the circumstances of the case, including in particular the person's conduct subsequent to the conviction and any improvement in the state of the premises to which the order relates, grant the application.

(5) If an application under the last foregoing subsection is refused by the Royal Court, a further application thereunder shall not be entertained if made within three months after the date of the refusal.

(6) Where an application is made to the Royal Court under this section, the Royal Court shall have power to order the applicant to pay the whole or any part of the costs of the application.

Registration
of premises;
manufacture
and sale of
ice-cream
and of
sausages,
etc.

15. (1) Subject to the provisions of this section, no premises shall be used for—

- (a) the sale, or the manufacture for the purpose of sale, of ice-cream, or the storage of ice-cream intended for sale, or
- (b) the preparation or manufacture of sausages or potted, pressed, pickled or preserved food intended for sale,

unless they are registered under this section for that purpose by the Board.

(2) For the purposes of the foregoing subsection—

- (a) “sale” means sale for human consumption, and
- (b) the preparation of meat or fish by any process of cooking shall be deemed to be the preservation thereof.

(3) A person who uses any premises in contravention of the provisions of subsection (1) of this section shall be guilty of an offence.

(4) Nothing in this Part of this Law shall apply so as to require the registration under this section of premises used wholly or mainly—

- (a) as catering premises, or
- (b) as a school or club;

and paragraph (a) of subsection (1) of this section shall not apply in relation to the sale or storage of ice-cream at any premises used as a theatre, cinema, music hall or concert hall.

(4) Save in so far as may be expressly provided by an Ordinance made under this Part of this Law, this section shall not apply in relation to premises which are used for the preparation, sale or storage of articles prepared from, or consisting of, materials other than those of animal or vegetable origin, but are not otherwise used for any purpose in connection with the preparation, storage or sale of food.

16. (1) The States may from time to time by Ordinance provide that section fifteen of this Law shall have effect as if the purposes described in subsection (1) thereof included, except in such cases as may be prescribed by the Ordinance, the sale or preparation for sale of food for human consumption, or the storage of food intended for such sale, in

Extension of
section
fifteen to
other
businesses.

the course of any business of a class specified in the Ordinance.

(2) An Ordinance made under this section—

- (a) shall make provision for enabling premises used for purposes for which registration is required by virtue of the Ordinance to be registered under the said section fifteen before the date when subsection (1) of that section becomes applicable to them by virtue of the Ordinance, and
- (b) in relation to premises used for those purposes before that date, shall make provision for excluding or restricting the power of the Board to refuse applications for registration.

(3) The purposes for which registration is required by virtue of an Ordinance made under this section may include any purpose for which, apart from the Ordinance, registration would be required under the said section fifteen; and any such Ordinance may repeal, in whole or in part, paragraph (a) or (b) of subsection (1) of that section, and may make provision for continuing in force the registration of any premises for purposes to which the Ordinance applies.

Applica-
tions for
registration.

17. (1) An application for the registration of any premises under section fifteen of this Law shall specify—

- (a) the purpose or purposes for which registration is applied for, and
- (b) all rooms or accommodation in the premises proposed to be used for those purposes;

and on such an application being made as aforesaid by the occupier, or a person proposing to occupy, the premises to which the application relates, the

Board shall, subject to the provisions of this and the next following section, register the premises for those purposes.

(2) It is hereby declared that the Board may register the same premises for more than one purpose for which registration under the said section fifteen is required and may register different parts of the same premises for different purposes.

(3) The premises registered under the said section fifteen in pursuance of such an application as aforesaid shall not include any room or accommodation not specified in the application.

(4) Upon any change in the occupation of premises registered under the said section fifteen, the incoming occupier shall, if he intends to use them for the purpose for which they are registered, forthwith give notice of the change to the Board which shall thereupon make any necessary alteration in its register.

(5) If a person required to give a notice under the last foregoing subsection fails to do so, he shall be liable to a fine not exceeding ten pounds.

18. (1) If in the case of any premises in respect of which an application is made for registration under section fifteen of this Law, or which are registered thereunder, it appears to the Board—

Refusal or
cancellation
of regis-
tration.

(a) that the requirements of an Ordinance in force under section thirteen of this Law are not complied with in connection with the premises or the business carried on at the premises, or

(b) that the premises or any part of the premises are otherwise unsuitable, having regard to considerations of hygiene and in particular

to the situation, construction or condition of the premises, or to any activities carried on therein, for use for the purpose or purposes specified in the application, or for which they are used, as the case may be,

the Board may serve on the applicant for registration or, as the case may be, on the occupier of the premises, a notice stating the place and time, not being less than twenty-one days after the date of the service of the notice, at which it proposes to take the matter into consideration and informing him that he may attend before it, with any witnesses whom he desires to call, at the place and time mentioned to show cause why the Board should not, for reasons specified in the notice, refuse the application or, as the case may be, cancel the registration of the premises.

(2) A person entitled under the last foregoing subsection to appear before the Board may appear in person or by an Advocate or any other representative, or may be accompanied by any person whom he may wish to assist him in the proceedings.

(3) If a person on whom a notice is served under subsection (1) of this section fails to show cause to the satisfaction of the Board, the Board may refuse the application or, as the case may be, cancel the registration of the premises, and shall forthwith give notice to him of its decision in the matter, and shall, if so required by him within fourteen days from the date of its decision, give to him, not later than forty-eight hours after receiving the requirement, a statement of the grounds on which the decision was based.

(4) A person aggrieved by the decision of the Board under this section to refuse to register any premises, or to cancel the registration, of any premises, may appeal to the Royal Court.

19. (1) Subject to the provisions of this section, the States may from time to time by Ordinance provide— Licensing of vehicles, etc.

- (a) for the issue by the Board of licences in respect of the use of vehicles, stalls or places other than premises, for the preparation, exposure or offer for sale, or sale, of food for human consumption, and
- (b) for prohibiting the use for any such purpose of any such vehicle, stall or place except in accordance with a licence issued under the Ordinance.

(2) An Ordinance made under this section may be made so as to apply either generally or to such class or classes of business as may be specified in the Ordinance, and may exempt from the requirements of this Law as to registration under section fifteen thereof any premises used for the storage of food intended for sale for human consumption in the course of a business in respect of which a licence is in force under the Ordinance.

(3) An Ordinance made under this section may provide for the refusal or cancellation of a licence under the Ordinance, either wholly or in respect of a part of the business for which the licence is applied for or is held, where the requirements of any Ordinance in force under section thirteen of this Law are not complied with in relation to that business, and such Ordinance shall make provision for affording to persons affected by any such refusal or cancellation an opportunity to make representations to the Board and to appeal from the decision of the Board to the Royal Court.

20. (1) Every dealer in ice-cream who in a street or other place of public resort sells, or offers or Sale of ice-cream from stalls, etc.

exposes for sale, ice-cream from a stall or vehicle, or from a container used without a stall or vehicle, shall have his name and address legibly and conspicuously displayed on the stall, vehicle or container, as the case may be, and, if he fails to comply with the requirements of this section, shall be liable to a fine not exceeding ten pounds.

(2) The States may from time to time by Ordinance provide that this section shall apply in relation to all kinds of food, or to any kinds of food specified in the Ordinance, as it applies in relation to ice-cream, and this section shall apply accordingly: Provided that nothing in this subsection shall have effect in relation to milk.

Prevention of
spread of
disease by
ice-cream.

21. (1) Every manufacturer of, or dealer in, ice-cream shall, upon the occurrence of any disease to which this subsection applies among the persons living or working in or about the premises on which the ice-cream is manufactured, stored or sold, forthwith give notice thereof to the Medical Officer of Health and, if he fails to do so, shall be liable to a fine not exceeding fifty pounds.

(2) Subsection (1) of this section applies to the diseases specified in the First Schedule to this Law and any other disease which the Board may by order declare to be a disease to which that subsection applies.

(3) If the Medical Officer of Health has reasonable ground for suspecting that any ice-cream, or substance intended for use in the manufacture of ice-cream, is likely to cause any disease communicable to human beings, he may give notice to the person in charge thereof that, until further notice, the ice-cream or substance in question, or any specified portion thereof, is not to be used for human con-

sumption and either is not to be removed, or is not to be removed except to some place specified in the notice.

(4) A person who uses or removes any ice-cream or substance in contravention of the requirements of a notice given under the last foregoing subsection shall be liable to a fine not exceeding one hundred pounds.

(5) If on further investigation the Medical Officer of Health is satisfied that the ice-cream or substance in question may safely be used for human consumption, he shall forthwith withdraw his notice; but, if he is not so satisfied, he shall cause the ice-cream to be destroyed, and he shall also cause to be destroyed any other ice-cream or such substance as aforesaid then on the premises as to which he is not so satisfied.

(6) Where a notice given under subsection (3) of this section is withdrawn by the Medical Officer of Health, or the Medical Officer of Health acting under subsection (5) of this section causes any ice-cream or other substance to be destroyed, the Board shall compensate the owner of the ice-cream or other substance in question for any depreciation in its value resulting from the action taken by the Medical Officer of Health or, as the case may be, for the loss of its value:

Provided that—

- (a) no compensation shall be payable under this section in respect of the destruction of any ice-cream or substance if the Board proves that it was likely to cause any disease communicable to human beings;
- (b) no compensation shall in any case be payable under this section—

- (i) in respect of any ice-cream or substance manufactured on, or brought within, any premises while a notice given under subsection (3) of this section with respect to anything on those premises was operative, or
- (ii) in any case where the owner of the ice-cream or substance in question has failed to give a notice which he was required by subsection (1) of this section to give.

(7) For the purposes of the last foregoing subsection, the value of any ice-cream or other substance shall not be assessed at a sum exceeding the cost incurred by the owner in making or purchasing it.

Sale of
horseflesh.

22. (1) No person shall sell, or offer or expose for sale, or have in his possession for the purpose of sale, any horseflesh for human consumption elsewhere than in premises, or in a stall, vehicle or place, over or on which a notice in legible letters stating that horseflesh is sold there is displayed in a conspicuous position so as to be visible whenever horseflesh is being sold, or offered or exposed for sale.

(2) No person shall supply horseflesh for human consumption to a purchaser who has not asked to be supplied with horseflesh, or who has asked to be supplied with some compound article of food not ordinarily made of horseflesh.

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence.

(4) If any horseflesh is exposed for sale elsewhere than in premises, or in a stall, vehicle or place, distinguished as aforesaid without anything to show

that it was not intended for sale for human consumption, the onus of proving that it was not so intended shall rest upon the person exposing it for sale.

(5) In this section the expression "horseflesh" means the flesh of horses, asses and mules, and includes any such flesh whether cooked or uncooked and whether alone, or accompanied by, or mixed with, any other substance, and the expression "flesh" includes any part of any such animal.

23. (1) If an authorised medical practitioner becomes aware, or suspects, that a patient whom he is attending is suffering from food poisoning, he shall, unless he believes, and has reasonable grounds for believing, that some other such practitioner has complied with this subsection with respect to the patient, forthwith send to the Medical Officer of Health a certificate stating—

Cases of food poisoning to be notified.

- (a) the name, age and sex of the patient and the address of the premises where the patient is;
- (b) particulars of the food poisoning from which the patient is, or is suspected to be, suffering and the date, or approximate date, of its onset; and
- (c) if the premises aforesaid are a hospital, the day on which the patient was admitted thereto, the address of the premises from whence he came there and whether or not, in the opinion of the person giving the certificate, the poisoning from which the patient is, or is suspected to be, suffering was contracted in the hospital.

(2) In this section, "hospital" means any institution for the reception and treatment of persons

suffering from illness, any maternity home and any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and "illness" includes mental disorder and any injury or disability requiring medical, surgical or dental treatment or nursing.

(3) The Board shall pay to an authorised medical practitioner for each certificate duly sent by him under the foregoing subsection a fee in such sum as the Board may from time to time determine if the case occurs in his private practice.

Inspection
and control
of infected
food.

24. (1) If the Medical Officer of Health has reasonable ground for suspecting that any food of which he, or any authorised officer, has procured a sample under the provisions of this Law is likely to cause food poisoning, he may give notice to the person in charge of the food that, until his investigations are completed, the food, or any specified portion thereof, is not to be used for human consumption and either is not to be removed, or is not to be removed except to some place specified in the notice.

(2) A person who uses or removes any food in contravention of the requirements of a notice given under the foregoing subsection shall be liable to a fine not exceeding twenty pounds.

(3) If, as a result of his investigations, the Medical Officer of Health is satisfied that the food in question, or any portion thereof, is likely to cause food poisoning, he may deal with it as food falling within subsection (1) of section nine of this Law and subsection (2), subsection (3) and subsection (5) of that section shall apply accordingly; and for the purposes of this section references in that section to an authorised officer shall be construed as references to the Medical Officer of Health; but, if he is satisfied that it may safely be used for human consumption, he shall forthwith withdraw his notice.

(4) If a notice given under subsection (1) of this section is withdrawn by the Medical Officer of Health, or if the Magistrate's Court refuses to condemn any food brought before it under this section, the Board shall compensate the owner of the food to which the notice related for any depreciation in its value resulting from the action taken by the Medical Officer of Health.

25. (1) Subject to the provisions of this section, no person shall sell, or offer or expose for sale, for human consumption—

Misuse of designation "cream" in relation to cream substitutes.

(a) any substance which resembles cream in appearance, but is not cream, or

(b) any article of food containing such a substance,

under a description or designation which includes the word "cream", whether or not as part of a composite word.

(2) The foregoing subsection shall not apply to the sale, or offer or exposure for sale, of any substance being reconstituted or imitation cream as defined by this section, or of any article containing such a substance, under a description or designation which identifies the substance as such, or to the sale, or offer or exposure for sale, of any substance under a description or designation which indicates that the substance is not for use as, or as a substitute for, cream.

(3) In this section "reconstituted cream" means a substance which, not being cream, resembles cream in appearance and contains no ingredient not derived from milk, except—

(a) water, or

(b) ingredients, not added fraudulently to increase bulk weight or measure, or conceal

inferior quality, which may lawfully be contained in a substance sold for human consumption as cream;

and "imitation cream" means a substance which, not being cream or reconstituted cream, resembles cream in appearance and is produced by emulsifying edible oils or fats with water, either by themselves or with other substances which are neither prohibited by an Ordinance made for the purposes of this section under section four of this Law, nor added in quantities so prohibited.

(4) For the purposes of this section, the description or designation under which a substance or article is sold, or offered or exposed for sale, shall be deemed to include the word "cream" if it includes any other word, composite or otherwise, which is calculated to lead a purchaser to suppose that the substance is or, as the case may be, the article contains either cream or a substance for use as cream.

(5) A person who contravenes subsection (1) of this section shall be guilty of an offence.

PART II

SAMPLING, ENFORCEMENT AND LEGAL PROCEEDINGS

Powers of
sampling.

26. (1) An authorised officer may exercise such powers of procuring samples for analysis, or for bacteriological or other examination, as are conferred upon him by this section.

(2) An authorised officer may purchase samples of any food or drug, or of any substance capable of being used in the preparation of food; but nothing in this subsection shall be construed as authorising

any purchase or sale of drugs in contravention of the Dangerous Drugs (Guernsey) Law, 1966(a) or of any Ordinance made thereunder.

(3) Subject to the provisions of this section, an authorised officer may take a sample of any food, or of any substance capable of being used in the preparation of food, which appears to him to be intended for sale, or to have been sold, for human consumption, or is found by him on or in any premises, stall, vehicle, ship, aircraft or place which he is authorised to enter for the purposes of the execution of this Law.

(4) Without prejudice to the last foregoing subsection, an authorised officer may, at the request of a person to whom any food or substance is, or is to be, delivered in pursuance of a contract of sale, take a sample of that food or substance in the course of delivery, or at the place of delivery.

(5) Except as provided by the last foregoing subsection, or with the consent of the purchaser, an authorised officer shall not take a sample of any food or substance which appears to him to have been sold by retail, either while the food or substance is in the course of delivery to the purchaser, or at any time after such delivery; and nothing in this section shall authorise an authorised officer to take a sample of any food or substance in a ship, not being a home-going ship, or in any aircraft, other than food imported as part of the cargo of that ship or aircraft.

(6) Subsection (2) of section two of the Drugs (Prevention of Misuse) (Guernsey) Law, 1967(b), shall have effect as if the reference in paragraph (h) thereof to a public analyst included a reference to an authorised officer.

(a) Ordres en Conseil Vol. XX, p. 176.

(b) Ordres en Conseil Vol. XXI, p. 185.

Right to
have samples
analysed.

27. (1) If an authorised officer who has procured a sample of any food, drug or substance considers that it should be analysed, he shall submit it to be analysed by the States Analyst.

(2) A person, other than an authorised officer, who has purchased any food or drug, or any substance capable of being used in the preparation of food, may submit a sample of it to be analysed by the States Analyst.

(3) The States Analyst shall analyse as soon as practicable any sample submitted to him in pursuance of this section, but may, in the case of a sample submitted by a person not being an authorised officer, demand in advance the payment of such fee as may be fixed by the Board.

(4) Where the States Analyst has analysed a sample, he shall give to the person by whom it was originally submitted a certificate specifying the result of the analysis, and any such certificate shall be in a form prescribed by the States by Ordinance.

(5) Any certificate of the results of an analysis given by the States Analyst in pursuance of this section shall be signed by the States Analyst, but the analysis may be made by any person acting under the direction of the States Analyst.

Provisions
as to
samples
taken for
analysis.

28. (1) An authorised officer who purchases or takes a sample of any food, drug or substance for the purpose of analysis by the States Analyst shall deal with the sample in accordance with the provisions of the Second Schedule to this Law.

(2) The Second Schedule to this Law shall apply to the purchase of samples by a person other than an authorised officer as they apply in relation to the purchase of samples by an authorised officer; and references therein to an authorised officer shall be construed accordingly.

(3) If it appears to an authorised officer that any food, drug or substance, of which he has procured a sample for the purpose of analysis by the States Analyst, was manufactured or put into its wrapper or container by a person, not being a person to whom one part of the sample is required to be given under the Second Schedule to this Law, having his name and an address in the Island displayed on the wrapper or container, the officer shall, unless he decides not to have an analysis made, within three days of procuring the sample send to that person a notice informing him that the sample has been procured by the officer and where the sample was taken or, as the case may be, from whom it was purchased.

(4) Where a sample taken or purchased by an authorised officer has been analysed by the States Analyst, any person to whom a part of the sample was given under the Second Schedule to this Law shall be entitled, on payment to the Board of such fee as may be fixed by the Board, to be supplied with a copy of the certificate given by the States Analyst under subsection (4) of section twenty-seven of this Law.

29. Where any person procures a sample consisting of a food, drug or substance contained in unopened containers, and the division into parts of the food, drug or substance contained in those containers—

Provision as to cases in which division of sample into parts is impracticable.

- (a) is not reasonably practicable, or
- (b) might affect the composition, or impede the proper analysis, of the contents, the provisions of the Second Schedule to this Law, with respect to the division of samples into parts shall be deemed to be complied with if the person procuring the sample divides

the containers into the requisite number of lots and deals with each lot as if it were a part in the manner provided by those provisions; and references in this Law to a part of a sample shall be construed accordingly.

Examina-
tion by
Board of
food not
for sale.

30. The Board may, at the request of a person who has in his possession any food which has not been sold and is not intended for sale, and on payment by that person of such fee as may be fixed by the Board, arrange to have the food examined.

Power to
enter
premises.

31. (1) Subject to the provisions of this section, an authorised officer shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—

(a) for the purpose of ascertaining whether there is or has been on, or in connection with, the premises any contravention of the provisions of this Law or of any Ordinance made thereunder, and

(b) generally for the purpose of the performance by the Board of its functions under this Law or any such Ordinance:

Provided that admission to any premises used only as a private dwelling-house shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

(2) If the Bailiff is satisfied by information on oath—

(a) that there is reasonable ground for entry into any premises for any such purpose as aforesaid, and

(b) is also satisfied either—

- (i) that admission to the premises has been refused, or a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier, or
- (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier is temporarily absent,

the Bailiff may grant a warrant authorising the Board by any authorised officer to enter the premises, if need be by force.

(3) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectively secured against trespassers as he found them.

(4) Every warrant granted under this section shall continue in force for a period of one month.

(5) If any person who, in compliance with the provisions of this section, or of a warrant issued thereunder, is admitted into a factory or workplace discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

Power to
enter ships,
aircraft,
vehicles, etc.

32. (1) An authorised officer shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours—

- (a) to enter any ship or aircraft for the purpose of ascertaining whether there is in the ship or aircraft any food imported as part of the cargo in contravention of the provisions of any Ordinance made under Part I of this Law, being provisions which the Board is required or empowered to enforce, and
- (b) to enter any vehicle, stall or place other than premises, or any home-going ship, for any purpose for which he is empowered under the last foregoing section to enter premises.

(2) Subsection (2) to subsection (4) of the last foregoing section shall apply in relation to any ship, aircraft, vehicle, stall or place which may be entered under the powers conferred by the foregoing subsection as they apply in relation to premises, and as if any reference to the occupier of premises were a reference to the master, commander or other person in charge of the ship, aircraft, vehicle, stall or place.

Restriction
on move-
ment of
imported
food.

33. (1) Without prejudice to any power of examining food which may be conferred by any Ordinance made under Part I of this Law, an authorised officer may, as respects any food which has been imported with a view to sale for human consumption, give directions to the person in possession of the food prohibiting or restricting its removal or delivery—

- (a) during any period not exceeding forty-eight hours, and
- (b) if within that period the officer so requires, until that person has notified the officer

of the name of the person to whom, and the address to or at which, he proposes to send or deliver the food.

(2) A person who fails to comply with any direction given under the foregoing subsection, or who in a notification thereunder knowingly makes any misstatement, shall be guilty of an offence; and subsection (3) of the next following section shall not apply.

34. (1) A person who wilfully obstructs any person acting in the execution of this Law, or of any Ordinance, order or warrant made or issued thereunder, shall be liable to a fine not exceeding twenty pounds:

Persons
obstructing
execution
of Law.

Provided that, if the court is satisfied that he committed the offence with intent to prevent the discovery of some other offence under this Law, or if he has within the twelve months last preceding been convicted of an offence under this subsection, he shall be liable to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding one month.

(2) If—

(a) an authorised officer applies to purchase any food, drug or substance exposed for sale, or on sale by retail, and tenders the price for the quantity which he requires as a sample, and the person exposing the food, drug or substance for sale, or having it for sale, refuses to sell to the officer such quantity thereof as aforesaid, or

(b) the seller or consignor of any article or substance of which an officer has power to take a sample, or a person having the charge for the time being of such an article or sub-

stance, refuses to allow the officer to take the quantity which he requires as a sample, then, in any of the cases mentioned in the foregoing paragraphs, the person concerned shall be treated for the purposes of subsection (1) of this section as having wilfully obstructed the officer:

Provided that, where any food, drug or substance is exposed for sale in an unopened container duly labelled, no person shall be required to sell it except in the unopened container in which it is contained.

(3) A person who fails to give to any person acting in the execution of this Law, or of any Ordinance, order or warrant made or issued thereunder, any assistance which that person may reasonably request him to give, or any information which that person is expressly authorised by this Law to call for or may reasonably require, or who, when required to give any such information, knowingly makes any misstatement in respect thereof, shall be liable to a fine not exceeding twenty pounds:

Provided that nothing in this subsection shall be construed as requiring a person to answer any question or give any information, if to do so might incriminate him.

(4) The last foregoing subsection shall be without prejudice to so much of section forty-seven of this Law as enables an Ordinance made under this Law, or an order made under section five thereof, to contain provisions for imposing penalties on persons offending against the Ordinance or order.

Punishment
of offences.

35. A person guilty of an offence under this Law shall, unless a special punishment for that offence is provided by this Law, be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both, and,

in the case of a continuing offence, to a further fine not exceeding five pounds for each day during which the offence continues after conviction.

36. Where an offence under this Law, or any Ordinance or order made under this Law, which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer, of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by corporations.

37. (1) Where a sample has been procured under this Law, no prosecution in respect of the article or substance sampled shall be begun after the expiration of two months, beginning with the date on which the sample was procured, unless Her Majesty's Procureur, on being satisfied that having regard to the circumstances of the particular case it was not practicable to commence the prosecution at an earlier date, gives a certificate to that effect.

Prosecutions.

(2) In any proceedings under this Law in respect of an article or substance sampled, the summons shall not be made returnable less than fourteen days from the day on which it is served, and a copy of any certificate of analysis obtained on behalf of Her Majesty's Procureur, and of any certificate given by Her Majesty's Procureur under the foregoing subsection, shall be served with the summons.

(3) In any proceedings under this Law, where a sample has been procured in such circumstances that its division into parts is required by this Law, the part of the sample retained by the person who procured it shall be produced at the hearing.

Evidence of
analysis.

38. (1) In any proceedings under this Law, the production by one of the parties of a document purporting to be a certificate of the States Analyst in the form prescribed under subsection (4) of section twenty-seven of this Law, or of a document supplied to him by the other party as being a copy of such a certificate, shall be sufficient evidence of the facts stated therein, unless, in the first-mentioned case, the other party requires that the States Analyst shall be called as a witness.

(2) In any such proceedings, if a defendant intends to produce a certificate of the States Analyst or under the foregoing subsection to require that the States Analyst shall be called as a witness, notice of his intention, together, in the first-mentioned case, with a copy of the certificate, shall be given to the other party at least three clear days before the day on which the summons is returnable, and, if this requirement is not complied with, the court may, if it thinks fit, adjourn the hearing on such terms as it thinks proper.

(3) An Ordinance made under section four or section seven of this Law may prescribe a method of analysis for the purpose of ascertaining the presence in, or absence from, any food of any substance specified in the Ordinance, or the quantity of any such substance which is present in any food; and in any proceedings under this Law—

(a) for a contravention of any Ordinance made under either of the said sections, or

(b) for an offence under section two or section six of this Law,

in respect of any food alleged to contain, or not to contain, any substance specified as aforesaid or any particular quantity of such a substance, evidence

of an analysis carried out by the prescribed method shall be preferred to evidence of any other analysis or test.

39. For the purposes of this Law and of any Ordinance made thereunder— Presump-
tions.

- (a) any article commonly used for human consumption shall, if sold or offered, exposed or kept for sale, be presumed, until the contrary is proved, to have been sold or, as the case may be, to have been or to be intended for sale, for human consumption;
- (b) any article commonly used for human consumption which is found on premises used for the preparation, storage, or sale of that article and any article commonly used in the manufacture of products for human consumption which is found on premises used for the preparation, storage or sale of those products, shall be presumed, until the contrary is proved, to be intended for sale, or for manufacturing products for sale, for human consumption;
- (c) any substance capable of being used in the composition or preparation of any article commonly used for human consumption which is found on premises on which that article is prepared shall, until the contrary is proved, be presumed to be intended for such use.

40. (1) A person against whom proceedings are brought under this Law shall, on giving to the Chief Officer of Police not less than three clear days' notice of his intention before the date of the hearing, be entitled to have any person to whose act or default he alleges that the contravention of the provisions Contraven-
tion due to
default of
some other
person.

in question was due brought before the court in the proceedings; and if, after the contravention has been proved, the original defendant proves that the contravention was due to the act or default of that other person, that other person may be convicted of the offence, and, if the original defendant further proves that he has used all due diligence to secure that the provisions in question were complied with, he shall be acquitted of the offence.

(2) Where a defendant seeks to avail himself of the provisions of the foregoing subsection—

(a) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence;

(b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears to Her Majesty's Procureur that an offence has been committed in respect of which proceedings might be taken under this Law against some person and Her Majesty's Procureur is reasonably satisfied that the offence was due to an act or default of some other person and that the first-mentioned person could establish a defence under subsection (1) of this section, Her Majesty's Procureur may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person; and in any such proceedings the defendant may be charged with, and, on proof that the contravention was due to his act or default, be convicted of, the offence with which the first-mentioned person might have been charged.

41. (1) Subject to the provisions of this section, in any proceedings for an offence under this Law or any Ordinance made thereunder, being an offence consisting of selling, or offering, exposing or advertising for sale, or having in possession for the purpose of sale, any article or substance, it shall be a defence for the defendant to prove—

Conditions under which warranty may be pleaded as defence.

- (a) that he purchased it as being an article or substance which could lawfully be sold or otherwise dealt with as aforesaid, or, as the case may be, could lawfully be so sold or dealt with under the name or description or for the purpose under or for which he sold or dealt with it, and with a written warranty to that effect, and
- (b) that he had no reason to believe at the time of the commission of the alleged offence that it was otherwise, and
- (c) that it was then in the same state as when he purchased it.

(2) A warranty shall only be a defence in proceedings under this Law if—

- (a) the defendant—
 - (i) has, not later than three clear days before the date of the hearing, sent to the Chief Officer of Police a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it, and
 - (ii) has also sent a like notice of his intention to that person, and
- (b) in the case of a warranty given by a person resident outside the Island the defendant proves that he had taken reasonable steps

to ascertain, and did in fact believe in, the accuracy of the statement contained therein.

(3) Where the defendant is a servant of the person who purchased the article or substance under a warranty, he shall be entitled to rely on the provisions of this section in the same way as his employer would have been entitled to do if he had been the defendant.

(4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

(5) For the purposes of this and the next following section, a name or description entered in an invoice shall be deemed to be a written warranty that the article or substance to which the entry refers can be sold or otherwise dealt with under that name or description by any person without contravening any of the provisions of this Law or of any Ordinance made thereunder.

Offences in
relation to
warranties
and certifi-
cates of
analysis.

42. (1) A defendant who in any proceedings under this Law wilfully applies to any article or substance a warranty or certificate of analysis given in relation to any other article or substance shall be guilty of an offence.

(2) A person who, in respect of any article or substance sold by him, being an article or substance in respect of which a warranty might be pleaded under the last foregoing section, gives to the purchaser a false warranty in writing, shall be guilty of an offence, unless he proves that when he gave the warranty he had reason to believe that the statements or description contained therein were accurate.

43. (1) Where under this Law, or any Ordinance made under this Law, provision is made for an appeal to the Royal Court against a refusal or other decision of the Board, the time within which such an appeal may be brought shall be twenty-one days from the date on which notice of the Board's refusal or other decision was served upon the person desiring to appeal. **Appeals.**

(2) In any case where such an appeal lies, the document notifying to the person concerned the decision of the Board in the matter shall state the right of appeal to the Royal Court and the time within which such an appeal may be brought.

(3) Such an appeal shall be instituted by way of a summons served on the President of the Board and such summons shall set out the material facts upon which the appellant relies.

(4) On any such appeal the decision of the Royal Court shall be final.

44. Where on an appeal under this Law or any Ordinance made under this Law the Royal Court varies or reverses any decision of the Board, it shall be the duty of the Board to give effect to the order of the Royal Court and, in particular, to grant any necessary licence and to make any necessary entry in any register. **Effect of Royal Court's decision on an appeal.**

45. (1) Where a decision of the Board under this Law or under any Ordinance made under this Law refusing, cancelling, suspending or revoking, a registration or a licence makes it unlawful for a person to carry on any business which he, or his immediate predecessor in the business, was lawfully carrying on at the date when the decision of the Board was given, or to use any premises for any purpose for **Right to carry on business pending appeal.**

which he, or his immediate predecessor in the business, was lawfully using them at the said date, he may carry on that business and use those premises for that purpose until the time for appealing has expired and, if an appeal is lodged, until the appeal is finally disposed of or abandoned or has failed for want of prosecution.

(2) The foregoing provisions with respect to the right to continue to carry on a business and to use premises shall apply also where the decision of a court in proceedings in respect of an offence under this Law or under any such Ordinance as aforesaid makes it unlawful for a person to carry on a business which he was lawfully carrying on immediately before the decision was given, or to use any premises for any purpose for which he was then lawfully using them.

Disputes
as to
compensa-
tion under
Part I.

46. Where by any of the provisions in Part I of this Law provision is made for the payment of compensation to any person, any dispute arising as to the fact of damage or loss, or as to the amount of compensation, shall be determined by the Royal Court and the decision of the Royal Court shall be final.

PART III

MISCELLANEOUS AND GENERAL

Ordinances
and orders.

47. (1) Any Ordinance made under Part I of this Law, without prejudice to the generality of the provisions under which it is made, may—

- (a) modify for the purposes of the Ordinance any provisions of this Law relating to the taking, analysis and examination of samples,

- (b) apply, as respects matters to be dealt with by the Ordinance, any provision in any enactment, including this Law, dealing with the like matters, with the necessary modifications and adaptations,
- (c) provide for an appeal to the Royal Court against any refusal or other decision of the Board, or any other authority, under the Ordinance,
- (d) authorise the making of charges for the purposes of the Ordinance, or for any services performed thereunder, and provide for the recovery of charges so made,
- (e) contain provisions for imposing on persons offending against the Ordinance penalties not exceeding the maximum penalties specified in section thirty-five of this Law,
- (f) make such ancillary and incidental provisions as appear to the States to be necessary or desirable;

and any Ordinance made under Part I of this Law may, without prejudice as aforesaid, require persons carrying on any activity to which the Ordinance applies to keep and produce records and furnish returns.

(2) Subsection (1) of this section shall apply to an order made under section five of this Law as it applies to any Ordinance made under Part I of this Law.

(3) Any Ordinance or order made under this Law may be revoked or varied by a subsequent Ordinance or order, as the case may be, made under the appropriate section.

(4) Any order made by the Board under section five of this Law shall be laid before a meeting of the States as soon as may be after the making thereof

and, if at that meeting or at the next subsequent meeting, the States resolve that the order be annulled, the order shall cease to have effect but without prejudice to anything done thereunder or the making by the Board of any new order.

Protection
for
authorised
officers
acting in
good faith.

48. An authorised officer shall not be personally liable in respect of any act done by him in the execution or purported execution of this Law and within the scope of his employment if he did that act in the honest belief that his duty under this Law required or entitled him to do it:

Provided that nothing in this subsection shall be construed as relieving the States from any liability in respect of acts of authorised officers.

Temporary
continuance
of licence
or registra-
tion on
death.

49. Where a person who holds a licence, or is registered in respect of any premises, under this Law or any Ordinance made thereunder dies, the licence or registration shall, unless previously revoked or cancelled, enure for the benefit of his legal personal representative, or of his widow or any other member of his family, until the expiration of two months from his death, or until the expiration of such longer period as the Board may allow.

Power to
require
occupier to
permit works
to be
executed
by owner.

50. (1) Subject to the provisions of the next following subsection, the Magistrate's Court may, upon application being made to it by the owner of any premises in that behalf and if it is satisfied that the occupier of those premises is preventing the owner from executing any work which he is by or under this Law required to execute, order the occupier to permit the execution of the work.

(2) The Court shall not make an order under subsection (1) of this section upon an application made by the owner of any premises unless such owner has served on the occupier of those premises a notice stating his intention to make the application

and such notice has been so served not less than three days before the application is made.

(3) Any occupier who fails to comply with an order of the Magistrate's Court made under the provisions of subsection (1) of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding twenty-five pounds, and to a further fine not exceeding five pounds for each day the offence continues after conviction therefor.

51. (1) The Board may, for the purpose of enabling it to perform any of its functions under this Law, require the occupier of any premises, and any person who either directly or indirectly receives rent in respect of any premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein.

Power of the Board to require information as to ownership.

(2) A person who, when required by the Board in pursuance of this section to give to the Board any information, fails to give that information or knowingly makes any misstatement in respect thereof, shall be liable to a fine not exceeding twenty pounds.

52. (1) All notices, orders, consents, demands and other documents authorised or required to be given, made or issued by or under this Law, and all applications so required to be made shall be in writing.

Notices to be given in writing; forms of notices, etc.

(2) The States may from time to time by Ordinance prescribe the form of any notice, certificate or other document to be used for the purposes of this Law and, if forms are so prescribed, those forms or forms to the like effect may be used in all cases to which those forms are applicable.

53. Without prejudice to any special provision contained in any Ordinance made under this Law,

Service of notices, etc.

a notice, order, consent, demand or other document which is required or authorised by or under this Law to be given to or served on any person may be given to or served on—

- (a) any person by delivering it to him, by leaving it, or sending it by registered post or by recorded delivery service addressed to him, at his usual or last known place of abode;
- (b) any body corporate by leaving it at, or by sending it by registered post or by recorded delivery service to, its registered office if situated in the Island or, if its registered office is not so situated, its principal or last known principal place of business in the Island.

Interpreta-
tion.

54. (1) In this Law, unless the context otherwise requires—

- “advertisement” includes any notice, circular, label, wrapper, invoice or other document, and any public announcement made orally or by any means of producing or transmitting light or sound, and “advertise” shall be construed accordingly;
- “analysis” includes micro-biological assay but no other form of biological assay, and “analyse” shall be construed accordingly;
- “animal” does not include bird or fish;
- “article” does not include a live animal or bird;
- “authorised medical practitioner” means a person authorised to practise in the Island as a medical practitioner according to the law for the time being in force;
- “authorised officer” means a person authorised by the Board in writing, either generally or specially, to act in matters of any specified kind or in any specified matter;

“the Bailiff” means the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff or the Juge Délégué;

“the Board” means the States Board of Health;

“business” includes the undertaking of a canteen, club, school, hospital or institution, whether carried on for profit or not, and any undertaking or activity carried on by the States;

“catering premises” means premises where, in the course of a business, food is prepared and supplied for immediate consumption on the premises;

“cheese” means the substance usually known as cheese, containing no fat other than fat derived from milk;

“Chief Officer of Police” means the Chief Officer of the salaried police force of the Island of Guernsey;

“container” includes any basket, pail, tray, package or receptacle of any kind, whether open or closed;

“cream” means that part of milk rich in fat which has been separated by skimming or otherwise;

“drug” includes medicine for internal or external use;

“food” includes drink, chewing gum and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or of such products, but does not include—

(a) water, live animals or birds,

(b) fodder or feeding stuffs for animals, birds or fish, or

(c) articles or substances used only as drugs;

“functions” includes powers and duties;

“Her Majesty’s Procureur” includes Her Majesty’s Comptroller;

“home-going ship” means a ship for the time being plying between any of the Islands of the Bailiwick of Guernsey;

“human consumption” includes use in the preparation of food for human consumption;

“ice-cream” includes any similar commodity;

“importer”, in relation to an imported article, includes any person who, whether as owner, consignor, consignee, agent or broker, is in possession of the article or in any way entitled to the custody or control of it;

“the Island” means the Island of Guernsey and includes the Island of Herm and the Island of Jethou;

“knacker’s yard” means any premises used in connection with the business of slaughtering, flaying or cutting up animals the flesh of which is not intended for human consumption;

“Medical Officer of Health” means the States Medical Officer of Health and includes the Deputy States Medical Officer of Health;

“milk” includes cream and separated milk, but does not include dried milk or condensed milk;

“premises” means a building or part of a building, and any forecourt, yard or place of storage used in connection with a building or part of a building;

“preparation”, in relation to food, includes manufacture and any form of treatment, and “preparation for sale” includes packaging; and “prepare” and “prepare for sale” shall be construed accordingly;

“Royal Court” means the Royal Court sitting as a Full Court;

“sanitary convenience” means a closet, privy or urinal;

“separated”, in relation to milk, includes skimmed;

“ship” includes any boat or craft and any hover vehicle, that is to say, a vehicle designed to be supported on a cushion of air; and “master” shall be construed accordingly;

“substance” includes a liquid;

“transit” includes all stages of transit from the place of manufacture or other source of origin, to the consumer;

“vessel” includes a receptacle of any kind, whether open or closed.

(2) For the purposes of this Law, except section fifteen thereof,—

(a) the supply of food, otherwise than by sale, at, in or from any place where food is supplied in the course of a business shall be deemed to be a sale of that food, and references to purchasing and purchasers shall be construed accordingly; and

(b) where in connection with any business in the course of which food is supplied the place where food is served to the customer is different from the place where the food is consumed, both those places shall be deemed to be places in which food is sold.

(3) References in this Law to any enactment shall, except so far as the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment.

Repeals.

55. The Laws described in the first column of the Third Schedule to this Law are hereby repealed to the extent specified in the second column of that Schedule.

Citation and
commence-
ment.

56. (1) This Law may be cited as the Food and Drugs (Guernsey) Law, 1970.

(2) This Law shall come into force on such day as shall be appointed in that behalf by Ordinance of the States and different days may be so appointed as respects the coming into force of different provisions of this Law.

SCHEDULES

FIRST SCHEDULE

Section twenty-one

Diseases to which subsection (1) of section twenty-one applies

Enteric fever (including typhoid and paratyphoid fevers).

Dysentery.

Diphtheria.

Scarlet fever.

Acute inflammation of the throat.

Gastro-enteritis.

Undulant fever.

SECOND SCHEDULE

Sections twenty-eight and twenty-nine

Provisions as to manner in which samples taken or purchased for analysis are to be dealt with

1. The authorised officer shall forthwith divide the sample into three parts, each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall—

- (a) with respect to one part of the sample comply with paragraphs 2 to 7 of this Schedule, and
- (b) deal with the remaining parts in accordance with paragraph 8 of this Schedule.

2. (1) If the sample was purchased by the authorised officer, he shall give the part of the sample to the vendor.

(2) In relation to a sample purchased from an automatic machine, this paragraph shall apply as if for the reference to the vendor there were substituted a reference—

- (a) if the name and address, being an address in the Island, of a person stated to be the proprietor of the machine appears on the machine, to that person;
- (b) in any other case, to the occupier of the premises on which the machine stands or to which it is affixed.

3. If the sample is of goods consigned from outside the Island and was taken by the authorised

officer before delivery to the consignee, the officer shall give the part of the sample to the consignee.

4. If—

- (a) none of the foregoing paragraphs of this Schedule apply, and
- (b) the sample was taken by the authorised officer at the request of a purchaser, or taken with the consent of a purchaser by retail,

the officer shall give the part of the sample to the vendor.

5. If—

- (a) none of the foregoing paragraphs of this Schedule apply, and
- (b) the sample was taken in transit,

the authorised officer shall give the part of the sample to the consignor.

6. If none of the foregoing paragraphs of the Schedule apply, the authorised officer shall give the part of the sample to the person appearing to be the owner of the food, drug or substance of which the sample was taken.

7. In every case to which paragraphs 2 to 6 of this Schedule apply the authorised officer shall inform the person to whom the part of the sample is given that the sample was purchased or taken for the purpose of analysis by the States Analyst.

8. Of the remaining parts of the sample, the authorised officer shall, unless he decides not to have an analysis made, submit one for analysis in accordance with section twenty-seven of this Law, and retain the other for future comparison.

9. Any part of a sample which under this Schedule is to be given to any person may be given either by delivering it to him or to his agent or by sending it to him by post in a registered packet; but where after reasonable enquiry the authorised officer is unable to ascertain the name and address of the person to whom the part of the sample is to be given, he may, in lieu of giving the part to that person, retain it.

THIRD SCHEDULE

Section fifty-five

Laws repealed

Law	Extent of repeal
The Law entitled "Loi relative à l'Application des Peines, tant au Criminel qu'en Police Correctionnelle" registered on the fifth day of July, eighteen hundred and fifty-six(c).	Paragraph 3° of Article 16.
The Law entitled "Loi contenant des Articles Supplémentaires à la Loi de 1856 relative à l'Application des Peines" registered on the thirteenth day of April, eighteen hundred and seventy-eight (d).	Article 2 and Article 3.
The Law entitled "Loi ayant rapport aux Préservatifs et autres substances dans les Aliments" registered on the twenty-third day of February, nineteen hundred and twenty-nine (e).	The whole Law.

R. H. VIDELO,

Her Majesty's Greffier.

(c) Ordres en Conseil Vol. I, p. 249.

(d) Ordres en Conseil Vol. II, p. 187.

(e) Ordres en Conseil Vol. VIII, p. 253.