

PROJET DE LOI

ENTITLED

The Food and Drugs (Guernsey) Law, 1970 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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Ordres en Conseil Vol. XXII, p. 412; as amended by the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 (Ordres en Conseil Vol. XXIV, p. 273); the Food and Drugs (Amendment) (Guernsey) Law, 1975 (Ordres en Conseil Vol. XXV, p. 378); the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 329); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Food and Drugs (Amendment) (Guernsey) Law, 1995 (No. X of 1995, Ordres en Conseil Vol. XXXVI, p. 235); the Food and Drugs (Amendment) (Guernsey) Law, 1996 (No. X of 1996, Ordres en Conseil Vol. XXXVI, p. 648); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014 (No. VII of 2014); the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014 (No. VIII of 2014); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). This Law is applied (in part, with modifications), by and for the purposes of, first, the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014 (*supra*) and, second the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014 (*supra*). This Law is applied to the Island of Alderney by, first (with exceptions, adaptations and modifications), the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971 (Recueil d'Ordonnances Tome XVII, p. 75); second (in part), the Alderney (Application of Legislation) (Food and Drugs) (No. 2) Ordinance, 1976 (Recueil d'Ordonnances Tome XX, p. 368); third (in part, with modifications), the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 2014 (No. IX of 2014); and, fourth (in part, with modifications) by and for the purposes of, first, the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014 (Alderney Ordinance No. I of 2014) and, second, the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014 (Alderney Ordinance No. II of 2014). This Law is applied to the Island of Sark (in part, with modifications), by and for the purposes of, first, the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014 (Sark Ordinance No. IV of 2014) and, second the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014 (Sark Ordinance No. V of 2014). See also the Food and Drugs (Emergency Prohibition Notice) (Maximum Compensation) Ordinance, 1996 (No. II of 1996); the Food and Drugs (Improvement and Prohibition - Prescribed Forms) Order, 1996 (G.S.I. No. 9 of 1996). This Law is prospectively repealed by the European Communities (Food and Feed Controls) (Guernsey) Ordinance, 2016 (No. XXI of 2016).

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The Food and Drugs (Guernsey) Law, 1970

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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.

NOTES

The Law, other than section 55 thereof in so far as that section repeals the Loi ayant rapport aux Préservatifs et autres substances dans les Aliments, 1929, is applied to the Island of Alderney by the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, with effect from 1st July, 1971, subject to the exceptions, adaptations and modifications set out in the Schedule to the 1971 Ordinance.

Section 55 of the Law, in so far as that section repeals the Loi ayant rapport aux Préservatifs et autres substances dans les Aliments, 1929, shall have effect in the Island of Alderney as it has effect in the Island of Guernsey, by virtue of the provisions of the Alderney (Application of Legislation) (Food and Drugs) (No. 2) Ordinance, 1976, section 1, with effect from 26th May, 1976.

Section 7A, section 47B and the definition of "the States Analyst" in section 54(1) of this Law have effect in the Island of Alderney as they have effect in the Island of Guernsey by virtue of the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 2014, respectively section 1, section 2 and section 3, with effect from 1st April, 2014, subject, in respect of section 7A and section 47B, to the modifications in section 1(2) and section 2(2) of the 2014 Ordinance.

In accordance with the provisions of the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3(1), with effect from 1st April, 2014 and subject to the provisions of section 3(2), the provisions of this Law specified in Schedule 2 to that Ordinance, as applied in the Island of Alderney, shall have effect for the purposes of the 2014 Ordinance subject to the further modifications set out in the aforesaid Schedule 2.

In accordance with the provisions of the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3(1), with effect from 1st April, 2014 and subject to the provisions of section 3(2), the provisions of this Law specified in Schedule 2 to that Ordinance shall have effect for the purposes of the 2014 Ordinance subject to the modifications set out in the aforesaid Schedule 2.

In accordance with the provisions of the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3(1), with effect from 1st April, 2014 and subject to the provisions of section 3(2), the provisions of this Law specified in Schedule 2 to that Ordinance shall have effect in the Island of Sark for the purposes of the 2014 Ordinance as they have effect in the Islands of Guernsey, Herm and Jethou, subject to the modifications set out in the aforesaid Schedule 2.

In accordance with the provisions of the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10(1), with effect from 1st April, 2014 and subject to the provisions of section 10(2), the provisions of this Law specified in Schedule 2 to that Ordinance, as applied in the Island of Alderney, shall have effect for the purposes of the 2014 Ordinance subject to the further modifications set out in the aforesaid Schedule 2.

In accordance with the provisions of the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10(1), with effect from 1st April, 2014 and subject to the provisions of section 10(2), the provisions of this Law specified in Schedule 2 to that Ordinance shall have effect for the purposes of the 2014 Ordinance subject to the modifications set out in the aforesaid Schedule 2.

In accordance with the provisions of the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10(1), with effect from 1st April, 2014 and subject to the provisions of section 10(2), the provisions of this Law specified in Schedule 2 to that Ordinance shall have effect in the Island of Sark for the purposes of the 2014 Ordinance as they have effect in the Islands of Guernsey, Herm and Jethou, subject to the modifications set out in the aforesaid Schedule 2.

General protection for purchasers of food and drugs.

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.

(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 under 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.

Power of [[the Committee] to make orders] as to composition of food, etc.

4. (1) [[The Committee] may, so far as appears to it to be necessary or expedient in the interests of the public health, or otherwise for the protection of the public, or to be called for by any Community obligation, from time to time by order make provision for any of the following purposes, that is to say –]

- (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 [order] or in relation to which an offence against the [order] 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 Committee] 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 [order] made under this section may apply to cream, and to any food containing milk; but except as aforesaid such [order] shall not apply to milk.

(4) Any [order] 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 [order], that, where any food is certified by the States Analyst as being food to which the [order] 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 [order] shall be taken as prejudicing the generality of the powers conferred by the said section nine.

NOTES

In section 4,

the words in square brackets in the marginal note thereto and in the first pair of square brackets in subsection (1) were substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, respectively section 1(1)(b)(i) and section 1(1)(b)(ii), with effect from 1st April, 1976;

the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;¹

the word "order" in square brackets, wherever occurring, was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976.

In its application to the Island of Alderney, section 4 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 2, with effect from 1st April, 1976.

The following Orders have been made under section 4:

*Food and Drugs (Preservatives in Food) Order, 1976;
Food and Drugs (Colouring Matter in Food) Order, 1976;
Food and Drugs (Antioxidant in Food) Order, 1976;
Food and Drugs (Miscellaneous Additives in Food) Order, 1976;
Food and Drugs (Emulsifiers and Stabilisers in Food) Order, 1976;
Food and Drugs (European Communities) (Wine) Order, 1976;
Food and Drugs (European Communities) (Wine) (Amendment)
Order, 1977;
Food and Drugs (Slaughter and Deboning of Beef) Order, 1996.*

Power of [Committee] to obtain particulars of certain food ingredients.

5. (1) [The Committee] 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 Committee], 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 the directions of [the Committee], so far as may be necessary for the purposes of 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 [level 2 on the uniform scale] or both, or on conviction on indictment to imprisonment for a term not exceeding two years, or to a fine not exceeding [level 5 on the uniform scale], or both.

NOTES

In section 5,

the words "Committee" and "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

paragraph (a) of subsection (3) was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(c), with effect from 1st April, 1976;

the words and figures in the second and third pairs of square brackets in subsection (3) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.²

Section 5 is modified in accordance with the provisions of the European

Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 5 is modified in accordance with the provisions of the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 5 is modified in accordance with the provisions of the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

False labelling or advertisement of food or drugs.

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 Committee] to make orders] as to labelling and description of food.

7. (1) Without prejudice to the provisions of the last foregoing section, [[the Committee] may from time to time by order] 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 [order] 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 [order] under that section.

[(3) An Order made under this section may apply to milk, cream and any food containing milk.]

NOTES

In section 7,

the words in square brackets in the marginal note thereto and in subsection (1) were substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, respectively section 1(1)(d)(i) and section 1(1)(d)(ii), with effect from 1st April, 1976;

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the words in square brackets in subsection (2) were substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976;

subsection (3) was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(a), with effect from 1st February, 1996.³

The following Orders have been made under section 7:

*Food and Drugs (Preservatives in Food) Order, 1976
Food and Drugs (Colouring Matter in Food) Order, 1976;
Food and Drugs (Antioxidant in Food) Order, 1976;
Food and Drugs (Miscellaneous Additives in Food) Order, 1976;
Food and Drugs (Emulsifiers and Stabilisers in Food) Order, 1976;
Food and Drugs (European Communities) (Wine) Order, 1976;
Food and Drugs (European Communities) (Wine) (Amendment) Order, 1977;
Food and Drugs (Labelling of Food) Order, 1995.*

[Nutrition and health claims complying with Council Regulation.]

7A. (1) Nothing in section 6 or in any Order made under section 7 shall operate to prohibit or, as the case may be, restrict a claim made in accordance with the conditions of the Council Regulation.

(2) In this section –

"claim" has the meaning given to it by the Council Regulation, and

"Council Regulation" means Regulation (EC) No. 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods, as given effect and modified by the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014.]

NOTES

Section 7A was inserted by the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 5, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 7A is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 2014, section 1, with effect from 1st April, 2014, subject to the modification in section 1(2) of the 2014 Ordinance.

Punishment for sale, etc., of food unfit for human consumption.

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.

Examination and seizure of suspected food.

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.

(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 Committee] 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.

NOTES

In section 9, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In its application to the Island of Alderney, section 9 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 2, with effect from 1st April, 1976.

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.

Power to examine food in course of transit.

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.

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

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 carcass has been brought into a knacker's yard.

Power of [[the Committee] to make orders] as to food hygiene.

13. (1) [[The Committee] may from time to time by order make such provision as appears to it] to be expedient for securing the observance of sanitary and cleanly conditions and practices in connection with –

- (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 [order] made under this section may make provision –

- (a) for imposing requirements as to the construction, layout, 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 [order] 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 [order].

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

(4) An [order] 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 [order] 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 [order] applies or permits them

to be so used after notice from [the Committee], 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 [order] 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 Committee] 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 [an order] 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 [order] 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) ...

NOTES

In section 13,

the words in square brackets in, first, the marginal note thereto, second, subsection (1), third, paragraph (c) of subsection (2) and, fourth, subsection (5) were substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, respectively section 1(1)(e)(i), section 1(1)(e)(ii), section 1(1)(e)(iii) and section 1(1)(e)(iv), with effect from 1st April, 1976;

the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the word "order" in square brackets, wherever occurring, was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976;

subsection (7) was repealed by the Food and Drugs (Amendment) (Guernsey) Law, 1996, section 1, with effect from 17th December, 1996.⁴

In its application to the Island of Alderney, section 13 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 3, with effect from 1st April, 1976.

The following Orders have been made under section 13:

*Food and Drugs (Food Hygiene) Order, 1976;
Food and Drugs (Food Hygiene) (Amendment) Order, 1995;
Food and Drugs (Food Hygiene) (Amendment) Order, 2007.*

[Improvement notices.

14. (1) If an authorised officer has reasonable grounds for believing that the proprietor of a food business is failing to comply with an Order of [the Committee] made under section 13 he may, by a notice in such form as may be prescribed by [the Committee] and served on that proprietor (hereinafter referred to as an **"improvement notice"**) –

- (a) state the officer's grounds for believing that the proprietor is failing to comply with the Order,
- (b) specify the matters which constitute the proprietor's failure so to comply,
- (c) specify the measures which, in the officer's opinion, the proprietor must take in order to secure compliance, and

- (d) require the proprietor to take those measures, or measures which are at least equivalent to them, within such period (not being less than 14 days or, where the measures consist only of the cleaning of premises or equipment, not being less than 7 days) as may be specified in the notice.

(2) A person who fails to comply with an improvement notice is guilty of an offence.

(3) A person aggrieved by a decision of an authorised officer to serve an improvement notice may appeal to the Royal Court.

(4) On an appeal under subsection (3), the Royal Court may cancel or affirm the notice and, if it affirms it, may do so in its original form or with such modifications as the Court may in the circumstances think fit.

(5) Where an appeal against an improvement notice is brought, the period specified in the notice shall be suspended until the appeal is disposed of, withdrawn or struck out for want of prosecution.]

NOTES

Section 14 was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(b), with effect from 1st February, 1996.⁵

In section 14, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In its application to the Island of Alderney, section 14 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 3, with effect from 1st April, 1976.

In accordance with the provisions of the Food and Drugs (Improvement and Prohibition - Prescribed Forms) Order, 1996, article 1, First Schedule, paragraph 1, with effect from 3rd April, 1996 the prescribed form for the purposes of subsection (1) of this section is Form 1, as set out in the Second Schedule to the 1996 Order.

[Prohibition orders.]

14A. (1) If –

- (a) the proprietor of a food business is convicted of an offence under an Order of [the Committee] made under section 13 of this Law, and
- (b) the court by which he is so convicted is satisfied that the health risk condition is fulfilled with respect to that business,

the court shall by order impose the appropriate prohibition.

(2) The health risk condition referred to in subsection (1)(b) is fulfilled with respect to any food business if any of the following involves a risk of injury to health –

- (a) the use for the purposes of the business of any process or treatment,
- (b) the construction of any premises used for the purposes of the business, or the use for those purposes of any equipment, and
- (c) the state or condition of any premises or equipment used for the purposes of the business.

(3) The appropriate prohibition referred to in subsection (1) is –

- (a) in a case falling within subsection (2)(a), a prohibition on the use of the process or treatment for the purposes of the business,

- (b) in a case falling within subsection (2)(b), a prohibition on the use of the premises or equipment for the purposes of the business or any other food business of the same class or description,
- (c) in a case falling within subsection (2)(c), a prohibition on the use of the premises or equipment for the purposes of any food business.

(4) Where the court by which a person is convicted of an offence under an Order of [the Committee] made under section 13 thinks it proper to do so in all the circumstances of the case, the court may, by order, prohibit the proprietor from participating in the management of any food business or any food business of a class or description specified in the order.

(5) As soon as practicable after the making of an order under subsection (1) or (4) (hereinafter referred to as a "**prohibition order**"), [the Committee] shall –

- (a) serve a copy of the prohibition order upon the proprietor of the business, and
- (b) in the case of an order under subsection (1), affix a copy of the order in a conspicuous position on such premises used for the purposes of the business as it considers appropriate,

and a person who knowingly contravenes such an order is guilty of an offence.

(6) A prohibition order shall cease to have effect –

- (a) in the case of an order under subsection (1), on the issue by [the Committee] of a certificate to the effect that it is satisfied that the proprietor has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the

business,

- (b) in the case of an order under subsection (4), on the giving by the court of a direction to that effect.

(7) [The Committee] shall issue a certificate under subsection (6)(a) within three days of its being satisfied as mentioned in that paragraph; and on an application by the proprietor for such a certificate, [the Committee] shall –

- (a) determine, as soon as is reasonably practicable and in any event within 14 days, whether or not it is so satisfied, and
- (b) if it determines that it is not so satisfied, give notice to the proprietor of the reasons for that determination.

(8) The court shall give a direction under subsection (6)(b) if, on an application by the proprietor, the court thinks it proper to do so having regard to all the circumstances of the case including, in particular, the conduct of the proprietor since the making of the order; but no such application shall be entertained if it is made –

- (a) within six months after the making of the prohibition order, or
- (b) within three months after the making by the proprietor of a previous application for such a direction.

(9) Where the Magistrate's Court makes an order under section 14B(2) with respect to any food business, subsection (1) shall apply as if the proprietor of the business had been convicted by the court of an offence under an Order of [the Committee] made under section 13.

(10) Subsection (4) shall apply in relation to a manager of a food business as it applies in relation to the proprietor of such a business; and any reference in subsection (5) or (8) to the proprietor of the business shall be construed

accordingly.

(11) In subsection (10) "**manager**", in relation to a food business, means any person who is entrusted by the proprietor with the day to day running of the business or any part of the business.

(12) A person aggrieved by a decision of [the Committee] to refuse a certificate mentioned in subsection (6)(a) may appeal to the Royal Court.]

NOTES

Section 14A was inserted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(b), with effect from 1st February, 1996.

In section 14A, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In accordance with the provisions of the Food and Drugs (Improvement and Prohibition - Prescribed Forms) Order, 1996, article 1, First Schedule, paragraph 4 and paragraph 5, with effect from 3rd April, 1996 the prescribed certificate for the purposes of subsection (6) and the prescribed form of notice for the purposes of subsection (7) of this section are, respectively, Form 4 and Form 5, as set out in the Second Schedule to the 1996 Order.

[Emergency prohibition notices and orders.]

14B. (1) If an authorised officer is satisfied that the health risk condition is fulfilled with respect to any food business, he may, by a notice served on the proprietor of the business (hereinafter referred to as an "**emergency prohibition notice**") impose the appropriate prohibition.

(2) If the Magistrate's Court is satisfied, on the application of such an officer, that the health risk condition is fulfilled with respect to any food business, the Court shall, by an order (hereinafter referred to as an "**emergency prohibition order**"), impose the appropriate prohibition.

(3) Such an officer shall not apply for an emergency prohibition order unless, at least one day before the date of the application, he has served notice on the proprietor of the business of his intention to apply for the order.

(4) Subsections (2) and (3) of section 14A shall apply for the purposes of this section as they apply for the purposes of that section but as if the reference in subsection (2) thereof to risk of injury to health were a reference to imminent risk of such injury.

(5) As soon as practicable after the service of an emergency prohibition notice, [the Committee] shall affix a copy of the notice in a conspicuous position on such premises used for the purposes of the business as it considers appropriate; and a person who contravenes such a notice is guilty of an offence.

(6) As soon as practicable after the making of an emergency prohibition order, [the Committee] shall –

- (a) serve a copy of the order on the proprietor of the business, and
- (b) affix a copy of the order in a conspicuous position on such premises used for the purposes of that business as it considers appropriate,

and a person who knowingly contravenes such an order is guilty of an offence.

(7) An emergency prohibition notice shall cease to have effect –

- (a) if no application for an emergency prohibition order is made within the period of three days beginning with the service of the notice, at the end of that period,
- (b) if such an application is so made, on the determination or abandonment of the application.

(8) An emergency prohibition notice or emergency prohibition order shall cease to have effect on the issue by [the Committee] of a certificate to the effect that it is satisfied that the proprietor has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the

business.

(9) [The Committee] shall issue a certificate under subsection (8) within three days of its being satisfied as mentioned in that subsection; and on an application by the proprietor for such a certificate, [the Committee] shall –

- (a) determine, as soon as is reasonably practicable and in any event within 14 days, whether or not it is so satisfied, and
- (b) if it determines that it is not so satisfied, give notice to the proprietor of the reasons for that determination.

(10) Where an emergency prohibition notice is served on the proprietor of a business, [the Committee] shall compensate him in respect of any loss suffered by reason of his complying with the notice unless –

- (a) an application for an emergency prohibition order is made within the period of three days beginning with the service of the notice, and
- (b) the Magistrate's Court declares itself satisfied, on the hearing of the application, that the health risk condition was fulfilled with respect to the business at the time when the notice was served,

provided that the compensation payable to the proprietor of a business by virtue of this subsection shall in no case exceed such sum as may for the time being be prescribed by the States by Ordinance.

(11) A person aggrieved by a decision of [the Committee] to refuse to issue such a certificate as is mentioned in subsection (8) may appeal to the Royal Court.]

NOTES

Section 14B was inserted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(b), with effect from 1st February, 1996.

In section 14B, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

The following Ordinance has been made under section 14B:

Food and Drugs (Emergency Prohibition Notice) (Maximum Compensation) Ordinance, 1996.

In accordance with the provisions of the Food and Drugs (Emergency Prohibition Notice) (Maximum Compensation) Ordinance, 1996, section 1, with effect from 1st February 1996, the prescribed sum for the purposes of this section is £1,000,000.

In accordance with the provisions of the Food and Drugs (Improvement and Prohibition - Prescribed Forms) Order, 1996, article 1, First Schedule, paragraph 2, paragraph 3, paragraph 5 and paragraph 4, with effect from 3rd April, 1996 the prescribed forms of notice and the prescribed certificate for the purposes of, first, subsection (1), second, subsection (3), third, subsection (9) and, fourth, subsection (8) of this section are, respectively, Form 2, Form 3, Form 5 and Form 4 as set out in the Second Schedule to the 1996 Order.

[Emergency control orders.]

14C. (1) If it appears to [the Committee] that the carrying out of commercial operations with respect to food, food sources or contact materials of any class or description involves or may involve an imminent risk of injury to health, it may, by an order (in this Law referred to as an "**emergency control order**"), prohibit the carrying out of such operations with respect to food, food sources or contact materials of that class or description.

(2) A person who knowingly contravenes an emergency control order is guilty of an offence.

(3) [The Committee] may consent, either unconditionally or subject to any condition that it considers appropriate, to the doing in a particular case of anything prohibited by an emergency control order.

(4) It shall be a defence for a person charged with an offence under subsection (2) to show –

- (a) that consent had been given under subsection (3) to the contravention of the emergency control order, and
- (b) that any condition subject to which that consent was given was complied with.

(5) [The Committee] –

- (a) may give such directions as appear to it to be necessary or expedient for the purpose of preventing the carrying out of commercial operations with respect to any food, food source or contact materials which it believes, on reasonable grounds, to be food, food sources or contact materials to which an emergency control order applies, and
- (b) may do anything which appears to it to be necessary or expedient for that purpose.

(6) A person who fails to comply with a direction under this section is guilty of an offence.

(7) If [the Committee] does anything by virtue of this section in consequence of any person failing to comply with an emergency control order or a direction under this section, [the Committee] may recover from that person any expenses reasonably incurred by it under this section.]

NOTES

Section 14C was inserted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(b), with effect from 1st February, 1996.

In section 14C, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

[Penalties under sections 14 to 14C.]

14D. (1) A person guilty of an offence under section 14, 14A, 14B or 14C shall be liable on summary conviction to a fine not exceeding twice level 5 on the uniform scale or to imprisonment for a term not exceeding two years or to both.

(2) If, after a person has been convicted of such an offence, he does not as soon as practicable do everything in his power to prevent the continuing commission of that offence, he shall be guilty of a further offence and shall be liable upon summary conviction to a fine not exceeding level 3 on the uniform scale for each day following his first conviction on which the offence continues.]

NOTE

Section 14D was inserted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(b), with effect from 1st February, 1996.

[Service of notices and orders.]

14E. (1) Without prejudice to any other provision of law relating to the service of documents, a notice or a copy of an order of the court to be served upon or given to the proprietor or manager of a food business under section 14, 14A or 14B may be served or given –

- (a) on an individual, by being delivered to him, or by being left at, or sent by post or transmitted to, his usual or last known place of abode or the premises at which the food business in question is being carried on,
- (b) on a body corporate, by being left at, or sent by post or transmitted to, its registered office in the Island, its principal or last known principal place of business in the Island or the premises described in paragraph (a);
- (c) on an unincorporated body, by being given to or served on any partner, member, manager or officer thereof in accordance with paragraph (a), or by being

left at, or sent by post or transmitted to, the body's principal or last known principal place of business in the Island or the premises described in paragraph (a);

and in this section the expression "**by post**" means by registered post or recorded delivery service and the expression "**transmitted**" means transmitted by telex, facsimile transmission or any similar means producing a document containing the text of the communication.

(2) If service of a document cannot, after reasonable enquiry, be effected in accordance with subsection (1), the document may be served or given by being delivered to some responsible person on the premises at which the food business in question is being carried on or, if there is no such person, by being affixed to a conspicuous part of those premises.

(3) A document served or given under this section is sufficient if addressed to the proprietor or (as the case may be) the manager of the food business in question by that description.]

NOTE

Section 14E was inserted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(b), with effect from 1st February, 1996.

[Registration of food premises.]

15. (1) Subject to subsection (3), no premises shall be used for the purposes of a food business unless they are registered for that purpose by [the Committee].

(2) A person using any premises in contravention of subsection (1) is guilty of an offence.

(3) [The Committee] may, by Order, exempt from the provisions of subsection (1) any business or class or description of business as may be specified in such Order.

(4) [The Committee] may, by Order, make such provision regulating the procedure relating to applications and registration, or refusal to register, under this section as it considers necessary or expedient.]

NOTES

Section 15 was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(c), with effect from 1st March, 1996.⁶

In section 15, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

The following Order has been made under section 15:

Food and Drugs (Registration of Food Premises) Order, 1995.

Extension of section fifteen to other businesses.

16. ...

NOTE

Section 16 was repealed by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(c), with effect from 1st March, 1996.⁷

Applications for registration.

17. (1) An application for the registration of any premises under section fifteen of this Law shall [be made not less than 28 days before the premises commence to be used for the purpose of a food business and 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 Committee] 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 Committee] 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 Committee] 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 [level 1 on the uniform scale].

NOTES

In section 17,

the words in square brackets in subsection (1) were inserted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(d), with effect from 1st March, 1996;

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

the words and figure in square brackets in subsection (5) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.⁸

Refusal or cancellation of registration.

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 Committee] –

- (a) that the requirements of an [order] 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 Committee] 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 alter 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 Committee] 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 Committee] 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 Committee], [the Committee] 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 Committee] under this section to refuse to register any premises, or to cancel the registration, of any premises, may appeal to the Royal Court.

NOTES

In section 18,

the word in the second pair of square brackets in subsection (1) was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976;

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In its application to the Island of Alderney, subsection (2) of section 18 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 4, with effect from 1st April, 1976.

Licensing of vehicles, etc.

19. (1) Subject to the provisions of this section, [[the Committee] may from time to time by order] provide –

- (a) for the issue by [the Committee] 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 [order].

(2) An [order] 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 [order], 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 [order].

(3) An [order] made under this section may provide for the refusal or cancellation of a licence under the [order], 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 [order] in force under section thirteen of this Law are not complied, with in relation to that business, and such [order] shall make provision for affording to persons affected by any such refusal or cancellation an opportunity to make representations to [the Committee] and to appeal from the decision of [the Committee] to the Royal Court.

NOTES

In section 19,

the words in the first and second pairs of square brackets in subsection (1) were substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, respectively section 1(1)(i)(i) and section 1(1)(i)(ii), with effect from 1st April, 1976;

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the word "order" in square brackets, wherever occurring in subsection (2) and subsection (3), was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976.

Sale of ice-cream from stalls, etc.

20. (1) Every dealer in ice-cream who in a street or other place of public resort sells, or offers or 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 [level 1 on the uniform scale].

(2) [[The Committee] may from time to time by order] provide that this section shall apply in relation to all kinds of food, or to any kinds of food specified in the [order], 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.

NOTES

In section 20,

the words and figure in square brackets in subsection (1) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;⁹

the words in the first and second pairs of square brackets in subsection (2) were substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, respectively section 1(1)(j)(i) and section 1(1)(j)(ii), with effect from 1st April, 1976;

the words within the first pair of square brackets in subsection (2) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

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 [level 2 on the uniform scale].

(2) Subsection (1) of this section applies to the diseases specified in the First Schedule to this Law and any other disease which [the Committee] 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 consumption 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 [level 3 on the uniform scale].

(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 Committee] 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 Committee] 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.

NOTES

In section 21,

the words and figures in square brackets in subsection (1) and subsection (4) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.¹⁰

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

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.

Cases of food poisoning to be notified.

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 –

- (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 Committee] 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 Committee] may from time to time determine if the case occurs in his private practice.

NOTE

In section 23, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

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 [level 1 on the uniform scale].

(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 Committee] 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.

NOTES

In section 24,

the words and figure in square brackets in subsection (2) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.¹¹

the words in square brackets in subsection (4) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In its application to the Island of Alderney, section 24 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 2, with effect from 1st April, 1976.

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

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

- (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 [order] 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.

NOTE

In section 25, the word in square brackets in subsection (3) was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976.

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 [Misuse of Drugs (Bailiwick of Guernsey) Law, 1974] 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) ...

NOTES

In section 26, first, the words in square brackets in subsection (2) were substituted and, second, subsection (6) was repealed by the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, respectively section 33(1) and section 33(2), with effect from 1st June, 1976.

Section 26 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 26 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 26 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

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 Committee].

(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 Committee] by order].

(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.

NOTES

In section 27,

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

the words in square brackets in subsection (4) were substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(k), with effect from 1st April, 1976.

Section 27 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 27 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 27 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

The following Order has been made under section 27:

Food and Drugs (Certificate of Analysis) Order, 1976.

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 Committee] of such fee as may be fixed by [the Committee], to be supplied with a copy of the certificate given by the States Analyst under subsection (4) of section twenty-seven of this Law.

NOTES

In section 28, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Section 28 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 28 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 28 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

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

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 –

- (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.

NOTES

Section 29 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 29 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 29 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

Examination by [Committee] of food not for sale.

30. [The Committee] 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 Committee], arrange to have the food examined.

NOTE

In section 30, the words "Committee" and "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

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 [order], made thereunder, and
- (b) generally for the purpose of the performance by [the Committee] of its functions under this Law or any such [order]:

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 Committee] 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 [level 3 on the uniform scale] or to imprisonment for a term not exceeding three months.

NOTES

In section 31,

the word "order" in square brackets, wherever occurring, was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976;

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the words and figure in square brackets in subsection (5) were

substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.¹²

Section 31 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 31 is modified in accordance with the provisions of –

the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 5, with effect from 1st April, 1976;

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 31 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

Power to enter ships, aircraft, vehicles, etc.

32. ...

NOTE

Section 32 was repealed by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(e), with effect from 1st February, 1996.¹³

Restriction on movement of imported food.

33. (1) Without prejudice to any power of examining food which may be conferred by any [order] 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.

NOTES

In section 33, the word in square brackets in subsection (1) was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976.

Section 33 is modified in accordance with the provisions of the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 33 is modified in accordance with the provisions of the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 33 is modified in accordance with the provisions of the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

Persons obstructing execution of Law.

34. (1) A person who wilfully obstructs any person acting in the execution of this Law, or of any [...] order or warrant made or issued thereunder, shall be liable to a fine not exceeding [level 1 on the uniform scale]:

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 [level 2 on the uniform scale] 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 substance, 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 [...] 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 [level 1 on the uniform scale]:

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 order made under this Law to contain provisions for imposing penalties on persons offending against the order.]

NOTES

In section 34,

the words omitted in the first pair of square brackets in subsection (1) and in the square brackets in subsection (3) were repealed by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(l)(i), with effect from 1st April, 1976;

the words and figures in, first, the second and third pairs of square brackets in subsection (1) and, second, the second pair of square brackets in subsection (3) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;¹⁴

subsection (4) was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(l)(ii), with effect from 1st April, 1976.

Section 34 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 34 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 34 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

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 [level 3 on the uniform scale] 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 [£10] for each day during which the offence continues after conviction.

NOTES

In section 35,

the words and figure in the first pair of square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;¹⁵

the figures and symbol in the second pair of square brackets were substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

Offences by corporations.

36. Where an offence under this Law, or any [...] 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.

NOTES

In section 36, the words omitted in square brackets were repealed by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(m), with effect from 1st April, 1976.

Section 36 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 36 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 36 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

Prosecutions.

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.

(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.

NOTES

Section 37 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 37 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 37 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

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 [order] 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 [order], 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 [order] 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.

NOTES

In section 38, the words in square brackets in subsection (3) were substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976.

Subsection (1) and subsection (2) of section 38 are modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In their application to the Island of Alderney, subsection (1) and subsection

(2) of section 38 are modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In their application to the Island of Sark, subsection (1) and subsection (2) of section 38 are modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

Presumptions.

39. For the purposes of this Law and of any [order] made thereunder –

- (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.

NOTES

In section 39, the word in square brackets was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976.

Section 39 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 39 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 39 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

[Offences due to fault of another person.]

40. Where the commission by any person of an offence under this Law or any Order made thereunder is due to an act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.]

NOTES

Section 40 was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(f), with effect from 1st February, 1996.

Section 40 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 40 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 40 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

[Defence of due diligence.]

41. (1) In any proceedings for an offence under section 1, 2, 6 or 8 (in this section referred to as "**the relevant provisions**"), it shall, subject to subsection (5) below, be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

(2) Without prejudice to the generality of subsection (1), a person charged with an offence under the relevant provisions who neither –

- (a) prepared the food in respect of which the offence is alleged to have been committed, nor

- (b) imported it into the Island,

shall be taken to have established the defence provided by that subsection if he satisfies the requirements of subsection (3) or (4) below.

(3) A person satisfies the requirements of this subsection if he proves –

- (a) that the commission of the offence was due to an act or default of another person who was not under his control, or to reliance on information supplied by such a person,
- (b) that he carried out all such checks of the food in question as were reasonable in all the circumstances, or that it was reasonable in all the circumstances for him to rely on checks carried out by the person who supplied the food to him, and
- (c) that he did not know and had no reason to suspect at the time of the commission of the alleged offence that his act or omission would amount to an offence under the relevant provision.

(4) A person satisfies the requirements of this subsection if he proves –

- (a) that the commission of the offence was due to an act or default of another person who was not under his control, or to reliance on information supplied by such a person,
- (b) that the sale or intended sale of which the alleged offence consisted was not a sale or intended sale under his name or mark, and

- (c) that he did not know, and could not reasonably have been expected to know, at the time of the commission of the alleged offence that his act or omission would amount to an offence under the relevant provision.

(5) If in any case the defence provided by subsection (1) above involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless –

- (a) at least seven clear days before the hearing, and
- (b) where he has previously appeared before a court in connection with the alleged offence, within one month of his first such appearance,

he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.]

NOTES

Section 41 was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(f), with effect from 1st February, 1996.¹⁶

Section 41 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 41 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 41 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

[Defence of publication in the course of business.]

42. In proceedings for an offence under this Law or any Order made thereunder consisting of the advertisement for sale of any food, it shall be a defence for the person charged to prove –

- (a) that he is a person whose business it is to publish or arrange for the publication of advertisements, and
- (b) that he received the advertisement in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under that provision.]

NOTES

Section 42 was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(f), with effect from 1st February, 1996.

Section 42 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 42 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 42 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

Appeals.

43. (1) Where under this Law, or any [order] made under this Law, provision is made for an appeal to the Royal Court against a refusal or other decision of [the Committee], the time within which such an appeal may be brought shall be twenty-one days from the date on which notice of [the Committee]'s refusal or other decision was served upon the person desiring to appeal [except in the case of an appeal under section 14(3) against a decision of an authorised officer to serve an improvement notice in which case the time within which such an appeal shall be brought shall be –

(a) twenty one days from the date on which the improvement notice was served on the person desiring to appeal, or

(b) the period specified in the improvement notice,

whichever ends the earlier].

(2) In any case where such an appeal lies, the document notifying to the person concerned the decision of [the Committee] 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 Committee] 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.

NOTES

In section 43,

the word in the first pair of square brackets in subsection (1) was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976;

the words, first, "the President" and, second, "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 5 and section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;¹⁷

the words in the fourth pair of square brackets in subsection (1) were inserted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(g), with effect from 1st February, 1996.

Effect of Royal Court's decision on an appeal.

44. Where on an appeal under this Law or any [order] made under this Law the Royal Court varies or reverses any decision of [the Committee], it shall be the duty of [the Committee] 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.

NOTES

In section 44,

the word in the first pair of square brackets was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976;

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Right to carry on business pending appeal.

45. (1) Where a decision of [the Committee] under this Law or under any [order] 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 Committee] was given, or to use any premises for any purpose for 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 [order] 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.

NOTES

In section 45,

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the word "order" in square brackets, wherever occurring, was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976.

Disputes as to compensation 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.

NOTE

In its application to the Island of Alderney, section 46 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 3, with effect from 1st April, 1976.

PART III
MISCELLANEOUS AND GENERAL

[Orders.]

47. (1) Any [order] 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 [order] 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 [order], 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 Committee], or any other authority, under the [order],
- (d) authorise the making of charges for the purposes of the [order], 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 [order] 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 [order] made under Part I of this Law may, without prejudice as aforesaid, require persons carrying on any activity to which the [order] applies to keep and produce records and furnish returns.

[(2) Any order made under this Law may be revoked or varied by a subsequent order made under the appropriate section.

(3) Any order made by [the Committee] under 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 Committee] of any new order.]

(4) ...

NOTES

In section 47,

first, the marginal note thereto was substituted and, second, subsection (2) and subsection (3) were substituted and subsection (4) was repealed by the Food and Drugs (Amendment) (Guernsey) Law, 1975, respectively section 1(1)(n)(i) and section 1(1)(n)(ii), with effect from 1st April, 1976;

the word "order" in square brackets, wherever occurring, was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976;

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In its application to the Island of Alderney, section 47 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 1, with effect from 1st April, 1976.

The following Ordinance has been made under section 47:

Food and Drugs (Repeals) Ordinance, 1976.

The following Orders have been made under section 47:

Food and Drugs (Food Hygiene) Order, 1976;
Food and Drugs (Preservatives in Food) Order, 1976;
Food and Drugs (Colouring Matter in Food) Order, 1976;
Food and Drugs (Antioxidant in Food) Order, 1976;
Food and Drugs (Miscellaneous Additives in Food) Order, 1976;
Food and Drugs (Emulsifiers and Stabilisers in Food) Order, 1976;
Food and Drugs (European Communities) (Wine) Order, 1976;
Food and Drugs (European Communities) (Wine) (Amendment)
Order, 1977;
Food and Drugs (Labelling of Food) Order, 1995;
Food and Drugs (Food Hygiene) (Amendment) Order, 1995;
Food and Drugs (Registration of Food Premises) Order, 1995;
Food and Drugs (Food Hygiene) (Amendment) Order, 2007.

[Implementation of Community provisions.]

47A. (1) [The Committee] may, as respects any directly applicable Community provision relating to food for which, in their opinion, it is appropriate to make provision under this Law, by order make such provision as they consider necessary or expedient for the purpose of securing that the Community provision is administered, executed and enforced under this Law, and may apply such of the provisions of this Law as may be specified in the order in relation to the Community provision with such modifications, if any, as may be so specified.

(2) For the purpose of complying with any Community obligation, or for conformity with any provision made for that purpose, [the Committee] may by order make provision as to –

- (a) the manner of sampling any food specified in the order, and the manner in which samples are to be dealt with, and
- (b) the method to be used in analysing, testing or examining samples of any food so specified,

and an order made for that purpose, or for conformity with any provision so made, may modify or exclude any provision of this Law relating to the procuring or analysis of, or dealing with, samples or to evidence of the results of an analysis or test.

(3) The provisions of subsection (1) of section forty-seven of this Law shall apply to an order made under this section as they apply to an order made under Part I of this Law.]

NOTES

Section 47A was inserted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(o), with effect from 1st April, 1976.

In section 47A, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

The following Orders have been made under section 47A:

*Food and Drugs (Preservatives in Food) Order, 1976;
Food and Drugs (European Communities) (Wine) Order, 1976;
Food and Drugs (European Communities) (Wine) (Amendment)
Order, 1977.*

[Exemption for food supplements.]

47B. Nothing in this Law or any subordinate legislation made under it shall be construed to regulate the composition, manufacturing specifications, presentation or labelling of a food supplement to which the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014 applies.]

NOTES

Section 47B was inserted by the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 12(a), with effect from 1st April, 2014.

In its application to the Island of Alderney, section 47B is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 2014, section 2, with effect from 1st April, 2014, subject to the modification in section 2(2) of the 2014 Ordinance.

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.

NOTES

Section 48 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 48 is modified in accordance with the provisions of –

the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 1, with effect from 1st April, 1976;

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 48 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

Temporary continuance of licence or registration on death.

49. Where a person who holds a licence, or is registered in respect of any premises, under this Law or any [order] 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 Committee] may allow.

NOTES

In section 49,

the word in the first pair of square brackets was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976;

the words in the second pair of square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

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 [level 1 on the uniform scale], and to a further fine not exceeding [£10] for each day the offence continues after conviction therefor.

NOTES

In section 50,

the words and figure in the first pair of square brackets in subsection (3) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;¹⁸

the figures and symbol in the second pair of square brackets in subsection (3) were substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

In its application to the Island of Alderney, section 50 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 2, with effect from 1st April, 1976.

Power of [the Committee] to require information as to ownership.

51. (1) [The Committee] 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.

(2) A person who, when required by [the Committee] in pursuance of this section to give to [the Committee] any information, fails to give that information or knowingly makes any misstatement in respect thereof, shall be liable to a fine not exceeding [level 1 on the uniform scale].

NOTES

In section 51,

the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the words and figure in square brackets in subsection (2) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.¹⁹

Section 51 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 51 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 51 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

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

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.

(2) [[The Committee] may from time to time by order] 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.

NOTES

In section 52,

the words in square brackets in subsection (2) were substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(p), with effect from 1st April, 1976;

the words in square brackets within the square brackets in subsection (2) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Section 52 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 52 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 52 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

The following Order has been made under section 52:

Food and Drugs (Improvement and Prohibition - Prescribed Forms) Order, 1996.

Service of notices, etc.

53. Without prejudice to any special provision contained in any [order] made under this Law, 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.

NOTES

In section 53, the word in square brackets was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976.

Section 53 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, section 53 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 53 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

Interpretation.

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 Committee] 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 Committee]" means the States [Committee for Health & Social Care],

"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,

["commercial operation"], in relation to any food or contact material, means any of the following –

- (a) selling, possessing for sale and offering, exposing or advertising for sale,
- (b) consigning, delivering or serving by way of sale,
- (c) preparing for sale or presenting, labelling or wrapping for the purpose of sale,
- (d) storing or transporting for the purpose of sale, and
- (e) importing and exporting,

and, in relation to any food source, means deriving food from it for the purpose of sale or for purposes connected with sale,]

["**the Community**" means the European Economic Community,]

["**contact material**" means any article or substance which is intended to come into contact with food,]

["**Community obligation**" has the meaning assigned to it by section one of the European Communities (Bailiwick of Guernsey) Law, 1973,]

"**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,

["**fish**" includes crustaceans and molluscs,]

"**food**" includes [milk,] 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 supplied by the [States' Trading Supervisory Board] under the provisions of the "Loi ayant rapport à la Fourniture d'Eau par les États de cette Île aux Habitants de la dite Île" registered on the 7th May, 1927, as amended^{ba}, live animals or birds, or live fish which are not used for human consumption while they are alive,]
- (b) fodder or feeding stuffs for animals, birds or fish, or
- (c) articles or substances used only as drugs,

['**food business**' means any business in the course of which commercial operations with respect to food or food sources are carried out,

'food premises' means any premises used for the purposes of a food business,

'food source' means any growing crop or live animal, bird or fish from which food is intended to be derived (whether by harvesting, slaughtering, milking, collecting eggs or otherwise),]

'functions' includes powers and duties,

'Her Majesty's Procureur' includes Her Majesty's Comptroller,

[...]

'human consumption' includes use in the preparation of food for human consumption,

^{ba} Ordres en Conseil, Vol. VIII, p. 112; Vol. XI, p. 236; Vol. XV, p. 272; Vol. XIX, p. 46; Vol. XXIV, p. 3; Vol. XXVI, p. 239; Vol. XXX, pp. 118 and 219; No. XXV of 1989; No. VII of 1991.

"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, separated milk, dried milk and condensed milk,]

[**"occupier"**, in relation to any ship or aircraft or any vehicle, stall or place, means the master, commander or other person in charge of the ship, aircraft, vehicle, stall or place,]

[**"premises"** includes any place, any vehicle, stall or moveable structure and any ship or aircraft,]

"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,

[**"proprietor"**, in relation to a food business, means the person by whom that business is carried on,]

"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,

["the States Analyst" means the States Analyst for the time being appointed by the States of Guernsey [Policy & Resources Committee] and includes, where such person is appointed in writing by the [Policy & Resources Committee] to discharge all or any relevant functions of the States Analyst, a person who is a public analyst or a food examiner for the purposes of the Food Safety Act 1990,]

"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) Except in so far as the context otherwise requires, any reference in this Law and in any order made thereunder to any other enactment or order shall be construed as including a reference to that enactment or order as repealed and re-enacted, amended, extended or applied by or under any other enactment or order including this Law.]

NOTES

In section 54,

the words in, first, the first and, second, the second pairs of square brackets in the definition of the expression "the Committee" in subsection (1) and, third, the words "the Committee" in square brackets wherever else occurring were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 6, section 2, Schedule 1, paragraph 5 and section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;²⁰

the definitions of the expressions, first, "commercial operation", second, "contact material", third, "fish", fourth, "food business", "food premises" and "food source", fifth, "occupier" and, sixth, "proprietor" in subsection (1) were inserted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, respectively section 1(h)(i), section 1(h)(ii), section 1(h)(iii), section 1(h)(v), section 1(h)(viii) and section 1(h)(x), with effect from 1st February, 1996;

the definitions of the expressions "the Community" and "Community obligation" in subsection (1) were inserted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(q)(i), with effect from 1st April, 1976;

in the definition of the expression "food" in subsection (1), first, the word in square brackets was inserted and, second, paragraph (a) thereof was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(h)(iv), with effect from 1st February, 1996;

the words in square brackets within paragraph (a) of the definition of the expression "food" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 12(b), Schedule 2, Part 8, with effect from 1st May, 2016;²¹

the words omitted in the square brackets in subsection (1) were repealed by the Food and Drugs (Amendment) (Guernsey) Law, 1995, section 1(h)(vi), with effect from 1st February, 1996;

the definitions of the expressions, first, "milk" and, second, "premises" in subsection (1) were substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1995, respectively section 1(h)(vii) and section 1(h)(ix), with effect from 1st February, 1996;

the definition of the expression "the States Analyst" in subsection (1) was substituted by the European Communities (Implementation of Food

*Supplements Directive) (Guernsey) Ordinance, 2014, section 12(b), with effect from 1st April, 2014;*²²

the words in square brackets within the definition of the expression "the States Analyst" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016;

subsection (3) was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(r), with effect from 1st April, 1976.

*The functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*²³

*The functions, rights and liabilities of the Public Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the States' Trading Supervisory Board and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 12(b), Schedule 2, Part 8, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*²⁴

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

Section 54 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Alderney, subsection (1) of section 54 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 6(a), with effect from 1st February 1996; and paragraph 6(b)-(g), with effect from 1st April, 1976.

In its application to the Island of Alderney, section 54 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014,

section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

In its application to the Island of Sark, section 54 is modified in accordance with the provisions of –

the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Sark) Ordinance, 2014, section 3, Schedule 2, with effect from 1st April, 2014; and

the European Communities (Implementation of Food Supplements Directive) (Sark) Ordinance, 2014, section 10, Schedule 2, with effect from 1st April, 2014.

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 commencement.

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.

NOTES

The Law, save for section 55 thereof in so far as that section repeals the Loi ayant rapport aux Préservatifs et autres substances dans les Aliments, 1929, was brought into force on 1st July, 1971 by the Food and Drugs (Guernsey) Law, 1970 (Commencement) Ordinance, 1971, section 1.

Section 55 of the Law, insofar as that section repeals the Loi ayant rapport aux Préservatifs et autres substances dans les Aliments, 1929, was brought into force on 26th May, 1976, by the Food and Drugs (Guernsey) Law, 1970 (Commencement) Ordinance, 1976, section 1.

In its application to the Island of Alderney, section 56 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 1, with effect from 1st April, 1976.

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.

NOTE

In the Second Schedule, the word in square brackets was substituted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(s), with effect from 1st April, 1976.

THIRD SCHEDULE
LAWS REPEALED

Section fifty-five

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.

NOTE

The Loi relative à l'Application des Peines, tant au Criminel qu'en Police Correctionnelle, 1856 and the Loi contenant des Articles Supplémentaires à la Loi de 1856 relative à l'Application des Peines, 1878 have both since been repealed by the Summary Offences (Bailiwick of Guernsey) Law, 1982, section 10, Schedule, with effect from 23rd March, 1982.

¹ These words in, first, the marginal note (in part), second, subsection (1) (in part) and, third, subsection (2) were previously substituted by the Food and Drugs

^c Ordres en Conseil Vol. I, p. 249.

^d Ordres en Conseil Vol. II, p. 181.

^e Ordres en Conseil Vol. VIII, p. 253.

(Amendment) (Guernsey) Law, 1975, section 1(b)(i), section 1(b)(ii) and section 1(1)(b)(iii), with effect from 1st April, 1976.

² These words were previously substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

³ Prior to its substitution, subsection (3) was amended by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976.

⁴ Prior to its repeal, subsection (7) was amended by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976.

⁵ Prior to its substitution, section 14 was amended by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(f)(i)-(iv), with effect from 1st April, 1976; and, in its application to the Island of Alderney, was modified in accordance with the provisions of the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 1971, section 1, Schedule, paragraph 3, with effect from 1st July, 1971.

⁶ Prior to its substitution, section 15 was amended by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(g) and section 1(2), with effect from 1st April, 1976.

⁷ Prior to its repeal, section 16 was amended by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(h)(i)-(ii) and section 1(2), with effect from 1st April, 1976.

⁸ These words were previously substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

⁹ These words were previously substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

¹⁰ These words were previously substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

¹¹ These words were previously substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

¹² These words were previously substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

¹³ Prior to its repeal, section 32 was amended by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976.

¹⁴ These words were previously substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

¹⁵ These words were previously substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

¹⁶ Prior to its substitution, section 41 was amended by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(2), Schedule, with effect from 1st April, 1976.

¹⁷ The words "the President" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 4, with effect from 6th May, 2004.

¹⁸ These words were previously substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

¹⁹ These words were previously substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

²⁰ The words "Committee for Health & Social Care" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 4, with effect from 6th May, 2004.

²¹ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 31, with effect from 6th May, 2004.

²² This definition was previously inserted by the Food and Drugs (Amendment) (Guernsey) Law, 1975, section 1(1)(q)(ii), with effect from 1st April, 1976; and amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 12(a), with effect from 6th May, 2004.

²³ The functions, rights and liabilities of the Health and Social Services Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Health and Social Services Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 4, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

²⁴ The functions, rights and liabilities of the Public Services Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Water Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 31, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.