



Jersey

# **COMMUNITY PROVISIONS (FOOD SUPPLEMENTS) (JERSEY) REGULATIONS 2014**

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## COMMUNITY PROVISIONS (FOOD SUPPLEMENTS) (JERSEY) REGULATIONS 2014

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## COMMUNITY PROVISIONS (FOOD SUPPLEMENTS) (JERSEY) REGULATIONS 2014

**THE STATES**, in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996, have made the following Regulations –

Commencement [[see endnotes](#)]

### 1 Interpretation

- (1) In these Regulations, except where the context otherwise requires –
- “1966 Law” means the [Food Safety \(Jersey\) Law 1966](#);
- “authorized officer” has the same meaning as in the 1966 Law;
- “catering establishment” means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the consumer and is ready for consumption without further preparation;
- “dose form” means a form such as capsules, pastilles, tablets, pills and other similar forms, sachets of powder, ampoules of liquids, drop dispensing bottles, and other similar forms of liquids and powders designed to be taken in measured small unit quantities;
- “food supplement” means a foodstuff –
- (a) the purpose of which is to supplement the normal diet;
  - (b) which is a concentrated source of nutrients or other substances with a nutritional or physiological effect, alone or in combination; and
  - (c) which is sold in dose form;
- “entertainment” includes any social gathering, amusement, exhibition, performance, game, sport or trial of skill;
- “Food Supplements Directive” means Directive 2002/46/EC of the European Parliament and of the Council of 10th June 2002 on the approximation of the laws of the Member States relating to food supplements (OJ L 183, 12.7.2002. p.51), as amended up to 5th December 2011<sup>1</sup>;
- “medicinal product” has the same meaning as in Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the

Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p.67) as amended up to 16th November 2012<sup>2</sup>;

“Minister” means the Minister for Health and Social Services;

“preparation” includes manufacture and any form of processing or treatment, and “prepared” shall be construed accordingly;

“ultimate consumer” means any person who purchases otherwise than –

- (a) for the purposes of resale;
  - (b) for the purposes of a catering establishment; or
  - (c) for the purposes of a manufacturing business.
- (2) A food supplement shall be regarded as prepacked for the purposes of these Regulations if –
- (a) it is ready for sale to the ultimate consumer or to a catering establishment; and
  - (b) it is put into packaging before being offered for sale in such a way that the food supplement cannot be altered without opening or changing the package.
- (3) For the purposes of these Regulations a reference to sale includes –
- (a) possession for sale, and offering, exposing or advertising for sale; and
  - (b) supply, otherwise than by sale, in the course of a business.
- (4) These Regulations apply –
- (a) in relation to a food supplement which is offered as a prize or reward or given away in connection with any entertainment to which the public are admitted, whether or not on payment of money, as if the food supplement were or had been exposed for sale by each person concerned in the organization of the entertainment;
  - (b) in relation to any food supplement which, for the purpose of advertisement or in furtherance of any trade or business, is offered as a prize or reward or given away, as if the food supplement were or had been exposed for sale by the person offering it or giving it away; and
  - (c) in relation to any food supplement which is exposed or deposited in any premises for the purposes of being offered or given away as described in sub-paragraph (a) or (b), as if the food supplement were or had been exposed for sale by the occupier of the premises.
- (5) In these Regulations, except where the context otherwise requires, a reference to an Annex by number is a reference to the Annex of that number to the Food Supplements Directive.
- (6) Other expressions used in these Regulations and in the Food Supplements Directive have the same meaning as in that Directive.

## 2 Application

- (1) These Regulations apply to food supplements sold as foodstuffs and presented as such.

- (2) These Regulations apply to the sale of such food supplements within the Community.
- (3) For the purposes of paragraph (2), “Community” includes the Channel Islands and Isle of Man.
- (4) These Regulations do not apply to medicinal products.

### **3 Requirement for prepackaging**

No person shall sell any food supplement to the ultimate consumer unless it is prepacked.

### **4 Restriction on vitamins and minerals that may be used in the manufacture of food supplements**

- (1) No person shall sell a food supplement in the manufacture of which a vitamin or mineral has been used unless that vitamin or mineral –
  - (a) is listed in Annex I; and
  - (b) is in a form which –
    - (i) is listed in Annex II, and
    - (ii) satisfies the relevant purity criteria.
- (2) For the purposes of paragraph (1)(b)(ii) the relevant purity criteria are the generally acceptable purity criteria for the substance in question recommended by international bodies.

### **5 Required particulars of food supplements**

- (1) No person shall sell a food supplement which is ready for delivery to the ultimate consumer or to a catering establishment unless the name under which it is sold is “food supplement”.
- (2) Without prejudice to the requirements of any Order made under Article 9 of the 1966 Law, no person shall sell a food supplement which is ready for delivery to the ultimate consumer or to a catering establishment unless it is marked or labelled with the following particulars –
  - (a) the names of the category of any vitamin or mineral or other substance with a nutritional or physiological effect which characterises the product or an indication of the nature of that vitamin or mineral or other substance;
  - (b) the portion of the food supplement recommended for daily consumption;
  - (c) a warning not to exceed the stated recommended daily dose;
  - (d) a statement to the effect that food supplements should not be used as a substitute for a varied diet;
  - (e) a statement to the effect that the food supplement should be stored out of the reach of young children; and
  - (f) the amount of any vitamin or mineral or other substance with a nutritional or physiological effect which is present in the product.

- (3) The information required by paragraph (2)(f) –
- (a) shall be given in numerical form and, where the vitamin or mineral is listed in Annex I, using the units specified for the vitamin or mineral in that Annex;
  - (b) shall be the amount of the vitamin or mineral contained in the size of portion of the food supplement that is recommended, on the labelling, for daily consumption;
  - (c) shall be an average amount, based on the manufacturer's analysis of the food supplement; and
  - (d) where the vitamin or mineral is listed in Annex I to Council Directive 90/496/EEC of 24 September 1990 on nutrition labelling for foodstuffs (OJ L 276, 6.10.1990, p.40-44), as amended up to 11th December 2008<sup>3</sup>, shall also be expressed as a percentage of the relevant recommended daily allowance specified in that Annex, and may be given in graphical form.
- (4) No person shall sell any food supplement which is ready for delivery to the ultimate consumer or to a catering establishment if the labelling, presentation or advertising of that food supplement includes any mention, express or implied, that a balanced and varied diet cannot provide appropriate quantities of nutrients in general.

## **6 Clarity of marking or labelling of particulars**

No person shall sell any food supplement which is ready for delivery to the ultimate consumer or to a catering establishment unless the particulars with which it is required to be marked or labelled by virtue of Regulation 5(2) –

- (a) are easy to understand, clearly legible and indelible;
- (b) are not hidden, obscured or interrupted by any other written or pictorial matter; and
- (c) when the food supplement is sold to the ultimate consumer, are marked in a conspicuous place in such a way as to be easily visible.

## **7 Placement of marking or labelling of food supplements for consumers or prepacked**

- (1) No person shall sell any food supplement which –
- (a) is ready for delivery to the ultimate consumer; or
  - (b) is ready for delivery to a catering establishment and is prepacked, unless the particulars required by Regulation 5(2) are marked or labelled in accordance with paragraph (2).
- (2) Except as permitted by paragraph (3), the particulars must appear –
- (a) on the packaging;
  - (b) on a label attached to the packaging; or
  - (c) on a label which is clearly visible through the packaging.
- (3) Where the sale is otherwise than to the ultimate consumer, the particulars may, alternatively, appear only on the commercial documents relating to



the food supplement provided that those documents, containing those particulars –

- (a) accompany the food supplement; or
- (b) were sent before or at the same time as delivery of the food supplement.

## **8 Placement of marking or labelling of food supplements for catering establishments and not prepacked**

No person shall sell any food supplement which is ready for delivery to a catering establishment and is not prepacked, unless the particulars with which it is required to be marked or labelled by virtue of Regulation 5(2) appear –

- (a) on a label attached to the food supplement;
- (b) on a ticket or notice which is readily discernable to the intending purchaser at the place where he or she chooses the food supplement; or
- (c) in commercial documents relating to the food supplement, where it can be guaranteed that such documents –
  - (i) accompany the food supplement, or
  - (ii) were sent before or at the same time as delivery of the food supplement.

## **9 Offences**

- (1) A person who contravenes Regulation 3, 4, 5, 6, 7, or 8 is guilty of an offence and liable to a fine of level 3 on the standard scale.<sup>4</sup>
- (2) Where an offence under this Regulation committed by a limited liability partnership or a separate limited partnership or by an incorporated limited partnership or other body corporate is proved to have been committed with the consent or connivance of –
  - (a) in the case of a limited liability partnership, a person who is a partner of the partnership;
  - (b) in the case of a separate limited partnership or an incorporated limited partnership –
    - (i) a general partner, or
    - (ii) a limited partner who is participating in the management of the partnership;
  - (c) in the case of a body corporate other than an incorporated limited partnership, a director, manager, secretary or other similar officer of the body corporate; or
  - (d) any person purporting to act in any capacity described in sub-paragraphs (a) to (c),

the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) If the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to acts and defaults of a member in

connection with his or her functions of management as if the member were a director of the body corporate.

## 10 Application of provisions of the 1966 Law

- (1) An authorized officer shall have the same powers, upon the same terms, for the purposes of enforcement of these Regulations as the officer has, by virtue of the following provisions of the 1966 Law, for the purposes of enforcement of that Law –
  - (a) Article 33(1), (2), (5), (6) and (7);
  - (b) Articles 34, 35, 38 and 41;
  - (c) subject to paragraph (2), Article 41; and
  - (d) subject to paragraph (3), Article 42, with the omission of paragraph (1)(a).
- (2) Article 41 of the 1966 Law is modified in its application for the purposes described in paragraph (1) so as to insert the following paragraphs after paragraph (3) –
  - “(3A) An authorized officer entering premises by virtue of this Article, or of a warrant granted under it, for the purposes of the enforcement of the Community Provisions (Food Supplements) (Jersey) Regulations 2014, may inspect any records (in whatever form they are held) relating to a food business and, where any such records are stored in electronic form –
    - (a) may have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and
    - (b) may require any person having charge of or otherwise concerned with the operation of, the computer, apparatus or material to afford the authorized officer such assistance as he or she may reasonably require.
  - (3B) An authorized officer exercising any power conferred by paragraph (3A) may –
    - (a) seize and detain any records which he or she has reason to believe may be required as evidence in proceedings under the Community Provisions (Food Supplements) (Jersey) Regulations 2014; and
    - (b) where the records are stored in any electronic form, may require the records to be produced in a form in which they may be taken away.”.
- (3) In Article 42(2) of the 1966 Law as it is applied for the purposes described in paragraph (1), the reference to Article 41(2) to (4) of the 1966 Law is a reference to the provisions of that Article as modified by paragraph (2) of this Regulation.
- (4) The following provisions of the 1966 Law apply for the purposes of these Regulations with the modification that any reference in them to that Law or a provision of that Law is to be read as a reference to these Regulations –

- (a) in Article 1, any definition, to the extent that is required for the purposes of the application, by this Regulation, of the 1966 Law or any provision of that Law;
  - (b) Article 3(5);
  - (c) Article 7;
  - (d) Article 44(1), (2) and (3);
  - (e) Article 48(1);
  - (f) Article 49;
  - (g) Article 50;
  - (h) Article 51;
  - (i) Article 52;
  - (j) Article 59;
  - (k) Article 60(1), (2) and (4) to (7).
- (5) Notwithstanding paragraph (4)(a), where a provision of the 1966 Law applied by this Regulation contains an expression for which provision is made in Regulation 1, the expression, in the provision of the 1966 Law as so applied, is to be construed in accordance with Regulation 1.

## **11 Defence in proceedings under 1966 Law**

Nothing in Article 8 of the 1966 Law or in an Order made under Article 9 of the 1966 Law makes it an offence to do any thing in compliance with these Regulations.

## **12 Citation and transitional arrangements**

- (1) These Regulations may be cited as the Community Provisions (Food Supplements) (Jersey) Regulations 2014.
- (2) These Regulations apply to the sale of food supplements whether manufactured, packed, marked or labelled before or after these Regulations come into force.
- (3) Notwithstanding paragraph (2), these Regulations shall not apply to the sale of food supplements to a person in Jersey or the Bailiwick of Guernsey before the expiry of 2 years following 3rd July 2014.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Community Provisions (Food Supplements) (Jersey) Regulations 2014	<a href="#">R&amp;O.94/2014</a>	3 October 2014
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	<a href="#">L.1/2016</a>	20 September 2016 ( <a href="#">R&amp;O.98/2016</a> )

### Table of Renumbered Provisions

Original	Current
12(2)	spent, omitted
12(3)	12(2)
12(4)	12(3)

### Table of Endnote References

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<sup>1</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0046:EN:NOT>

<sup>2</sup> [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0083R\(01\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0083R(01):EN:NOT)

<sup>3</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31990L0496:EN:NOT>

<sup>4</sup> Regulation 9(1) amended by L.1/2016