



Jersey

## FOOD SAFETY (JERSEY) LAW 201-

### Report

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### Explanatory Note

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This Law replaces the Food (Jersey) Law 1966.

*Part 1* comprises *Articles 1 to 5*.

*Articles 1 to 3* contain definitions of expressions used in this Law.

*Article 4* provides for the appointment of authorised officers for the purposes of carrying out their functions under this Law.

*Article 5* enables the Minister for the Environment to publish codes of practice for the purpose of providing practical guidance in respect of any provision made in the “relevant legislation” (defined as this Law, any enactment made under this Law and any Regulations or Orders made under Article 2 of the European Union Legislation (Implementation) (Jersey) Law 2014).

*Part 2* comprises *Articles 6 and 7*.

*Article 6* prohibits the import of food into Jersey unless it complies with the relevant legislation, except that the prohibition does not apply in relation to food for private domestic consumption where the total amount of the food being imported does not exceed 2 kilogrammes in weight.

*Article 7* prohibits the export of food from Jersey for placing on the market of an EEA State unless it complies with the relevant legislation; and prohibits the export or re-export of food from Jersey for placing on the market of a country or territory outside Jersey that is not an EEA State unless the food complies with the relevant legislation. However, if a bilateral agreement concluded between an EEA State or Jersey and a country or territory that is not an EEA State is applicable, food exported from Jersey to that other country or territory must comply instead with the relevant requirements set out in the agreement. Food that does not comply with either of those conditions may be exported or re-exported from Jersey if the competent authority of the country or territory of destination (being a country or territory that is not an EEA State) has expressly agreed to its export or re-export, after having been fully informed of the reasons for which, and

the circumstances in which, the food concerned could not be placed on the market in Jersey or an EEA State.

*Part 3* comprises *Article 8 to 15*.

*Article 8* enables the States to make Regulations to provide for the licensing of food businesses.

*Article 9* prohibits the placing on the market of any food that is unsafe and provides that food is unsafe if it is injurious to health or unfit for human consumption. *Article 9* sets out the circumstances to be taken into account when determining whether food is “unsafe” “injurious to health” or “unfit for human consumption”. *Article 9(7)* provides that food is deemed to be safe if it complies with EU Food Law governing food safety, insofar as the aspects covered by the EU Food Law are concerned; or where it conforms to the relevant legislation. The Minister may nevertheless impose restrictions on such food being placed on the market or require its withdrawal from the market where there are reasons to suspect that the food is unsafe.

*Article 10* prohibits the placing on the market of any equipment, packaging or labelling material that, if used for the purposes for which it was designed or intended to be used would render, or be likely to render, food unsafe and must not place on the market any packaging that does not meet such standards as to quality and type of packaging as may be required under the relevant legislation.

*Article 11* requires a food business operator to ensure at all stages of production, processing and distribution of food within the business under their control that the food satisfies the requirements of the relevant legislation relating to that food business; and have in place systems and procedures for the purpose of verifying that such requirements are met. By *Article 11(2)* a food business operator must provide an authorized officer with evidence of the operator’s compliance and ensure that any records describing the systems and procedures developed are up-to-date at all times.

*Article 12* requires a food business operator must have in place systems and procedures to enable traceability of food through relevant documentation or information, in accordance with the relevant legislation.

*Article 13* sets out the steps that a food business operator must take for withdrawing unsafe food from the market and informing consumers.

*Article 14* requires a food business operator carrying out any stage of production, processing and distribution of food after primary production to put in place, implement and maintain one or more permanent procedures based on the Hazard Analysis at Critical Control Points (HACCP) principles described in paragraph. By *Article 14(4)*, a food business operator must, when asked to do so by the Minister, provide the Minister with evidence of the operator’s compliance with the procedures.

*Article 15* describes the steps the Minister must take to inform the general public of the nature of the risk to health, identifying the food, or type of food, the risk that it may present and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk.

*Part 4* comprises *Articles 16 and 17*.

*Article 16* prohibits a person from describing, labelling, advertising or presenting any food or making available any information about the food that is misleading. *Article 16(3)* describes in greater detail the matters that would give rise to an offence under this Article.

*Article 17* prohibits the placing on the market of food that is not of the nature or substance required by the purchaser. By *Article 17(2)*, food is not of the nature of

substance required by the purchaser if it is supplied in response to a purchaser's request for a particular type of food, or for a food that does not contain a particular ingredient, and the food is not of that type or contains that ingredient.

*Part 5* comprises *Articles 18 and 19*, which provide the Minister with wide-ranging powers to make Orders. In particular, an Order made by the Minister may incorporate (by reference, annexation or otherwise), any EU provision or any provision in an enactment of a part of the United Kingdom, concerned with EU food law to such extent and subject to such exceptions, adaptations and modifications as may be specified in the Order and such provision may include references to any EU provision or any provision in an enactment of a part of the United Kingdom, as it may be amended from time to time. *Article 18(2)* introduces *Schedule 1*, which contains a list of additional matters that may be prescribed in an Order. Under *Article 42* of this Law, a person contravening a provision of an Order will, on conviction, be liable to a fine of a maximum of level 2 on the standard scale.

*Part 6* comprises *Articles 20 to 24* and provides for the approval of food safety auditors who will assess food businesses for compliance of the relevant legislation.

By *Article 20*, the Minister may approve an individual to be a food safety auditor where the Minister is satisfied that the individual is competent to carry out the functions of a food safety auditor having regard to the individual's technical skills and experience and any guidelines relating to competency criteria approved by the Minister. *Article 20* sets out the application process.

*Article 21* requires a food safety auditor to notify the Minister of any direct or indirect interest in any food business that the auditor has as soon as possible after becoming aware of that interest.

*Article 22* provides for the variation of conditions or the suspension or cancellation of the approval of an auditor.

*Article 23* enables a food safety auditor to carry out assessments of food businesses to ascertain their compliance with the relevant legislation and any code of practice and report his or her findings in accordance with the requirements of *Article 24*.

*Article 24* enables a food safety auditor, with the consent of the food business operator concerned, to report in writing to the Minister the results of any assessment carried out by the food safety auditor under *Article 23*. A food safety auditor must indicate in the report whether or not the food safety auditor is of the opinion that the food business is being carried on in compliance with the relevant legislation and any code of practice and whether food safety auditor is of the opinion that they are being contravened in relation to the food business and, if so, the manner in which they are being contravened. By *Article 24(3)*, a food safety auditor must report any contravention of the relevant legislation or any code of practice that comes to the food safety auditor's attention in the course of carrying out an audit or assessment for the purposes of this Law as soon as possible but in any event within 24 hours after the contravention comes to the food safety auditor's attention where there is an imminent and serious risk to the safety of food intended to be placed on the market or if the contravention will cause significant unsuitability of food intended to be placed on the market.

A food safety auditor who provides any false information to the Minister under this Article is guilty of an offence.

*Part 7* comprises *Articles 25 to 29*.

*Article 25* provides an authorised officer with powers of entry into premises belonging to a food business where the authorised officer reasonably believes there to be an imminent risk to human health; or to ascertain whether there is on the premises any

evidence of a contravention of the relevant legislation; or in order to the perform the Minister's functions under the relevant legislation.

*Article 26* provides the circumstances when the Bailiff may grant a warrant authorising an authorised officer, together with a police officer, to enter premises, using such force as is reasonably necessary to do so.

*Article 27* lists the powers of the authorised officer entering any premises under *Article 25 or 26* for the purpose of ascertaining whether there is on the premises any evidence of a contravention of the relevant legislation.

*Article 28* enables an authorised officer at all reasonable times to examine any food that is placed on the market and, if it appears to the authorised officer that the food is unsafe, he or she may seize it. By *Article 28(2)*, an authorised officer who seizes any food must inform the person in whose possession the food was found of the authorised officer's intention to have it dealt with by the Magistrate. Any person who might be liable under this Law to prosecution in respect of the food, if the person attends before the Magistrate on the application for its condemnation, is be entitled to be heard and to call witnesses.

By *Article 28(3)* if satisfied that any food brought before the Magistrate, whether seized under the provisions of this Article or not, is unsafe, the Magistrate must condemn it and order the food to be destroyed or disposed of so as to prevent it from being used for human consumption; and any expenses reasonably incurred in connection with the destruction or disposal are to be defrayed by the owner of the food.

*Article 29* provides that where anything (other than food) is seized under *Part 7*, a written notice (a "seizure notice") must be served on the owner or person in control of the thing seized. Where a notice has been served under paragraph a person must not remove or interfere with the thing to which it relates without the written approval of an authorised officer.

*Part 8* comprises *Articles 30 to 38* and enables the Minister to serve various notices upon a food business operator.

*Article 30* describes emergency control notices.

*Article 31* provides that a person bound by an emergency control notice who suffers loss as a result of the making and compliance of the notice may apply to the Minister for compensation for the loss.

*Article 32* describes improvement notices, which may be used if the Minister has reasonable grounds for believing that a food business operator is contravening the relevant legislation.

*Article 33* describes prohibition notices, which may be used if the Minister has reasonable grounds for believing that a food business operator has contravened the relevant legislation and has failed to comply with a notice served under *Article 32* within the time allowed for compliance; or considers that the issue of a prohibition notice is necessary to prevent or mitigate a serious danger to public health,

*Article 34* describes remedial action notices, which may be used if it appears to the Minister that in respect of a food business any requirement of the relevant legislation is being breached or inspection under this Law is being hampered.

*Article 35* describes render harmless notices, which may be used if it appears to the minister that continued use of any equipment is unsafe

*Article 36* describes prevention of use notices if it appears to the Minister that continued use of any equipment is unsafe

*Article 37* describes information notices, which may be used to require the labelling of food to be changed so that it is no longer capable of causing confusion.

*Article 38* provides for the service of notices.

*Part 9* comprises *Articles 39 to 57* and contains offences and proceedings provisions.

*Article 39* describes various offences of obstruction, interference, failing to provide information, providing false or misleading information and failing to provide records.

*Article 40* prohibits a person from disclosing information relating to a food business without the previous consent in writing of the person carrying on the business in question except as may be necessary for the purposes of the relevant legislation or any proceedings for an offence under the relevant legislation.

*Article 41* provides that the Minister and authorised officers, or any other officer or agent of an administration of the States who is performing any function of the officer or the Minister under the relevant legislation, is not liable in damages for anything done or omitted in the discharge or purported discharge of any functions under the relevant legislation unless it is shown that the act or omission was in bad faith.

*Article 42* sets out the offences and penalties under this Law.

*Article 43* provides the offence of impersonating an authorised officer, for which the maximum penalty is a fine and imprisonment for a term of 2 years.

*Article 44* provides that if the commission by any person of an offence under the relevant legislation is due to the act or default of some other person that other person is also guilty of the offence; and a person may be convicted of an offence whether or not proceedings are taken against the first-mentioned person.

*Article 45* provides a defence of due diligence where an accused proves that he or she took all reasonable precautions, and exercised all due diligence, to avoid the commission of the offence by himself or herself or by a person under his or her control. However, if the defence 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 accused is not, without leave of the court, entitled to rely on that defence unless the accused gives the required notice to the court.

*Article 46* provides a defence to a person who publishes an advertisement where he or she did not know and had no reason to suspect that its publication would amount to an offence.

*Article 47* provides a court with additional powers to impose a hygiene order upon a convicted person. *Article 49* states when a hygiene order ceases to have effect.

*Article 48* provides a court with power to prohibit a convicted person from running a food business.

*Article 49* provides for criminal liability to extend to certain officers of partnerships and body corporates if an offence under the relevant legislation committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of such officers.

*Article 50* provides that a prosecution for an offence under the relevant legislation must not be commenced after the expiry of 3 years from the commission of the offence.

*Article 51* provides certain presumption for the purposes of the relevant legislation and for the purpose of enforcement under this Law.

*Article 52* provides that in any proceedings under the relevant legislation, the certificate of an analyst is sufficient evidence of the facts stated in the certificate, unless the defendant or person charged requires that the person who made the analysis be called as a witness or the court makes an order for further analysis to be submitted to the court.

*Article 53* provides the mechanism for appealing against a decision of the Minister to the Magistrate's Court.

*Article 54* provides the mechanism for appealing to the inferior number of the Royal Court against any dismissal by the Magistrate's Court of an appeal under *Article 53*.

*Article 55* enables a person to carry on business pending appeal where a decision of the Minister under the relevant legislation is to refuse, cancel, suspend or revoke a licence, or impose a notice other than an emergency prohibition notice, until the time for appealing has expired and, if an appeal is lodged, until the appeal is abandoned or dismissed.

*Article 56* provides that any dispute arising as to the fact of damage or loss, or as to the amount of compensation, is to be determined by arbitration.

*Article 57* enables such Rules of Court to be made as appears to the Superior Number of the Royal Court to be necessary or expedient for the purposes of this Law.

*Part 10* comprises *Articles 58 to 61*.

*Article 15* repeals the Food Safety (Jersey) Law 1966 and the Food Safety (Miscellaneous Provisions) (Jersey) Law 2000 but saves any Order made under those Laws that will still be in force immediately before the coming into force of this Law.

*Article 59* introduces Schedule 2 and gives power to the States to make Regulations

- (b) in consequence of any provision made by or under this Law; or
- (c) for giving full effect to this Law or any provision of it.

*Article 60* gives power to the States to make Regulations to amend *Article 1*, enables the Minister to make an Order to prescribe anything that may or must be prescribed under this Law, other than anything that may be prescribed by Rules of Court. However, Orders and Regulations made under this Law may be made only after open and transparent public consultation directly or through representative bodies except in any case where the urgency of the matter does not permit such consultations. The power to make Regulations or Orders includes power to make any supplementary, incidental, consequential, transitional, transitory or savings provisions which appear to the States or the Minister, as the case may be, to be necessary or expedient for the purposes of the Regulations or Order.

*Article 61* states how this Law may be cited and provides for it so come into force on such day or days as the States may by Act appoint.

Under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993, level 1 is £200, level 2 is £1000 and level 3 is £10,000.



Jersey

## FOOD SAFETY (JERSEY) LAW 201-

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Jersey

## FOOD SAFETY (JERSEY) LAW 201-

A LAW to regulate food for the protection of human health and consumers' interests, and for connected purposes.

*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

### PART 1

#### PRELIMINARY

#### 1 Interpretation

In this Law, unless the context otherwise requires –

“article” does not include a live animal;

“animal” includes any vertebrate or invertebrate;

“authorised officer” means a person appointed as such under Article 4;

“code of practice” means a code of practice published under Article 5(1);

“commercial operation” has the meaning given in Article 3(4) and (5);

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

‘cosmetic product’ means any substance or mixture intended to be placed in contact with the external parts of the human body or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, protecting them, keeping them in good condition or correcting body odours;

“customs officer” means the Agent of the Impôts or any other officer of the Impôts;

“EEA State” means a State that is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th August 1993;

“emergency control notice” means a notice issued under Article 30(1);

“EU” means the European Union;

“EU food law” means the laws, regulations and administrative provisions in the European Union governing food or food safety in relation to any stage of production, processing or distribution of food;

“EU Law” means the European Union Legislation (Implementation) (Jersey) Law 2014;

“EU legislation” means Regulations or Orders made under Article 2 of the EU Law;;

“EU provision” has the same meaning as in Article 1(1) of the EU Law;

“examine” includes weigh, count, test or measure;

“feed” means any substance or product, including additives, whether processed, partially processed or unprocessed, intended to be used for oral feeding to animals;

“final consumer” means the ultimate consumer of food who will not use the food as part of any commercial operation;

“food” or “foodstuff” has the meaning set out in Article 2;

“food business” means any undertaking, whether for profit or not and whether public or private, carrying out any activity involving or related to any commercial operation and 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 or a parochial authority;

“food business operator” means the natural or legal persons responsible for ensuring that the requirements of the relevant legislation are met within the food business under their control;

“food contact material” means material and articles that in their finished state are intended to be brought into contact with food or can reasonably be expected to be brought into contact with food or to transfer their constituents to food under normal or foreseeable conditions of use;

“food premises” means premises used for the purposes of a food business;

“food safety auditor” means a person approved as such under Article 20;

“food source” means any growing crop or live animal from which food is intended to be derived (whether by harvesting, slaughtering, milking, collecting eggs or otherwise);

“functions” includes powers and duties;

“hazard” means a biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect;

“labelling” means any words, particulars, trademarks, brand name, pictorial matter or symbol relating to a food and placed on any packaging,

document, notice, label, ring or collar accompanying or referring to such food;.

“Member State” means a member of the EU;

“Minister” means the Minister for the Environment;

“Order” means an Order made by the Minister under this Law;

“placing on the market” means –

(a) the holding of food for the purpose of sale, including offering for sale or any other form of transfer, whether on payment of money or not; or

(b) the sale, distribution or other form of transfer of food;

“premises” has the meaning given in Article 3(1) and (2);

“prescribed” means prescribed by Order;

“primary production” means the production, rearing or growing of primary products including –

(a) harvesting, milking and farmed animal production prior to slaughter; and

(b) hunting and fishing, and the harvesting of wild products;

“processing” means any action that substantially alters the initial product, including subjecting the product to heat or cold, smoking, curing, maturing, drying, marinating, extraction and extrusion or a combination of those processes;

“record” includes any information in any form, including any that is generated, communicated, received or stored by electronic means in any system designed to generate, dispatch, receive, store or otherwise process information;

“relevant legislation” means this Law, any enactment made under this Law or any EU legislation;

“retail” means the handling or processing of food at the point of sale to the final consumer, including distribution terminals, catering operations, factory canteens, institutional catering, restaurants and other similar food service operations, shops, supermarket distribution centres and wholesale outlets;

“risk” means a function of the probability of an adverse health effect and the severity of that effect, consequential to a hazard;

“risk analysis” means a process consisting of 3 inter-connected components: risk assessment, risk management and risk communication;

“risk assessment” means a scientifically-based process consisting of 4 steps: hazard identification, hazard characterization, exposure assessment and risk characterization;

“risk communication” means the interactive exchange of information and opinions throughout the risk analysis process as regards hazards and risks, risk-related factors and risk perceptions, among risk assessors, risk managers, consumers, food businesses, the academic community and other

interested parties, including the explanation of risk assessment findings and the basis of risk management decisions;

“risk management” means the process, distinct from risk assessment, of weighing policy alternatives in consultation with interested parties, considering risk assessment and other legitimate factors, and, if need be, selecting appropriate prevention and control options;

“sale” includes supply, otherwise than on sale, in the course of a business;

“stages of production, processing and distribution” in relation to food means any stage of production, including primary production, any stage through which it is processed and any stage of distribution, including importing.

“substance” includes any substance, whether it is in the form of a solid, a liquid, a gas or a vapour;

“traceability” means the ability to trace and follow, through all stages of production, processing or distribution, a food, food-producing animal or substance intended to be, or expected to be, incorporated into a food;

“unfit for human consumption” shall be construed in accordance with Article 9(5);

“unsafe” has the meaning set out in Article 9(2);

## 2 Meaning of “food”

- (1) In this Law “food” (or “foodstuff”) means any substance or product, whether processed, partially processed or unprocessed that is intended to be, or reasonably expected to be, ingested by humans.
- (2) “Food” includes –
  - (a) drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment; and
  - (b) water that –
    - (i) in the case of water supplied from a distribution network, is after the point within premises at which it emerges from the taps that are normally used for human consumption,
    - (ii) in the case of water supplied from a tanker, is after the point at which it emerges from the tanker,
    - (iii) in the case of water put into bottles or containers intended for placing on the market, is after the point at which the water is put into the bottles or containers, or
    - (iv) in the case of water used in a food-production undertaking, after the point where the water is used in the undertaking.
- (3) However, “food” does not include –
  - (a) feed;
  - (b) live animals, unless they are prepared for placing on the market for human consumption;
  - (c) plants prior to harvesting;

- (d) medicinal products within the meaning of Article 2 of the Medicines (Jersey) Law 1995;
- (e) any cosmetic product;
- (f) tobacco and tobacco products within the meaning of Article A1 of the Restriction on Smoking (Jersey) Law 1973;
- (g) narcotic or psychotropic substances within the meaning of the United Nations Single Convention on Narcotic Drugs signed at New York on 30th March 1961, and the United Nations Convention on Psychotropic Substances, 1971;
- (h) residues or contaminants in or on food;

### 3 Meaning of "premises" and "commercial operation"

- (1) Premises includes any, place, vehicle, stall or immovable structure.
- (2) Premises also includes –
  - (a) any home-going ship;
  - (b) any other ship or any aircraft, which is not an exempt ship or aircraft for the purpose of ascertaining whether there is in the ship or aircraft any food imported as part of the cargo in contravention of Part 2 and for taking such action in relation to that food as may be permitted under Part 8 (except Article 33) or under relevant legislation made under Part 8.
- (3) For the purposes of this Article –
  - (a) "exempt ship or aircraft" means any sovereign immune ship or aircraft or any ship of a State other than Jersey which is exercising the right of innocent passage through the territorial sea adjacent to Jersey;
  - (b) "home-going ship" means –
    - (i) a ship which is engaged exclusively in plying in territorial sea adjacent to Jersey; or
    - (ii) a ship which provides excursions for pleasure of a duration of not more than 48 hours which start and end in Jersey, including any such ship that docks during that excursion at a place outside Jersey;
  - (c) "innocent passage" has the same meaning as it has for the purposes of Part II Section 3A of the United Nations Convention on the Law of the Sea;
  - (d) "sovereign immune ship or aircraft" means a ship or aircraft belonging to a State other than Jersey and which is not in use for a commercial operation.
- (4) "Commercial operation" means any stage of production, processing or distribution of food including any of the following –
  - (a) placing on the market, 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;
  - (e) importing or exporting,
- and, in relation to any food source, means deriving food from it for the purpose of sale or for purposes connected with sale.
- (5) “Commercial operation” also includes any stage of production, processing or distribution of food that is arranged through or by a broker or by means of electronic communication by any person.
  - (6) The primary production of food for private domestic use or for the domestic preparation, handling or storage of food for private domestic consumption is not a commercial operation.

#### **4 Appointment of authorised officers and others**

- (1) The Minister must appoint a Chief Food Officer who is –
  - (a) a States employee within the meaning of the Employment of the States of Jersey Employees (Jersey) Law 2004 in the department for which the Minister for Health is responsible; and
  - (b) an environmental health officer recognised as such by the Chartered Institute of Environmental Health of the United Kingdom or an equivalent body in another country or territory.
- (2) The Chief Food Officer and the States Veterinary Officer appointed under Article 5(1) of the Animal Health (Jersey) Law 2016 are authorised officers for the purpose of carrying out any of the functions of authorised officers under the relevant legislation.
- (3) The Minister may authorise such other persons either generally or specially, for the purpose of carrying out the functions of authorised officers under the relevant legislation.
- (4) An authorisation under paragraph (3) –
  - (a) must be in writing; and
  - (b) may be given subject to such conditions as the Minister considers appropriate in respect of the person authorised.

#### **5 Codes of Practice**

- (1) The Minister may, after consultation with such persons or bodies as appear to the Minister to be representative of the interests concerned –
  - (a) prepare and publish a code of practice for the purpose of providing practical guidance in respect of any provision made in the relevant legislation; and
  - (b) amend any such code.
- (2) A failure to comply with a code under paragraph (1) does not directly render a person liable to proceedings of any kind but the code is admissible in any proceedings and may be taken into account by any court considering any question of compliance with the relevant legislation.

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## PART 2

### IMPORTATION AND EXPORTATION OF FOOD

#### 6 Food imported into Jersey for placing on Jersey market

- (1) A person must not import food into Jersey to which this Article applies for placing on the market within Jersey unless it complies with the relevant legislation.
- (2) This Article applies to any food except food for private domestic consumption where the total weight of the food being imported does not exceed 2 kilogrammes.

#### 7 Food exported from Jersey

- (1) A person must not export or re-export food from Jersey for placing on the market of an EEA State unless it complies with the relevant legislation.
- (2) A person must not export or re-export food from Jersey for placing on the market of a country or territory outside Jersey that is not an EEA State unless the food complies with the relevant legislation.
- (3) However, if a bilateral agreement concluded between an EEA State or Jersey and a country or territory that is not an EEA State is applicable, food exported from Jersey to that other country or territory must comply with the relevant requirements set out in the agreement instead of paragraph (2).
- (4) Despite paragraphs (2) and (3), except in relation to food that is unsafe, food that complies with neither of those paragraphs may be exported or re-exported from Jersey if the competent authority of the country or territory of destination (being a country or territory that is not an EEA State) has expressly agreed to its export or re-export, after having been fully informed of the reasons for which and the circumstances in which the food concerned could not be placed on the market in Jersey or an EEA State.

## PART 3

### FOOD SAFETY

#### 8 Food businesses licensing scheme

- (1) The States may by Regulations provide for the licensing of food businesses.
- (2) Regulations under paragraph (1) –
  - (a) may provide for the grant, renewal, suspension or revocation of licences in respect of premises used for a commercial operation;
  - (b) prohibit the use for any such purpose of any such premises except in accordance with a licence granted under the Regulations.
- (3) Regulations made under paragraph (1) may in particular provide for –
  - (a) the form and content of applications;

- (b) the form and content of licences;
  - (c) the types of licence that may be granted;
  - (d) the persons who may apply for or hold a licence;
  - (e) the persons who may consider an application for the grant of a licence;
  - (f) the imposition of licence conditions, in addition to any that may be prescribed under paragraph (4);
  - (g) the grounds upon which a licence may be refused, not renewed, suspended or revoked;
  - (h) the temporary or permanent transfer of a licence to a representative of a licensee for continuance of a licence in specified circumstances;
  - (i) the prescribing of any fee payable upon an application for a licence the grant of a licence or the renewal of a licence;
  - (j) the persons who may appeal against the refusal to grant, or the refusal to renew, a licence or the conditions imposed on the grant or renewal of a licence;
  - (k) the keeping of a register of any licences granted, suspended or revoked, the inspection of any such register and the circumstances in which such a register may be inspected;
  - (l) the duration of a licence;
  - (m) procedures for receiving and resolving complaints by any person against a licensee, including complaints by users within Jersey of services provided by the licensee;
  - (n) offences for breaches of any requirement of the Regulations, with penalties no exceeding imprisonment of 2 years and a fine.
- (4) The Minister may prescribe mandatory conditions in respect of the licencing of food businesses.

## **9 Food safety requirements**

- (1) A person must not place on the market any food that is unsafe.
- (2) Food is unsafe if it is injurious to health or unfit for human consumption.
- (3) In determining whether any food is unsafe, regard must be had to –
  - (a) the normal conditions of use of the food by the consumer and at each stage of its production, processing and distribution; and
  - (b) the information provided to the consumer, including information on the label or other information generally available to the consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods.
- (4) In determining whether any food is injurious to health, regard must be had to –
  - (a) the probable immediate, short-term or longer-term effects of that food on the health of a person consuming it and on subsequent generations;
  - (b) the probable cumulative toxic effects; and

- (c) the particular health sensitivities of a specific category of consumers where the food is intended for that category of consumers.
- (5) In determining whether any food is unfit for human consumption, regard must be had to whether the food is unacceptable for human consumption according to its intended use, for reasons of contamination, whether by extraneous matter or otherwise, or through putrefaction, deterioration or decay.
- (6) Where any food that is unsafe is part of a batch, lot or consignment of food of the same class or description, it is presumed that all the food in that batch, lot or consignment is also unsafe, unless following a detailed assessment there is no evidence that the rest of the batch, lot or consignment is unsafe.
- (7) Food is deemed to be safe if –
  - (a) it complies with EU Food Law governing food safety, insofar as the aspects covered by the EU Food Law are concerned; or
  - (b) where it conforms to relevant legislation.
- (8) Despite paragraph (7), the Minister may impose restrictions on food being placed on the market or require its withdrawal from the market where there are reasons to suspect that the food is unsafe.

#### **10 Unfit equipment, packaging or labelling material**

- (1) A person must not place on the market any equipment that, if used for the purposes for which it was designed or intended to be used –
  - (a) would render, or be likely to render, food unsafe; or
  - (b) would put other equipment, or would be likely to put other equipment, in such a condition that, if the other equipment were used for the purposes for which it was designed or intended to be used, it would render or be likely to render food unsafe.
- (2) A person must not place on the market any packaging or labelling material that if used for the purposes for which it was designed or intended would render, or be likely to render, food unsafe.
- (3) A person must not place on the market any packaging that does not meet such standards as to quality and type of packaging as may be required under relevant legislation.

#### **11 Responsibility of food business operators: production, processing and distribution of food**

- (1) A food business operator must –
  - (a) ensure at all stages of production, processing and distribution of food within the business under their control that the food satisfies the requirements of the relevant legislation relating to that food business; and
  - (b) have in place systems and procedures for the purpose of verifying that such requirements are met.

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- (2) A food business operator must –
- (a) when asked to do so by an authorized officer, provide the authorized officer with evidence of the operator’s compliance with paragraph (1) in the manner that the authorized officer requires, taking account of the nature and size of the food business;
  - (b) ensure that any records describing the systems and procedures developed in accordance with paragraph (1)(b) are up-to-date at all times; and
  - (c) retain any other records for one year or such other period as the Minister may require, which period may be prescribed or notified to a food business operator.

### **12 Responsibilities of food business operators: traceability of food**

- (1) A food business operator must have in place systems and procedures to –
- (a) identify any person from whom the operator has been supplied with a food, a food-producing animal, or any substance intended to be, or expected to be, incorporated into a food; and
  - (b) identify any business to which its products have been supplied.
- (2) A food business operator must ensure that food, that is placed on the market, or is intended to be placed on the market, in Jersey or an EEA State is adequately labelled or identified to facilitate its traceability, through relevant documentation, or information, in accordance with the relevant legislation.
- (3) A food business operator must –
- (a) when asked to do so by an authorized officer, provide the authorized officer with evidence of the operator’s compliance with paragraph (1) or (2) in the manner that the authorized officer requires;
  - (b) ensure that any records describing the systems and procedures developed in accordance with paragraph (1)(b) or documentation or information referred to in paragraph (2) are up-to-date at all times; and
  - (c) retain any records or information for one year or such other period as the Minister may require, which period may be prescribed or notified to a food business operator.

### **13 Responsibilities of food business operators: unsafe food**

- (1) A food business operator who believes or has reason to believe that food that the operator has imported, produced, processed, manufactured or distributed is unsafe, must immediately –
- (a) initiate procedures to withdraw the food from the market where the food has left the immediate control of the food business operator; and
  - (b) inform the Minister of that belief (or reason to believe) and those procedures.
- (2) If the food may have reached consumers, the food business operator must –

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- (a) effectively and accurately inform the consumers of the reason for its withdrawal; and
  - (b) recall from consumers such of the food as has already been supplied by the operator when other measures are not sufficient to achieve a high level of health protection.
- (3) A food business operator responsible for retail or distribution activities that do not affect the packaging, labelling, safety or integrity of food must –
- (a) within the limits of the operator’s respective activities, initiate procedures to withdraw from the market products containing the food that is believed to be unsafe;
  - (b) pass on information that the operator has and that is necessary to trace food that is believed to be unsafe; and
  - (c) co-operate in the action taken by producers, processors, manufacturers or the Minister in relation to food that is believed to be unsafe.
- (4) A food business operator must immediately inform the Minister if the operator believes or has reason to believe that food that the operator has placed on the market may be injurious to human health.
- (5) A food business operator –
- (a) must inform the Minister of the action taken to prevent risks to the final consumer from that food; and
  - (b) must not prevent or discourage any person from co-operating with the Minister, if that co-operation may prevent, reduce or eliminate a risk arising from that food.
- (6) A food business operator must co-operate with the Minister on action taken to avoid or reduce risks posed by that food.

#### **14 Responsibilities of food business operators: hazard analysis and critical control points**

- (1) A food business operator carrying out any stage of production, processing and distribution of food after primary production must put in place, implement and maintain one or more permanent procedures based on the Hazard Analysis at Critical Control Points (HACCP) principles described in paragraph (2).
- (2) The HACCP principles consist of the following –
  - (a) identifying any hazards that must be prevented, eliminated or reduced to acceptable levels;
  - (b) identifying the critical control points at the step or steps at which control is essential to prevent or eliminate a hazard or to reduce it to acceptable levels;
  - (c) establishing critical limits at critical control points which separate acceptability from unacceptability for the prevention, elimination or reduction of identified hazards;
  - (d) establishing and implementing effective monitoring procedures at critical control points;

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- (e) establishing corrective actions when monitoring indicates that a critical control point is not under control;
  - (f) establishing procedures, which shall be carried out regularly, to verify that the measures outlined in sub-paragraphs (a) to (e) are working effectively;
  - (g) establishing records commensurate with the nature and size of the food business to demonstrate the effective application of the measures outlined in sub-paragraphs (a) to (f).
- (3) When any modification is made in the product, process, or any step, the food business operator must review the procedures and make the necessary changes to the procedures.
- (4) A food business operator must –
- (a) when asked to do so by the Minister, provide the Minister with evidence of the operator’s compliance with paragraph (1) in the manner that the Minister requires, taking account of the nature and size of the food business;
  - (b) ensure that any records describing the procedures developed in accordance with this Article are up-to-date at all times; and
  - (c) retain any other records for an appropriate period or, if a period is approved in relation to a food business operator under paragraph (5), for that period instead.
- (5) The Minister may, by notice in writing to a food business operator, approve arrangements –
- (a) to facilitate the implementation of this Article by the food business operator; and
  - (b) specifying the period during which the food business operator must retain records in accordance with paragraph (4)(c).

## **15 Public information about food health risks**

Where there are reasonable grounds to suspect that food may present a risk to human or animal health, the Minister, having regard to the nature, seriousness or extent of that risk, must take appropriate steps to inform the general public of the nature of the risk to health, identifying to the fullest extent possible –

- (a) the food, or type of food;
- (b) the risk that it may present; and
- (c) the measures which are taken or about to be taken to prevent, reduce or eliminate that risk.

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## PART 4

### CONSUMER PROTECTION

#### 16 False descriptions of food

- (1) A person must not describe, label, advertise or present any food or make available any information about the food that is misleading.
- (2) The requirements in paragraph (1) apply to the shape, appearance or packaging of the food, the packaging materials used, the manner in which it is arranged, and the setting in which it is displayed.
- (3) A person contravenes paragraph (1) if –
  - (a) the food is represented as being of a particular nature or substance for which there is a standard set by a code of practice and the food does not comply with that standard;
  - (b) the food is represented as being of a particular nature or substance and it contains, or is mixed or diluted with, any substance in a quantity or proportion that significantly diminishes its food value or nutritive properties as compared with food of the represented nature or substance;
  - (c) the food is represented as being of a particular nature or substance and it contains, or is mixed or diluted with, any substance of lower commercial value than food of the represented nature or substance;
  - (d) the food is represented as being of a particular nature or substance and a constituent of the food has been wholly or partly removed so that its properties are diminished as compared with food of the represented nature or substance;
  - (e) any word, statement, device or design used in the packaging or labelling of the food, or in an advertisement for the food, would create a false impression as to the nature or substance of the food, or its commercial value, in the mind of a reasonable person;
  - (f) the food is not of the nature or substance represented by the manner in which it is packaged, labelled or offered for sale.

#### 17 Food not complying with purchaser's requirements

- (1) A person must not, in the course of carrying on a food business place food on the market that is not of the nature or substance required by the purchaser.
- (2) Food is not of the nature or substance required by the purchaser if it is supplied in response to a purchaser's request for a particular type of food, or a food that does not contain a particular ingredient, and the food is not of that type or contains that ingredient.

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**PART 5**  
**ORDER MAKING POWERS**

**18 Orders: specific provisions**

- (1) An Order under this Law may –
- (a) make provision for prohibiting or regulating the importation, exportation, placing on the market, production, processing or distribution of any food, food source or contact material –
    - (i) that fails to comply with the Order; or
    - (ii) 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 Jersey;
  - (b) provide that any food that, in accordance with the Order, is certified as failing to comply with the Order may be treated for the purposes of this Law as unsafe;
  - (c) require the preparation, implementation, maintenance and monitoring of food safety programmes for food businesses to ensure that the relevant legislation is complied with;
  - (d) require persons carrying on any activity to which an Order applies to keep and produce records and provide returns;
  - (e) prescribe the particulars to be entered on any register required to be kept in accordance with an Order;
  - (f) require a register to be open to inspection by the public at all reasonable times;
  - (g) provide for a procedure for appealing against a decision;
- (2) Without limiting paragraph (1) Orders may be made for any of the purposes set out in Schedule 1.

**19 Further provisions as to Orders**

- (1) The Minister may make Orders for prescribing anything which, under this Law, may be, or is required to be, prescribed and, without limiting the generality of the provisions under which they are made, any Order may –
- (a) provide generally for the execution of this Law or for the purposes of promoting food safety and reducing the risk to human health from the spread of food-related illness;
  - (b) give effect to, or deal with matters arising out of or related to any EU provision concerned with EU food law;
  - (c) give effect to, or deal with matters arising out of or related to a provision in an enactment of a part of the United Kingdom dealing with matters relating to food;
  - (d) contain provisions for prescribing and regulating the payment and recovery of expenses;
  - (e) provide for the payment of fees and charges;

- (f) create offence
- (2) Orders under this Law may make provision by reference to, and may incorporate (by reference, annexation or otherwise), any EU provision or any provision in an enactment of a part of the United Kingdom, concerned with EU food law to such extent and subject to such exceptions, adaptations and modifications as may be specified in the Order and such provision may include references to any EU provision or any provision in an enactment of a part of the United Kingdom, as it may be amended from time to time.

## PART 6

### FOOD SAFETY AUDITORS

#### 20 Approval of food safety auditors

- (1) The Minister may approve an individual to be a food safety auditor for the purposes of this Law if the Minister is satisfied that the individual is competent to carry out the functions of a food safety auditor having regard to –
  - (a) the individual's technical skills and experience; and
  - (b) any guidelines relating to competency criteria approved by the Minister.
- (2) An individual may make an application, in the approved form, to the Minister for approval under this Part.
- (3) The application is to be accompanied by –
  - (a) such information as the Minister requires to determine the application; and
  - (b) such fee, if any, as the Minister may prescribe.
- (4) The Minister may, after considering an application for approval –
  - (a) grant the application, with or without conditions; or
  - (b) refuse the application.
- (5) If the Minister grants an application for approval, he or she must issue the applicant with a written approval that sets out any conditions to which the approval is subject.
- (6) If the Minister refuses an application for approval, he or she must give notice of the refusal in writing to the applicant setting out the reasons for the refusal.
- (7) Except during any period of suspension, an approval granted under this Part remains in force for the period specified in the approval unless sooner cancelled.
- (8) A person approved under this Article may apply for the extension or renewal of such approval on payment of such fee, if any, as the Minister may prescribe.

- (9) The Minister must publish a register of persons approved under this Article.

## **21 Food safety auditor to give notice of certain interests**

- (1) A food safety auditor must notify the Minister of any direct or indirect interest in any food business that the auditor has as soon as possible after becoming aware of that interest.
- (2) Payment to an auditor for carrying out the functions of an auditor does not constitute a direct or indirect interest in a food business for the purposes of paragraph (1).

## **22 Variation of conditions or suspension or cancellation of approval of auditor**

- (1) The Minister may vary the conditions of, or suspend or cancel, an approval under this Part.
- (2) An approval of a person may be suspended or cancelled on one or more of the following grounds –
- (a) if the Minister is satisfied that the person has contravened any provision of the relevant legislation;
  - (b) if the Minister is satisfied that the person has contravened a condition to which the approval is subject;
  - (c) if the Minister is satisfied that the person has not competently carried out any duty of an auditor under this Part;
  - (d) if the Minister is satisfied that the person has a direct or indirect interest in any food business that the Minister thinks could affect the performance of the person's duties under this Part;
  - (e) at the request of the person;
  - (f) for any other reason that the Minister considers appropriate.
- (3) Payment to an auditor for performing the duties of an auditor does not constitute a direct or indirect interest in a food business for the purposes of paragraph (2)(d).
- (4) Unless acting at the request of the person, the Minister may vary the conditions of, or suspend or cancel, the person's approval only –
- (a) after having given the person written reasons of his or her intention to vary, suspend or cancel and an opportunity to make submissions; and
  - (b) after having considered any submissions made by the person.
- (5) A variation of the conditions of, or the suspension or cancellation of, the approval of a person under this Part –
- (a) must be by notice in writing; and
  - (b) must be served on the person to whom the approval relates; and
  - (c) takes effect on the day on which the notice is served or on a later day specified in the notice.

**23 Food safety auditor's assessment of food business**

A food safety auditor may –

- (a) carry out assessments of food businesses to ascertain their compliance with the relevant legislation and any code of practice;
- (b) report in accordance with the requirements of Article 24.

**24 Food safety auditor's report**

- (1) A food safety auditor may, with the consent of the food business operator concerned, report in writing to the Minister the results of any assessment carried out by the food safety auditor under Article 23(a).
- (2) A report under paragraph (1) must –
  - (a) be in the form approved by the Minister;
  - (b) be submitted to the Minister within 21 days after the completion of the assessment; and
  - (c) take account of any action taken before the submission of the report to remedy any deficiency identified by the food safety auditor.
- (3) A food safety auditor must indicate in a report of an assessment under paragraph (1) –
  - (a) whether or not the food safety auditor is of the opinion that the food business is being carried on in compliance with the relevant legislation and any code of practice; and
  - (b) any such provisions that the food safety auditor is of the opinion are being contravened in relation to the food business and the manner in which they are being contravened.
- (4) A food safety auditor must report any contravention of the relevant legislation or any code of practice that comes to the food safety auditor's attention in the course of carrying out an audit or assessment for the purposes of this Law as soon as possible but in any event within 24 hours after the contravention comes to the food safety auditor's attention –
  - (a) where there is an imminent and serious risk to the safety of food intended to be placed on the market; or
  - (b) if the contravention will cause significant unsuitability of food intended to be placed on the market.
- (5) A food safety auditor must report in writing to the Minister, giving reasons, if the food safety auditor considers that the priority classification of a food business that has been audited by the food safety auditor should be changed.
- (6) A copy of a report provided to the Minister in relation to an assessment must be given to the food business operator concerned.
- (7) A food safety auditor who provides any false information to the Minister under this Article is guilty of an offence.

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**PART 7****POWERS OF INVESTIGATION****25 Power to enter premises and food businesses**

- (1) Subject to Article 26, an authorised officer may, at any reasonable time, and on production, if so required, of the authorised officer's written authorisation, enter and inspect any premises belonging to a food business –
  - (a) that the authorised officer reasonably believes are an imminent risk to human health;
  - (b) to ascertain whether there is on the premises any evidence of a contravention of the relevant legislation; or
  - (c) in the performance of the Minister's functions under the relevant legislation.
- (2) For the purposes of exercising the powers mentioned in paragraph (1) an authorised officer may be accompanied by such other persons and equipment as the authorised officer considers necessary.
- (3) A police officer or customs officer may stop and detain any vehicle (including any vehicle trailer) that may be involved in the transport or storage of any food, food item or food contact material for the purpose of enabling it to be inspected in accordance with paragraph (1) and (2).
- (4) Paragraph (1) does not authorise entry into any part of the premises of a food business that are being used wholly or mainly as a private dwelling, except –
  - (a) where the authorised officer has given 24 hours' notice of the proposed entry to the occupier or, if different, other person having control of the premises; or
  - (b) with the earlier consent of the person mentioned in sub-paragraph (a);
- (5) An authorised officer who enters –
  - (a) premises that are unoccupied; or
  - (b) premises whose occupier is absent,must (so far as reasonably practicable) leave the premises as effectively secured as he or she found them.

**26 Search warrants**

- (1) The Bailiff, if satisfied on sworn information –
  - (a) that there are reasonable grounds for entry into any premises for the purposes of the enforcement of the relevant legislation; and
  - (b) that the premises are either –
    - (i) used wholly or mainly as a private dwelling, or
    - (ii) any of the circumstances in paragraph (2) applies,

may grant a warrant authorizing an authorised officer, together with a police officer, to enter the premises and to use such force as is reasonably necessary to do so.

- (2) Those circumstances are –
  - (a) that admission has been refused, or a refusal is expected, and (in either case) notice to apply for a warrant has been given to the occupier;
  - (b) that asking for admission, or the giving of such a notice, would defeat the object of the entry;
  - (c) that the case is one of urgency; or
  - (d) that the premises are unoccupied or the occupier is absent.
- (3) A warrant under this Article is valid for one month.

## **27 Other powers**

- (1) The powers of an authorised officer entering any premises under Article 25 or 26 include (but are not limited to) the following –
  - (a) examining any food intended for placing on the market;
  - (b) opening and examining any package that the authorised officer reasonably believes contains any food intended for placing on the market;
  - (c) examining, labelling or advertising material that may be used or intended to be used as part of a food business) opening and examining any equipment;
  - (e) taking samples of any food for the purpose of analysing it;
  - (f) taking samples of water or soil or any other thing that is part of the environment in which any food is handled for the purpose of analysing it;
  - (g) taking samples of anything, other than for the purpose of analysis, that the authorised officer reasonably believes may be used as evidence that an offence has been, or is being, committed under the relevant legislation;
  - (h) seizing and retaining anything that the authorised officer reasonably believes has been used in, or may be used as evidence of, a contravention of the relevant legislation;
  - (i) examining any records that relate to the production, processing or distribution of any food intended for placing on the market, making copies of them, or any part of them and for that purpose, taking away and retaining (for such time as may be reasonably necessary) any device containing such records;
  - (j) opening, or requiring to be opened, any container used for the conveyance of goods, or any package, that the authorised officer reasonably believes to contain any food sold or intended for placing on the market, or any equipment;
  - (k) taking such photographs, films or audio or visual recordings as the authorised officer considers necessary;

- (l) taking any measurements and making sketches or drawings or any other type of record;
  - (m) requiring a person to provide information or answer questions in connection with the authorised officer's functions under the relevant legislation or to produce any record or thing that an authorised officer is authorised to examine under the relevant legislation;
  - (n) requiring a person to give his or her name and residential address;
  - (o) generally making such investigations and inquiries as may be necessary to ascertain whether an offence under the relevant legislation is being or has been committed;
  - (p) exercising any other power under this Law or any other relevant legislation.
- (2) For the purposes of carrying out his or her functions under this Article an authorised officer may require any person to provide such facilities and assistance within that person's control or in relation to things to which the person has access.
- (3) A person is not excused from a requirement under this Article to provide information or answer questions, or to produce any record or thing, on the ground that the information, answer, record or thing might incriminate the person or make the person liable to a penalty.
- (4) However, any information or answer furnished, or record or thing produced, by an individual in compliance with such a requirements is admissible in evidence against the individual only in criminal proceedings under the relevant legislation.
- (5) A person who has entered any premises in the exercise of powers under Article 25 or under a warrant issued under Article 26, must not disclose to any person any information obtained by him or her on the premises with regard to any trade secret.
- (6) Where a food business operates solely by means of the internet, mail order or other remote facility, the powers set out in this Article apply to any purchase made from that business as if the thing purchased was found on premises belonging to the business.

## **28 Examination and seizure of food suspected to be unsafe**

- (1) An authorised officer may at all reasonable times examine any food that is placed on the market and, if it appears to the authorised officer that the food is unsafe, he or she may seize it.
- (2) An officer who seizes any food under paragraph(1) or under Article 27(1)(h) must inform the person in whose possession the food was found of the officer's intention to have it dealt with by the Magistrate, and any person who might be liable under this Law to a prosecution in respect of the food, if the person attends before the Magistrate on the application for its condemnation, is be entitled to be heard and to call witnesses.
- (3) If it appears to the Magistrate that any food brought before the Magistrate, whether seized under the provisions of this Article or not, is unsafe, the Magistrate must condemn it and order –

- (a) the food to be destroyed or to be so disposed of as to prevent it from being used for human consumption; and
  - (b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the food.
- (4) If the Magistrate refuses to condemn any food seized under this Part by an authorised officer, the Minister must compensate the owner of the food for any depreciation in its value resulting from its seizure and removal.

## **29 Seizure of other things**

- (1) Where anything (other than food) is seized under this Part a written notice (a “seizure notice”) must be served on the owner or person in control of thing seized.
- (2) Where a notice has been served under paragraph (1) a person must not remove or interfere with the thing to which it relates without the written approval of an authorised officer.
- (3) Anything seized under this Part may be released or returned to the person from whom it was seized, or disposed of, at the direction of Minister or by order of the Magistrate.
- (4) Anything seized under this Part may be the subject of forfeiture in any proceedings under this Law.
- (5) The Minister may pay compensation to the person from whom anything was seized as the Minister considers just and reasonable.

## **PART 8**

### **NOTICES**

## **30 Emergency control notice**

- (1) The Minister may make an emergency control notice where the Minister reasonably believes that the carrying out of a commercial operation with respect to food, food sources or contact materials of any class or description involves or may involve imminent risk of injury to human health.
- (2) An emergency control notice –
  - (a) must be made in writing, addressed to all persons intended to be bound by it and served on all such persons; or
  - (b) may be addressed to several persons, to a class of persons or to all persons.
- (2) In the case of the notice mentioned in paragraph (2)(b) details of the notice setting out its terms and the persons bound by it must be published in the way that, in the opinion of the Minister, is most likely to bring the notice to the attention of the persons bound by it.
- (3) An emergency control notice –
  - (a) that is served on a person takes effect when it is served;

- (b) when it is published under paragraph (2), takes effect as soon as it is published,

and when the notice takes effect it is binding on the persons to whom it is addressed.

- (4) An emergency control notice ceases to have effect at the expiration of 90 days after the day on which it takes effect unless it is sooner withdrawn, but a further emergency control notice may be made in the same terms as the notice that expired.

### **31 Compensation resulting from emergency control notice**

- (1) A person bound by an emergency control notice who suffers loss as a result of the making of the notice may apply to the Minister for compensation for loss to that person as a result of complying with the notice.
- (2) The Minister may pay such compensation to the applicant as the Minister considers is just and reasonable, having regard to the circumstances in which the emergency control notice was made.

### **32 Improvement notices**

- (1) If the Minister has reasonable grounds for believing that a food business operator is contravening the relevant legislation, the Minister may, by a notice served on that operator (an “improvement notice”) –
  - (a) state the Minister’s grounds for believing that the food business operator is failing to comply with the relevant legislation;
  - (b) specify the matters which constitute the food business operator’s failure to comply;
  - (c) specify the measures which, in the Minister’s opinion, the food business operator must take in order to secure compliance; and
  - (d) require the food business operator to take those measures, or measures which are at least equivalent to them, within the period (not being less than the 14 days starting with the service of the notice) that is specified in the notice.
- (2) Where the contravention is of relevant legislation that makes provision –
  - (a) for requiring, prohibiting or regulating the use of any process or treatment in the production, processing or distribution of food; or
  - (b) for securing the observance of hygienic conditions and practices in connection with the importation, exportation, placing on the market or production, processing or distribution of any food or food sources.

the notice served under paragraph (1) may be described as a “hygiene improvement notice”.

### **33 Prohibition notices**

- (1) If the Minister has reasonable grounds for believing that a food business operator has contravened the relevant legislation and that –

- (a) the operator has failed to comply with a notice served under Article 32 within the time allowed for compliance; or
  - (b) that the issue of a notice under this Article is necessary to prevent or mitigate a serious danger to public health,
- the Minister may serve a notice (a “prohibition notice”) on the operator.
- (2) The prohibition notice may prohibit the following –
    - (a) the production, processing or distribution of food intended for placing on the market from premises named in the notice or a part of those premises;
    - (b) the conveyance in a vehicle described in the notice of food intended for placing on the market;
    - (c) the use of equipment named in the notice in connection with food intended for placing on the market;
    - (d) the production, processing or distribution by a food business named in the notice of food intended for placing on the market in a way or purpose specified in the notice; or
    - (e) such other action specified in the noticeuntil the Minister otherwise directs.
  - (3) If the Minister believes that the grounds for the issue of a prohibition notice no longer exist the Minister may withdraw the notice.

### **34 Remedial action notices**

- (1) If it appears to the Minister that in respect of a food business –
  - (a) any requirement of the relevant legislation is being breached; or
  - (b) inspection under this Law is being hampered,the Minister may, by notice (a “remedial action notice”) served on the relevant food business operator –
  - (i) prohibit the use of any equipment or any part of the premises specified in the notice,
  - (ii) impose conditions upon or prohibit the carrying out of any process, or
  - (iii) require the rate of operation to be reduced to such extent as is specified in the notice, or to be stopped completely.
- (2) A remedial action notice must –
  - (a) be served as soon as practicable;
  - (b) state why it is being served; and
  - (c) if it is served for a reason referred to in paragraph (1)(a), specify the breach and the action needed to remedy it.
- (3) The Minister must, where a remedial action notice has been served for a reason mentioned in paragraph (1)(a), withdraw the notice by a further notice in writing served on the food business operator as soon as the Minister is satisfied that the action specified in the notice to be needed to remedy the breach has been taken.

- (4) The Minister must, where a remedial action notice has been served for a reason mentioned in paragraph (1)(b), withdraw the notice as soon as the Minister is satisfied that the inspection has been completed or is no longer being hampered.

### **35 Render harmless notices**

- (1) If it appears to the minister that continued use of any equipment is unsafe the authorised office may render that equipment harmless by taking measures that prevent its use.
- (2) Where action has been taken under paragraph (1) the Minister must serve a render harmless notice on the operator of the equipment, forbidding the taking of any action to restore the working of the equipment while it is unsafe.

### **36 Prevention of use notices**

If it appears to the Minister that continued use of any equipment is unsafe the Minister may, instead of taking the action described in Article 35, serve a notice (a “prohibition of use notice”) requiring the operator to cease using the equipment unless and until the Minister is satisfied that it has been made safe.

### **37 Information notices**

- (1) If a food product is labelled in such a way that that may cause confusion to consumers, the Minister may serve a notice (an “information notice”) requiring the labelling to be changed so that it is no longer capable of causing such confusion.
- (2) The notice must specify the period within which the labelling must be changed.

### **38 Supplementary provision as to notices**

- (1) This Article has effect in relation to any notice or direction required or authorised by the relevant legislation to be given to or served on any person.
- (2) The notice or direction may be given to or served on the person in question –
  - (a) delivering it to the person personally;
  - (b) leaving it at the person’s proper address; or
  - (c) sending it by post to the person’s proper address; or
  - (d) sending it to the person by electronic means.
- (3) The notice or direction may –
  - (a) in the case of an unincorporated association, be served on or given to an officer of the association;

- (b) in the case of a company, be given to or served on the secretary, clerk or other similar officer of the company or any person who purports to act in any such capacity, by whatever name called;
  - (c) in the case of a partnership, be given to or served on a partner or a person having the control or management of the partnership business.
- (4) Any notice or direction that is required or authorised under the relevant legislation to be served on the occupier of premises may be served on a person whom the person serving the notice reasonably believes to be the occupier.
- (5) However, if the authorized officer who served the notice or direction discovers that another person is in fact the occupier of premises in connection with which the notice was served, a notice must be served on that other person.
- (6) If the name or address of any occupier of premises on whom a notice or direction is to be served or given under the relevant legislation cannot, after reasonable enquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.
- (7) If the circumstances are such that the notice or direction must be given without delay, it may be served in the manner provided for under paragraph (6) and a copy subsequently served in the manner provided for under paragraph (2) if this is possible after reasonable enquiry.
- (8) A notice or direction may –
  - (a) require any action that the Minister reasonably believes is necessary for the enforcement of the relevant legislation;
  - (b) specify that a person in receipt of it must immediately inform an authorised officer that it has been received.
- (9) A notice or direction under this Law may be varied or withdrawn by an authorised officer and if varied, the authorised officer must give details of and reasons for the variation.
- (10) The withdrawal of a notice or direction does not affect the power of the Minister to serve a further notice or direction.
- (11) For the purposes of this Article and Article 7 of the Interpretation (Jersey) Law 1954, “proper address” means –
  - (a) in the case of a body corporate or limited liability partnership or an officer of the body or partnership –
    - (i) the registered or principal office in Jersey of the body or partnership, or
    - (ii) the email address of the officer;
  - (b) in the case of any other partnership or a partner or person having control or management of the partnership business –
    - (i) the principal office in Jersey of the partnership,
    - (ii) the email address of the partner or person having control or management;

- (c) in the case of an unincorporated association or an officer of the association –
    - (i) the office of the association, or
    - (ii) the email address of the officer;
  - (d) in any other case, a person's last known address, which includes an email address.
- (12) For the purposes of paragraph (9), the principal office of a company registered outside Jersey or of a partnership carrying on business outside Jersey must be the principal office within Jersey of the company or partnership.
- (13) If the person to be given or served with any notice mentioned in paragraph (1) has specified an address within Jersey other than the person's proper address as the one at which the person or someone on his or her behalf will accept documents of the same description as that document, that address is also to be treated for the purposes of this Article and Article 7 of the Interpretation (Jersey) Law 1954 as the person's proper address.

## PART 9

### OFFENCES AND PROCEEDINGS

#### 39 Obstruction

- (1) A person must not –
- (a) intentionally obstruct or impede anyone acting in the execution or enforcement of the relevant legislation;
  - (b) interfere with, or cause or knowingly permit to be interfered with, anything done by anyone acting in the execution or enforcement of the relevant legislation;
  - (c) without reasonable cause, fail to give to any person acting in the execution or enforcement of the relevant legislation any assistance or information that is reasonably required;
  - (d) provide to anyone acting in the execution or enforcement of the relevant legislation any information knowing it to be false or misleading or not believing it to be true; or
  - (e) fail to produce a record when required to do so by any person acting in the execution or enforcement of the relevant legislation.
- (2) A person must not, in purported compliance with a requirement under paragraph (1)(c) –
- (a) provide information that he knows to be false or misleading in a material particular; or
  - (b) recklessly provide information that is false or misleading in a material particular.

- (3) Nothing in paragraph (1)(c) is to be construed as requiring any person to answer any question or give any information if to do so might incriminate the person.

#### **40 Disclosure of information**

- (1) A person must not disclose information relating to a food business without the previous consent in writing of the person carrying on the business in question except –
- (a) in accordance with directions of the Minister, so far as may be necessary for the purposes of the relevant legislation; or
  - (b) for the purposes of any proceedings for an offence under the relevant legislation.
- (2) In paragraph (1) the reference to a disclosure being necessary for the purposes of the relevant legislation include a reference to its being necessary –
- (a) in the interests of public health and to secure that food is safe;
  - (b) to protect or promote the interests of consumers.
- (3) For the purposes of any enactment relating to patents, any invention disclosed under this Article is not treated as having been anticipated by reason only of such disclosure.

#### **41 Protection of officers acting in good faith**

- (1) A person to whom this Article applies is not liable in damages for anything done or omitted in the discharge or purported discharge of any functions under the relevant legislation unless it is shown that the act or omission was in bad faith.
- (2) This Article applies to –
- (a) the Minister; and
  - (b) any authorised officer or any other officer or agent of an administration of the States who is performing any function of the officer or the Minister under the relevant legislation.
- (3) The limitation of liability under this Article does not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000.

#### **42 Offences and penalties**

- (1) A person who contravenes –
- (a) any of Articles 6(1), 7(1), (2) and (3), 9(1), 10(1), (2) and (3), 11(1) and (2), 12(1), (2), and (3), 13, 14, 16(1) and (3) and (4), 24(7) and 40;
  - (b) Article 24(7);
  - (c) Article 39;

- (d) an order under Article 47,  
commits an offence and is liable to a fine and imprisonment for a term of 2 years.
- (2) A person who contravenes –
  - (a) a provision of an Order under Article 18 or 19 or Schedule 1;
  - (b) Article 20; or
  - (c) Article 27(5) is, unless the disclosure was made in the performance of his or her duty,  
commits an offence and liable to a fine of level 3 on the standard scale.

#### **43 Impersonating an authorised officer**

If any person falsely assumes the name, designation or character of an authorised officer –

- (a) for the purpose of –
  - (i) obtaining admission to any premises, or
  - (ii) doing or procuring to be done any act which the person would not be entitled to do or procure to be done of the person's own authority;  
or
- (b) for any other unlawful purpose,  
the person is guilty of an offence and, in addition to any other punishment to which the person may have rendered himself or herself liable, is liable to a fine and to imprisonment for a term not exceeding 2 years.

#### **44 Offences due to fault of another person**

- (1) If the commission by any person of an offence under the relevant legislation is due to the act or default of some other person that other person is also guilty of the offence.
- (2) A person may be convicted of an offence by virtue of paragraph (1) whether or not proceedings are taken against the first-mentioned person.

#### **45 Defence of due diligence**

- (1) In any proceedings for an offence under the relevant legislation, it is a defence for the accused to prove that he or she took all reasonable precautions, and exercised all due diligence, to avoid the commission of the offence by himself or herself or by a person under his or her control.
- (2) However, if in any case the defence provided by paragraph (1) 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 accused is not, without leave of the court, entitled to rely on that defence unless –
  - (a) at least 7 clear days before the hearing; and

- (b) if the accused has previously appeared before a court in connection with the alleged offence, within 28 days of the accused's first such appearance,

the accused has served on the prosecutor a notice in writing giving any information identifying or assisting in the identification of that other person that is in the accused's possession.

#### **46 Defence of publication in the course of business**

- (1) In proceedings for an offence under any provision of the relevant legislation consisting of the publication of an advertisement for placing on the market of any food, it is a defence for the person charged to prove that he or she –
  - (a) is a person whose business it is to publish or arrange for the publication of advertisements;
  - (b) received the advertisement in the ordinary course of business; and
  - (c) did not know and had no reason to suspect that its publication would amount to an offence under that provision.
- (2) In this Article “advertisement includes any notice, circular, label, wrapper, invoice or other document, and any public announcement made orally or by means of producing or transmitting light or sound.

#### **47 Hygiene orders**

- (1) If a food business operator is convicted of an offence under the relevant legislation and the court by or before which he or she is convicted is satisfied that –
  - (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; or
  - (c) the state or condition of any premises or equipment used for the purposes of the business,involves risk of injury to health (including any impairment, whether permanent or temporary), the court may impose an order (a “hygiene order”) that has the effect set out in paragraph (2).
- (2) The effect of a hygiene order is –
  - (a) in a case to which paragraph (1) applies by virtue of paragraph (1)(a), a prohibition on the use of the process or treatment for the purposes of the business;
  - (b) in a case to which paragraph (1) applies by virtue of paragraph (1)(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; and
  - (c) in a case to which paragraph (1) applies by virtue of paragraph (1)(c), a prohibition on the use of the premises or equipment for the purposes of any food business.

- (3) If –
- (a) a food business operator is convicted of an offence under the relevant legislation; and
  - (b) the court by or before which he or she is so convicted thinks it proper to do so in all the circumstances of the case,
- the court may impose a hygiene order that imposes a prohibition on the food business operator participating in the management of any food business, or any food business of a class or description specified in the order.
- (4) As soon as practicable after the making of a hygiene order, the Minister must –
- (a) serve a copy of the order on the relevant food business operator; and
  - (b) in the case of an order made under paragraph (1), affix a copy of the order in a conspicuous position on such premises used for the purposes of the food business as the competent authority considers appropriate.
- (5) A hygiene order ceases to have effect –
- (a) in the case of a hygiene order made under paragraph (1), when the Minister serves on the food business operator a certificate to the effect that it is satisfied that the food business operator has taken sufficient measures to secure that there is no longer a risk of injury to health because of a reason of the kind mentioned in paragraph (1)(a) to (c) with respect to the food business; and
  - (b) in the case of a hygiene order made under paragraph (3), when the court makes a further order to the effect that hygiene order is to cease to have effect.
- (6) The Minister must serve a certificate under paragraph (5)(a) within 3 days of being satisfied as referred to in that sub-paragraph.
- (7) On an application by the food business operator for a certificate under paragraph (5)(a) –
- (a) the Minister must determine, as soon as is reasonably practicable and in any event within 14 days, whether or not the authority is so satisfied; and
  - (b) the Minister must, if the authority determines that it is not so satisfied, give notice to the food business operator of the reasons for that determination.
- (8) The court must make a further order under paragraph (5)(b) if, on an application by the food business operator, the court thinks it proper to do so having regard to all the circumstances of the case, including in particular the conduct of the food business operator since the making of the hygiene order.
- (9) An application may not be made under paragraph (8) within –
- (a) 6 months of the making of the relevant hygiene order; or
  - (b) 3 months of the making by the food business operator of a previous application under paragraph (8).

- (10) Where the commission of an offence by a food business operator leads to the conviction of another person under Article 51, paragraph (3) applies in relation to that other person as it applies in relation to the food business operator and any reference in this Regulation to the food business operator is to be construed accordingly.

#### **48 Power of court to prohibit person from running food business**

- (1) This Article applies if a person is convicted of an offence against any provision of the relevant legislation that makes provision for securing the observance of hygienic conditions and practices in connection with the importation, exportation, placing on the market or production, processing or distribution of food or food sources or breaches any requirements as to food safety.
- (2) If the court by or before which the person is convicted thinks it proper to do so in all the circumstances of the case, the court may, on the application of the Minister, make an order prohibiting that person –
- (a) from using those premises, or causing or allowing those premises to be used; or
  - (b) from using any premises,
- as food premises for such period not exceeding 2 years as may be specified in the order:
- (3) However, the order may not be made unless the Minister has, not less than 14 days before the date of the hearing, given that person notice of the Minister's intention to apply for an order to be made against the person.
- (4) A person so subject may, at any time that is more than 6 months from the date on which the order came into force and from time to time thereafter, apply to the court before which the person was convicted, or by which the order was made, to revoke the order, and on any such application the court may, if it thinks proper having regard to all the circumstances of the case, including in particular the person's conduct subsequent to the conviction and, where the order relates only to specified premises, to any improvement in the state of the premises to which the order relates, grant the application.
- (5) If an application under paragraph (4) is refused by the court to which it is made, a further application thereunder may not be entertained if made within 3 months after the date of the refusal.
- (6) The court to which an application under the said paragraph (4) is made may order the applicant to pay the whole or any part of the costs of the application.
- (7) A person subject to an order of a court made by virtue of this Article is guilty of an offence if, while the order is in force –
- (a) the person uses, or causes or allows to be used, any premises to which the order relates as food premises; or
  - (b) the person participates in the management of any business in the course of which such premises are so used by another person.

**49 Criminal liability of officers; aiders and abettors**

- (1) If an offence under the relevant legislation committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of –
  - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
  - (b) a person purporting to act in any such capacity,the person is also guilty of the offence and liable to the penalty provided.
- (2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.
- (3) A person who aids, abets, counsels or procures the commission of an offence under the relevant legislation is also guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

**50 Time limit for prosecution**

A prosecution for an offence under the relevant legislation must not be commenced after the expiry of 3 years from the commission of the offence.

**51 Presumption as to placing on market for human consumption**

- (1) For the purposes of the relevant legislation, any food commonly used for human consumption, if placed on the market or offered, exposed or kept for placing on the market, is presumed, until the contrary is proved, to have been placed on the market or, as the case may be, to have been or to be intended for placing on the market for human consumption.
- (2) For the purposes of the relevant legislation –
  - (a) any food commonly used for human consumption; or
  - (b) any article or substance commonly used in the manufacture of food for human consumption,that is found on premises used for the production, processing or distribution or placing on the market of that food is presumed, until the contrary is proved, to be intended for placing on the market, or for manufacturing food for placing on the market, for human consumption.
- (3) For the purposes of the relevant legislation, any article or substance capable of being used in the composition or production, processing or distribution of any food commonly used for human consumption that is found on premises on which that food is prepared is, until the contrary is proved, presumed to be intended for use for human consumption.

**52 Evidence of certificate of analysis**

- (1) In any proceedings under the relevant legislation, the certificate of an analyst is sufficient evidence of the facts stated in the certificate, unless the defendant or person charged requires that the person who made the analysis be called as a witness or the court makes an order under paragraph (2).
- (2) The court considering any proceedings under the relevant legislation may, if it thinks fit, and on the request of either party must cause part of a sample retained by the analyst to be sent for further analysis and a certificate of the result of the further analysis submitted to the court.
- (3) The costs of, and incidental to, the analysis must be paid by the person at whose request the analysis was made.

**53 Appeals to Magistrate's Court**

- (1) Any person who is aggrieved by a decision of the Minister to serve a notice under Part 8 may appeal to the Magistrate's Court.
- (2) An appeal under paragraph (1) must be brought within 28 days from the date on which notice of the decision to be appealed against was served on the person.
- (3) On an appeal against a notice under Part 8, the Magistrate's Court may cancel or affirm the notice and, if it affirms it, may do so either in its original form or with the modifications that the Court may in the circumstances think fit.
- (4) If, apart from this paragraph, any period specified in a notice would include any day on which an appeal against that notice is pending, that day is excluded from that period.
- (5) An appeal is regarded as pending for the purposes of subsection (4) until it is finally disposed of, is withdrawn or is struck out for want of prosecution.

**54 Appeals to Royal Court**

A person who is aggrieved by –

- (a) any dismissal by the Magistrate's Court of an appeal under as is mentioned in Article 60; or
- (b) any decision of such a court to make an order under Article [52 or] 53, may appeal to the inferior number of the Royal Court.]

**55 Right to carry on business pending appeal**

- (1) Where a decision of the Minister under the relevant legislation refusing, cancelling, suspending or revoking a licence, or imposing a notice other than an emergency prohibition notice, makes it unlawful for a person –
  - (a) to carry on any business which the person, or his or her immediate predecessor in the business, was lawfully carrying on at the date when the decision of the Minister was given, or

- (b) to use any premises for any purpose for which the person, or his or her immediate predecessor in the business, was lawfully using the premises,

the person 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 abandoned or dismissed.

- (2) Paragraph (1) applies where the decision of a court in proceedings in respect of an offence under the relevant legislation, makes it unlawful for a person to carry on a business that he or she was lawfully carrying on immediately before the decision was given, or to use any premises for any purpose for which he or she was then lawfully using them.

## **56 Disputes as to compensation**

Where provision is made by the relevant legislation 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, is to be determined by arbitration.

## **57 Rules of Court**

Rules may be made in the manner prescribed by the Royal Court (Jersey) Law 1948 to make such provision as appears to the Superior Number of the Royal Court to be necessary or expedient for the purposes of this Law.

# **PART 10**

## **CLOSING PROVISIONS**

## **58 Repeals and savings**

- (1) The Food Safety (Jersey) Law 1966 and the Food Safety (Miscellaneous Provisions) (Jersey) Law 2000 are repealed.
- (2) Despite paragraph (1), any Orders made under either of the Laws mentioned in paragraphs (1), as they were in force immediately before the coming into force of this Article, are treated as having been made under this Law, except to the extent, if any, that they are inconsistent with it.

## **59 Consequential amendments to enactments**

- (1) Schedule 2 has effect.
- (2) The States may by Regulations make such amendments to any enactment as appear to the States to be expedient –
- (a) for the general purposes, or any particular purpose, of this Law;
  - (b) in consequence of any provision made by or under this Law; or
  - (c) for giving full effect to this Law or any provision of it.

**60 Regulations and Orders**

- (1) The States may make Regulations to amend Article 1.
- (2) The Minister may by Order prescribe anything that may or must be prescribed under this Law, other than anything that may be prescribed by Rules of Court.
- (3) Orders and Regulations made under this Law may be made only after open and transparent public consultation directly or through representative bodies except in any case where the urgency of the matter does not permit such consultations.
- (4) The power to make Regulations or Orders includes power to make any supplementary, incidental, consequential, transitional, transitory or savings provisions which appear to the States or the Minister, as the case may be, to be necessary or expedient for the purposes of the Regulations or Order.

**61 Citation and commencement**

This Law may be cited as the Food (Jersey) Law 201- and comes into force on such day or days as the States may by Act appoint.

**SCHEDULE 1**

(Article 18(2))

**ORDER MAKING POWERS**

1. The Minister may by Order make provision for the regulation of any of the following matters -
  - (a) food hygiene and food safety requirements applicable to primary producers, including the importation, handling and placing on the market of food.
  - (b) the composition of food;
  - (c) the use of any process or treatment in the handling of food;
  - (d) the furnishing of information as to the composition and use of any substance sold in the course of a business for use in the handling of food, including particulars of any investigations or inquiries carried out by any person for the purpose of determining the cumulative effect on the health of a person consuming the substance in ordinary quantities;
  - (e) the transportation of food;
  - (f) the labelling and description of food (provided that any Order made in respect of weight, measure or number must be made by the Minister for Economic Development, Tourism, Sport and Culture);
  - (g) the importation, exportation, placing on the market or handling of novel foods, including genetically modified foods, or food sources from which such foods are intended to be derived, of any class specified in the Order;
  - (h) the classification or designation of food, including any description of its origin or of the manner in which it is packed;
  - (i) the conditions and practices in connection with food contact materials during the importation, exportation, placing on the market or handling of food;
  - (j) the use of any specified substance, or any substance of any specified class in connection with the production of any food source or the carrying out of any other activity in connection with, or in a manner likely to affect, the production of any food source;
  - (k) the rating of food hygiene standards of food businesses including the publicising of food hygiene ratings;
  - (l) the disposal of food, including food that remains fit for human consumption but which cannot be sold;
  - (m) the disposal of waste products in connection with food;
  - (n) the sampling of food for the purposes of analysis, including -
    - (i) the methods and procedure to be followed and the samples to be procured,
    - (ii) the persons to whom parts of samples are to be given and the persons by whom such parts are to be retained,



- (iii) the notices which are to be given to, and the information which is to be furnished by, the persons in charge of any food, substance, contact material or food source of or from which samples are procured,
  - (iv) the methods which are to be used in analysing or examining samples, or parts of samples, or in classifying the results of analyses or examinations,
  - (v) the circumstances in which an analyst or a food auditor is to be precluded, by reason of a conflict of interest, from analysing or examining a particular sample or part of a sample, and
  - (vi) the circumstances in which samples, or parts of samples, are to be or may be submitted for analysis or examination by another analyst.
2. For the purposes of this Schedule -
- (a) “novel food” means any food produced from raw material that has not previously been used for human consumption in the British Islands or has been so used only to a very limited extent, or produced by new or extensively modified processes not previously used in the production of food;
  - (b) a food source is genetically modified if any of the genes or other genetic material in the food source –
    - (i) has been modified by means of an artificial technique; or
    - (ii) is inherited or otherwise derived, through any number of replications, from genetic material which was so modified,
 and in this paragraph “artificial technique” does not include any technique involving no more than, or no more than the assistance of, naturally occurring processes of reproduction (including selective breeding techniques or in vitro fertilisation).

## SCHEDULE 2

(Article 59(1))

### CONSEQUENTIAL AMENDMENTS

#### 1 **Community Provisions (Food Supplements) (Jersey) Regulations 2014 amended**

- (1) The Community Provisions (Food Supplements) (Jersey) Regulations 2014 are amended as follows.
- (2) In Regulation 1(1) –
  - (a) for the definition “1966 Law” there is substituted –  
“201- Law” means the Food Safety (Jersey) Law 201-;
  - (b) in the definition “authorised officer” for “Food Safety (Jersey) Law 1966” there is substituted “Food Safety (Jersey) Law 201-”.

- (3) In Regulation 5(2) for “Without prejudice to the requirements of any Order made under Article 9 of the 1966 Law” there is substituted “Without limiting the effect of any Order made under paragraph 6 of Schedule 1 to the 201- Law”.
- (4) Regulations 9(2), 10 and 11 are repealed.

**2 Community Provisions (Nutrition and Health Claims on Foods) (Jersey) Regulations 2014 amended**

- (1) The Community Provisions (Nutritional and Health Claims on Foods) (Jersey) Regulations 2014 are amended as follows.
- (2) In Regulation 1(1) –
  - (a) for the definition “1966 Law” there is substituted –  
“201- Law” means the Food Safety (Jersey) Law 201-;
  - (b) in the definition “authorised officer” for “Food Safety (Jersey) Law 1966” there is substituted “Food Safety (Jersey) Law 201-”.
- (3) Regulations 3(3) and (4), 4 and 5 are repealed.

**3 Medicines (Aristolochia, Mu Tong and Fangji) (Prohibition) (Jersey) Order 2002 amended**

In Article 4(1)(b) of the Medicines (Aristolochia, Mu Tong and Fangji) (Prohibition) (Jersey) Order 2002 for “as defined in Article 1(1) of the Food Safety (Jersey) Law 1966” there is substituted “means a person appointed as such under Article 4 of the Food (safety and Hygiene) (Jersey) Law 201-”.

**4 Medicines (Kava-kava) (Prohibition) (Jersey) Order 2003 amended**

In Article 3(1)(b)(ii) of the Medicines (Kava-kava) (Prohibition) (Jersey) Order 2003 for “as defined in Article 1(1) of the Food Safety (Jersey) Law 1966” there is substituted “means a person appointed as such under Article 4 of the Food (safety and Hygiene) (Jersey) Law 201-”.

**5 Medicines (Prescription Only) (Jersey) Order 1997 amended**

In the table in Part 1 of Schedule 2 to the Medicines (Prescription Only) (Jersey) Order 1997, in entry 2(b) in column 1 for “Food Safety (Jersey) Law 1966” there is substituted “Food Safety (Jersey) Law 201-”.

**6 Misuse of Drugs (General Provisions) (Jersey) Order 2009 amended**

In Article 6(4)(g) and (h) of the Misuse of Drugs (General Provisions) (Jersey) Order 2009 for “Food Safety (Jersey) Law 1966” there is substituted “Food (Safety and Hygiene) (Jersey) Law 201-”.

**7 Pesticides (General Provisions) (Jersey) Order 1991 amended**

In Article 2(2)(b) of the Pesticides (General Provisions) (Jersey) Order 1991 for “Food Safety (Jersey) Law 1966” there is substituted “Food Safety (Jersey) Law 201-”.

**8 Places of Refreshment (Jersey) Law 1967 amended**

In each place where it occurs in Articles 8(1)(b) and 9(2) and (3) for “Article 18 of the Food Safety (Jersey) Law 1966” there is substituted “Article 52 of the Food Safety (Jersey) Law 201-”.

**9 Police Procedures and Criminal Evidence (Jersey) Law 2003 amended**

In Schedule 3 to the Police and Criminal Evidence (Jersey) Law 2003 -

(a)

(a) For the entry relating to the Food Safety (Jersey) Law 1966 there is substituted –

“Food Safety (Jersey) Law 201- Article 26(1)”;

(b) the entry relating to the Food Safety (Miscellaneous Provisions) (Jersey) Law 2000 is deleted.

**10 Price Indicators (Jersey) Regulations 2008 amended**

In Regulation 1 of the Price Indicators (Jersey) Regulations 2008, in the definition of “food” for the words “Article 1 of the Food Safety (Jersey) Law 1966” there shall be substituted the words “Article 2 of the Food Safety (Jersey) Law 201-”.

**11 Restriction on Smoking (Jersey) Law 1973 amended**

In Article 1F(6)(b) of the Restriction on Smoking (Jersey) Law 1973 for the words “Food Safety (Jersey) Law 1966” there shall be substituted the words “Food (Safety and Hygiene) (Jersey) Law 201-”.

Consultation Draft

