



Jersey

# **FOOD SAFETY (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 2000**

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## FOOD SAFETY (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 2000

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## FOOD SAFETY (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 2000<sup>1</sup>

A LAW to provide for the imposing of prohibition orders on premises used for food business; for procedures relating to them; and for connected purposes

Commencement [[see endnotes](#)]

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### 1 Interpretation

In this Law, unless the context otherwise requires –

“commercial operation”, in relation to any food or contact material, means any of the following, namely –

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

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

“contact material” means any article or substance which is intended to come into contact with food;

“Court” means the Royal Court;

“emergency prohibition notice” and “emergency prohibition orders” have the meanings respectively assigned to them by Article 3;

“equipment” includes any apparatus;

“food” and “business” have the meanings respectively assigned to them by the [Food Safety \(Jersey\) Law 1966](#);

“food business” means any business in the course of which commercial operations with respect to food or food sources are carried out;

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

“injury to health” includes any impairment whether permanent or temporary;

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

“premises” includes any place, vehicle, stall or movable structure.

## **2 Functions of the Minister**

- (1) The Minister shall investigate a complaint that the health risk condition is fulfilled with respect to any food business.
- (2) The Minister may cause inspections to be made, to detect whether the health risk condition is fulfilled, in respect of a food business where no complaint has been made to the Minister.

## **3 Emergency prohibition orders and notices**

- (1) If the Minister is satisfied that the health risk condition is fulfilled with respect to any food business, the Minister may, by a notice served on the proprietor of the business (in this Law referred to as an ‘emergency prohibition notice’), impose the appropriate prohibition.
- (2) If the Court is satisfied, on the application of the Minister, that the health risk condition is fulfilled with respect to any food business, the Court shall by an order (in this Law referred to as an ‘emergency prohibition order’), impose the appropriate prohibition.
- (3) The Minister shall not apply for an emergency prohibition order unless, at least one day before the date of the application, the Minister has notified the proprietor of the business of the intention to apply for the order.
- (4) The health risk condition is fulfilled with respect to any food business if any of the following involves imminent risk of injury to health, namely –
  - (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;
  - (c) the state or condition of any premises or equipment used for the purposes of the business.
- (5) The appropriate prohibition is –
  - (a) in a case falling within paragraph (4)(a), a prohibition on the use of the process or treatment for the purposes of the business;
  - (b) in a case falling within paragraph (4)(b), a prohibition on the use of the premises or equipment for the purposes of the business or any other food business of the same class or description;
  - (c) in a case falling within paragraph (4)(c), a prohibition on the use of the premises or equipment for the purposes of any food business.

- (6) As soon as practicable after the service of an emergency prohibition notice, a copy of the notice shall be affixed in a conspicuous position on the premises used for the purposes of the business, and any person who knowingly contravenes such a notice shall be guilty of an offence.
- (7) As soon as practicable after the making of an emergency prohibition order, a copy of the order shall be –
- (a) served on the proprietor of the business; and
  - (b) affixed in a conspicuous position on the premises used for the purposes of the business,
- and any person who knowingly contravenes such an order shall be guilty of an offence.
- (8) A person guilty of an offence under paragraph (6) or (7) shall be liable to a fine or to imprisonment for a term not exceeding 2 years or to both.
- (9) An emergency prohibition notice shall cease to have effect –
- (a) if no application for an emergency prohibition order is made within the period of 3 days beginning with the service of the notice, at the end of that period;
  - (b) if an application is so made, on the determination or abandonment of the application.
- (10) An emergency prohibition notice or emergency prohibition order shall cease to have effect on the issue by the Minister of a certificate to the effect that he or she is satisfied that the proprietor has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the business.
- (11) The Minister shall issue a certificate under paragraph (10) within 3 days of his or her being satisfied as mentioned in that paragraph, and on application by the proprietor for such a certificate, the Minister shall –
- (a) determine, as soon as is reasonably practicable and in any event within 14 days, whether or not the Minister is so satisfied; and
  - (b) if the Minister determines that he or she is not so satisfied, give notice to the proprietor of the reasons for that determination.
- (12) Where an emergency prohibition notice is served on the proprietor of a business, the Minister shall compensate the proprietor in respect of any loss suffered by reason of the proprietor complying with the notice unless –
- (a) an application for an emergency prohibition order is made within the period of 3 days beginning with the service of the notice; and
  - (b) the Court declares itself satisfied, on the hearing of the application, that the health risk condition was fulfilled with respect to the business at the time when the notice was served.

#### **4 Appeals**

A person given notice pursuant to Article 3(11)(b) of a decision by the Minister to refuse to issue a certificate referred to in paragraph (10) of that Article may appeal against the notice to the Court within 21 days of receipt of the notice.

#### **5 Powers of entry to premises etc.**

- (1) Subject to paragraph (2), any authorized person may, on production, if so required, of the authorized person's authority, enter any premises at any reasonable time –
  - (a) if the authorized person suspects, on reasonable grounds, that the health risk condition is fulfilled with respect to any food business on those premises; or
  - (b) for the purpose of taking any action authorized by this Law.
- (2) Admission by virtue of paragraph (1) to any premises used wholly or mainly for residential purposes shall not be demanded as of right unless 24 hours notice of the intended entry has been given to the occupier.
- (3) If it is shown to the satisfaction of the Bailiff or a Jurat by evidence on oath that –
  - (a) admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or that the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry; and
  - (b) there is reasonable ground for entry into the premises for the purpose for which entry is required,the Bailiff or the Jurat may issue a warrant under this Article authorizing the Minister by any authorized person to enter the premises, if need be by force.
- (4) A warrant issued in pursuance of paragraph (3) shall continue in force for a period of one month.
- (5) An authorized person entering any premises by virtue of paragraph (1) or of a warrant under paragraph (3) may –
  - (a) take with the authorized person such other person and such equipment as may be necessary;
  - (b) carry out such inspections, measurements and tests as the authorized person considers necessary for the discharge of any of the Minister's functions under this Law; and
  - (c) take away such samples or articles as the authorized person considers necessary for that purpose.
- (6) An authorized person entering any premises by virtue of paragraph (1), or of a warrant issued under paragraph (3), may inspect any records (in whatever form they are held) relating to a food business and, where any such records are kept by means of a computer –



- (a) may have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and
  - (b) may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford the authorized person such assistance as the authorized person may reasonably require.
- (7) Any authorized person exercising any power conferred by paragraph (6) may –
- (a) seize and detain any records which the authorized person has reason to believe may be required as evidence in proceedings under this Law; and
  - (b) where the records are kept by means of a computer, may require the records to be produced in a form in which they may be taken away.
- (8) On leaving any unoccupied premises which the authorized person has entered by virtue of paragraph (1) or of a warrant under paragraph (3) the authorized person shall leave them as effectively secured against unauthorized entry as the authorized person found them.
- (9) In this Article “authorized person” means a person authorized by the Minister for the purpose of discharging any or all of the functions contained in this Law.

## **6 Offences relating to entry**

- (1) A person who wilfully obstructs any person acting in the exercise of any powers conferred by Article 5 shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 3 on the standard scale.
- (2) If a person discloses any information relating to any trade secret obtained in the exercise of any powers conferred by Article 5, the person shall, unless the disclosure was made in the performance of his or her duty, or with the consent of the person having the right to disclose the information, be guilty of an offence and liable, on conviction, to a fine.<sup>2</sup>

## **7 Criminal liability of officers; aiders and abettors**

- (1) Where an offence under this Law committed by a company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the company or any person who was purporting to act in any such capacity, he or she, as well as the company, shall be guilty of that offence and shall be liable to be prosecuted and punished accordingly.
- (2) Without prejudice to paragraph (1), any person who aids, abets, counsels or procures the commission of an offence under this Law shall be liable to be dealt with, tried and punished as a principal offender.

## 8 Service of notices

- (1) This Article shall have effect in relation to any notice or other document required or authorized by or under this Law to be given to or served on any person.
- (2) Any such document may be given to or served on the person in question –
  - (a) by delivering it to the person;
  - (b) by leaving it at the person's proper address; or
  - (c) by sending it by post to the person at that address.
- (3) Any such document may –
  - (a) 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;
  - (b) 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) For the purposes of this Article and Article 7 of the [Interpretation \(Jersey\) Law 1954](#) in its application to this Article, the proper address of any person to or on whom a document is to be given or served shall be the person's last known address, except that –
  - (a) in the case of a company or its secretary, clerk or other officer or person referred to in paragraph (3)(a), it shall be the address of the registered or principal office of the company;
  - (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership,and for the purposes of this paragraph the principal office of a company registered outside Jersey or of a partnership carrying on business outside Jersey shall be their principal office within Jersey.
- (5) If the person to be given or served with any document mentioned in paragraph (1) has specified an address within Jersey other than the person's proper address within the meaning of paragraph (4) 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 shall also be treated for the purposes of this Article and Article 7 of the [Interpretation \(Jersey\) Law 1954](#) as the person's proper address.

## 9 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.

**10 Saving provisions**

This Law shall be in addition to and not in derogation of –

- (a) the [Loi \(1934\) sur la Santé Publique](#); and
- (b) any other law relating to public health.

**11 Citation**

This Law may be cited as the Food Safety (Miscellaneous Provisions) (Jersey) Law 2000.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Food Safety (Miscellaneous Provisions) (Jersey) Law 2000	<a href="#">L.2/2000</a>	15 February 2001 ( <a href="#">R&amp;O.19/2001</a> )
States of Jersey (Amendments and Construction Provisions No. 5) (Jersey) Regulations 2005	<a href="#">R&amp;O.45/2005</a>	9 December 2005
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	<a href="#">L.1/2016</a>	20 September 2016 ( <a href="#">R&amp;O.98/2016</a> )

### Table of Renumbered Provisions

Original	Current
1(1)	1
1(2), (3), (4)	spent, omitted from this revised edition

### Table of Endnote References

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- <sup>1</sup> *This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 5) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- <sup>2</sup> Article 6(2) *amended by L.1/2016*