



Jersey

FOOD (JERSEY) LAW 2023

Official Consolidated Version

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FOOD (JERSEY) LAW 2023

Contents

Article

PART 1	5
PRELIMINARY	5
1 Interpretation	5
2 Meaning of "food"	7
3 Meaning of "premises" and "commercial operation"	8
4 Appointment of authorised officers	8
5 Codes of practice	9
PART 2	9
LICENCES	9
6 Food businesses licensing scheme	9
7 Import and export licences	10
8 Further provisions relating to licences	10
PART 3	11
FOOD SAFETY	11
9 Food safety requirements	11
10 Water safety requirements	11
11 Responsibility of food business operators: production, processing and distribution of food	11
12 Responsibilities of food business operators: traceability of food	12
13 Responsibilities of food business operators: unsafe food	13
14 Responsibilities of food business operators: hazard analysis and critical control points	13
15 Public information about food health risks	14
16 Equipment used with food and food contact materials	14
17 Food hygiene	15
18 Novel foods	15
PART 4	16
LABELLING AND CONSUMER PROTECTION	16
19 False descriptions of food	16

20	Labelling and description of food	16
PART 5		17
FOOD SAFETY AUDITORS		17
21	Approval of food safety auditors.....	17
22	Food safety auditor to give notice of certain interests	17
23	Variation of conditions or suspension or cancellation of approval of auditor	18
24	Food safety auditor’s assessment of food business	18
25	Food safety auditor’s report.....	18
PART 6		19
POWERS OF INVESTIGATION		19
26	Power to enter premises and food businesses	19
27	Search warrants.....	20
28	Other powers.....	20
29	Examination and seizure of food and other things	21
30	Destruction and disposal of seized food and other things.....	22
PART 7		22
NOTICES		22
31	Emergency control notice.....	22
32	Compensation resulting from emergency control notice	23
33	Improvement notices	23
34	Prohibition notices	23
35	Remedial action notices	24
36	Render harmless notices	24
37	Prohibition of use notices.....	25
38	Information notices	25
39	Supplementary provision as to notices	25
40	Breach of notice.....	26
PART 8		27
OFFENCES AND PROCEEDINGS		27
41	Obstruction.....	27
42	Disclosure of information	27
43	Protection of officers acting in good faith.....	28
44	Offences due to fault of another person.....	28
45	Defence of due diligence	28
46	Defence of publication in the course of business	29
47	Power of court to make hygiene orders.....	29
48	Power of court to prohibit use of premises as a food business	30
49	Offences by bodies corporate and others	30
50	Alternatives to prosecutions	31
51	Presumption as to placing on market for human consumption	31
52	Evidence of certificate of an analyst	32
53	Appeals	32
54	Right to carry on business pending appeal	32

55	Disputes as to compensation	33
56	Rules of Court	33
57	33
PART 9		33
CLOSING PROVISIONS		33
58	Orders: specific provisions.....	33
59	Regulations: specific provisions.....	34
60	Further provisions as to Orders and Regulations	34
61	Repeals and savings	35
62	Consequential amendments to enactments	35
63	Citation and commencement.....	35
SCHEDULE 1		36
ORDER MAKING POWERS		36
SCHEDULE 2		37
ENDNOTES		38
Table of Legislation History.....		38
Table of Endnote References		38



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

Commencement [[see endnotes](#)]

PART 1

PRELIMINARY

1 Interpretation

- (1) In this Law, unless the context otherwise requires –
- “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);
 - “container” includes any basket, pail, tray, package or receptacle of any kind whether open or closed;
 - “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 made under Article 31(1);
 - “EU legislation” means Regulations or Orders made under Article 2 of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#) to the extent that they relate to food or food safety in relation to any stage of production, processing or distribution of food;
 - “examine” includes weigh, count, test or measure;
 - “food” or “foodstuff” has the meaning set out in Article 2;
 - “food business” means –
 - (a) means any undertaking, whether for profit or not and whether public or private, carrying out any activity involving or related to food, whether for profit or not; and

(b) includes operations of the type described in (a) that are carried out by a club, school, hospital, institution, the States or a Parish;

“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 safety auditor” means a person approved as such under Article 21;

“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;

“Minister” means the Minister for the Environment;

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

“placing on the market” in relation to food 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;

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

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

“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;

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

- (2) The States may, by Regulations, amend this Article.

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, is after the point where the water is used in the undertaking.
- (3) However, “food” does not include –
- (a) any substance or product, including additives, whether processed, partially processed or unprocessed, intended to be used for oral feeding to animals;
 - (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) cosmetic products;
 - (f) tobacco and tobacco products within the meaning of Article A1 of the [Restriction on Smoking \(Jersey\) Law 1973](#);
 - (g) narcotic substances within the meaning of the United Nations Single Convention on Narcotic Drugs signed at New York on 30th March 1961, or psychotropic substances within the meaning of the United Nations Convention on Psychotropic Substances, 1971;
 - (h) residues or contaminants in or on food.
- (4) In this Article, “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.

3 Meaning of "premises" and "commercial operation"

- (1) In this Law, "premises" –
 - (a) means any place, vehicle (other than a ship or an aircraft), stall or immovable structure; and
 - (b) includes a home-going ship.
- (2) For the purpose of taking an action in relation to that food that is permitted under Part 6 or 7 or under the relevant legislation, "premises" also includes any ship or aircraft that is not an exempt ship or aircraft.
- (3) For the purposes of this Article –

"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;

"home-going ship" means –

 - (a) a ship which is engaged exclusively in plying in territorial sea adjacent to Jersey; or
 - (b) 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;

"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;

"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" –
 - (a) means any stage of production, processing or distribution of food including any or all of the following –
 - (i) placing on the market, exposing or advertising for sale,
 - (ii) consigning, delivering or serving by way of sale,
 - (iii) preparing for sale or presenting, labelling or wrapping for the purpose of sale,
 - (iv) storing or transporting for the purpose of sale,
 - (v) importing or exporting;
 - (b) in relation to any food source, means deriving food from it for the purpose of sale or for purposes connected with sale;
 - (c) 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;
 - (d) does not include the primary production of food for private domestic use or for the domestic preparation, handling or storage of food for private domestic consumption.
- (5) The Minister may, by Order, amend this Article.

4 Appointment of authorised officers

- (1) The Minister must appoint a Chief Food Officer who is –

- (a) a States employee within the meaning of the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#); 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) If there is no Chief Food Officer, or the Chief Food Officer is unable to carry out any functions under this Law, the functions of the Chief Food Officer are to be carried out by the Minister or by a person the Minister has authorised to do so under paragraph (4).
- (3) 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.
- (4) The Minister may authorise other persons either generally or specially, for the purpose of carrying out the functions of authorised officers under the relevant legislation.
- (5) An authorisation under paragraph (4) –
- (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.

PART 2

LICENCES

6 Food businesses licensing scheme

- (1) The States may, by Regulations, provide for the licensing of food businesses.
- (2) Regulations under paragraph (1) may –
- (a) provide for the grant, renewal, suspension or revocation of licences in respect of food businesses;
 - (b) prohibit a person operating a food business except in accordance with a licence granted under the Regulations.

- (3) Despite Article 59, where Regulations under paragraph (1) create a criminal offence, the Regulations must not impose a term of imprisonment.

7 Import and export licences

- (1) The States may, by Regulations, provide for the licensing of the import and export of food.
- (2) Regulations under paragraph (1) may –
- (a) provide for the grant, renewal, suspension or revocation of licences in respect of the import and export of food;
 - (b) prohibit a person from importing or exporting food except in accordance with a licence granted under the Regulations.
- (3) Despite Article 59, where Regulations under paragraph (1) create a criminal offence, the Regulations must not impose a term of imprisonment.

8 Further provisions relating to licences

Regulations made under Article 6(1) or 7(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 sub-paragraph (o);
- (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 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) the manner and procedure for appealing decisions made in respect of licences;
- (o) the prescribing by the Minister of mandatory conditions in respect of licences.

PART 3

FOOD SAFETY

9 Food safety requirements

- (1) A person must not place on the market food that is unsafe.
- (2) Food is unsafe if it is injurious to health or unfit for human consumption.
- (3) In determining whether 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;
 - (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 food is unfit for human consumption, regard must be had to its intended use and reasons of contamination, whether by extraneous matter or otherwise, or through putrefaction, deterioration or decay.
- (6) Where 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 a detailed assessment concludes that the rest of the batch, lot or consignment is safe.
- (7) Food is deemed to be safe if it conforms to the relevant legislation.
- (8) Despite paragraph (7), the Minister may by directions 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.
- (9) A person who, without reasonable excuse, contravenes paragraph (1) commits an offence and is liable to a fine and imprisonment for a term of 2 years.

10 Water safety requirements

- (1) Water must comply with the standards set out in Annex I of Directive 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (OJ L 435, 23.12.2020, p. 1), as amended from time to time.
- (2) The Minister may, by Order, amend the water safety requirements in paragraph (1).

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.
- (2) A food business operator must –
- (a) when asked to do so by an authorised officer, provide the authorised officer with evidence of the operator’s compliance with paragraph (1) in the manner that the authorised 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, if not prescribed, notified to a food business operator.
- (3) A person who, without reasonable excuse, contravenes this Article commits an offence and is liable to a fine and imprisonment for a term of 2 years.

12 Responsibilities of food business operators: traceability of food

- (1) A food business operator must have in place systems and procedures to identify –
- (a) 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) 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, the United Kingdom 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 authorised officer, provide the authorised officer with evidence of the operator’s compliance with paragraph (1) or (2) in the manner that the authorised 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) or documentation or information referred to in paragraph (2) 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, if not prescribed, notified to a food business operator.
- (4) In this Article, “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.
- (5) A person who, without reasonable excuse, contravenes this Article commits an offence and is liable to a fine and imprisonment for a term of 2 years.

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 otherwise distributed and that has left the immediate control of the operator is unsafe, must immediately –
 - (a) initiate appropriate procedures to withdraw the food from the market;
 - (b) inform the Chief Food Officer in writing of that belief (or reason for that belief) and those procedures; and
 - (c) provide to the Chief Food Officer any information that the operator has that is necessary to trace food that is believed to be unsafe.
- (2) If the food may have reached consumers, the food business operator must –
 - (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 must co-operate with any action taken by producers, processors, manufacturers, the Chief Food Officer or the Minister in relation to food that is believed to be unsafe and must not prevent or discourage any person from co-operating with the Chief Food Officer or the Minister.
- (4) A person who, without reasonable excuse, contravenes this Article commits an offence and is liable to a fine and imprisonment for a term of 2 years.

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 step or steps at which control is essential to prevent or eliminate a hazard or to reduce it to acceptable levels (“the critical control points”);
 - (c) establishing limits at critical control points which separate acceptability from unacceptability for the prevention, elimination or reduction of identified hazards (“the critical limits”);
 - (d) establishing and implementing effective monitoring procedures at critical control points;
 - (e) establishing corrective actions when monitoring indicates that a critical control point is not under control;
 - (f) establishing procedures, which must 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 to the production or processing, or any step in the production or processing, 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 paragraphs (1) and (3) 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 one year 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 –
 - (a) arrangements to facilitate the implementation of this Article by the food business operator; and
 - (b) the period during which the food business operator must retain records in accordance with paragraph (4)(c).
- (6) A person who, without reasonable excuse, contravenes this Article commits an offence and is liable to a fine and imprisonment for a term of 2 years.

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.

16 Equipment used with food and food contact materials

- (1) The States may, by Regulations, make provision relating to –
 - (a) conditions and practices in connection with –
 - (i) food contact materials;
 - (ii) equipment used or intended for use during the importation, exportation, placing on the market or handling of food; and
 - (b) the placing on the market of –
 - (i) food contact materials;
 - (ii) equipment used or intended for use during the importation, exportation, placing on the market or handling of food.
- (2) In this Article “food contact materials” includes –

- (a) materials or articles that are intended to extend the shelf life or maintain or improve the condition of packaged food (sometimes known as active food materials); and
- (b) materials or articles that are intended to monitor the condition of packaged food or the environment surrounding the food (sometimes known as intelligent food materials).

17 Food hygiene

- (1) The States may, by Regulations, make provision for –
 - (a) the regulation of food hygiene and food safety requirements applicable to the importation, exportation, transportation, placing on the market and handling of food;
 - (b) the training of people involved in the importation, exportation, placing on the market and handling of food; and
 - (c) the rating of food hygiene standards of food businesses including the publicising of food hygiene ratings.
- (2) Without limiting paragraph (1), Regulations may make provision for imposing requirements relating to the –
 - (a) construction, layout, drainage, equipment, ventilation, lighting and water supply, including requirements relating to their maintenance and cleanliness, in relevant premises;
 - (b) provision, maintenance and cleanliness of sanitary and washing facilities in relevant premises;
 - (c) provision and maintenance of facilities for the disposal of refuse in relevant premises;
 - (d) equipment, furnishings and utensils used in relevant premises;
 - (e) training of people involved in the importation, exportation, placing on the market and handling of food.
- (3) In this Article “relevant premises” means premises where food is stored, processed, prepared for sale or sold.

18 Novel foods

- (1) The States may, by Regulations, make provision in relation to importation, exportation, placing on the market or handling of novel foods, genetically modified foods, or food sources from which such foods are intended to be derived.
- (2) In this Article –
 - (a) “novel food” means any food produced –
 - (i) from raw material that has not previously been used for human consumption in the British Islands before 15th May 1997, or has been so used only to a very limited extent, or
 - (ii) by new or extensively modified processes not previously used in the production of food in the British Islands before 15th May 1997;
 - (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, including mutagenesis, or
 - (ii) is inherited or otherwise derived, through any number of replications, from genetic material which was so modified.
- (3) In paragraph (2) “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).

PART 4

LABELLING AND CONSUMER PROTECTION

19 False descriptions of food

- (1) A person must not describe, label, advertise or present any food in a way that is misleading 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.
- (4) A person who, without reasonable excuse, contravenes paragraph (1) commits an offence and is liable to a fine and imprisonment for a term of 2 years.

20 Labelling and description of food

- (1) The States may, by Regulations, make provision in relation to the labelling and description of food.

- (2) Without limiting paragraph (1), Regulations may make provision relating to labelling in relation to –
 - (a) allergens;
 - (b) methods of primary production, processing and preparation.

PART 5

FOOD SAFETY AUDITORS

21 Approval of food safety auditors

- (1) The Minister may approve in writing 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 must 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, the Minister 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, the Minister 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.

22 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).

23 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 believes 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;
 - (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.

24 Food safety auditor's assessment of food business

A food safety auditor may at the request of a food business operator –

- (a) carry out assessments of a food business to ascertain their compliance with the relevant legislation and any code of practice;
- (b) report in accordance with the requirements of Article 25.

25 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 24(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) Where there is an imminent and serious risk to the safety of food intended to be placed on the market, a food safety auditor must report in writing 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.
- (5) A food safety auditor must report in writing to the Minister, giving reasons, if the food safety auditor considers that the categorisation or 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.

PART 6

POWERS OF INVESTIGATION

26 Power to enter premises and food businesses

- (1) Subject to Article 27, 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 a serious 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 prior consent of the person mentioned in sub-paragraph (a);
- (5) An authorised officer who enters premises that are unoccupied or whose occupier is absent, including under a warrant granted under Article 27, must (so far as reasonably practicable) leave the premises as effectively secured as the officer found them.

27 Search warrants

- (1) The Bailiff, may grant a warrant authorising an authorised officer, together with a police officer, to enter the premises and to use such force as is reasonably necessary to do so 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.
- (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.

28 Other powers

- (1) The powers of an authorised officer entering any premises under Article 26 or 27 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;
 - (d) opening and examining any equipment;
 - (e) taking samples of any food for the purpose of analysing it;
 - (f) taking, for the purpose of analysis, samples of water or soil or any other thing that is part of the environment in which any food is handled;
 - (g) taking, other than for the purpose of analysis, samples of anything 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) An authorised officer may, for the purposes of carrying out the officer's functions under this Article, 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 who has entered any premises in the exercise of powers under Article 26 or under a warrant issued under Article 27, must not disclose any information on the premises obtained by the person with regard to any trade secret unless the disclosure was made in the performance of their duty.
- (4) 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.
- (5) A person who contravenes paragraph (3) commits an offence and is liable to a fine of level 3 on the standard scale.

29 Examination and seizure of food and other things

- (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, the officer may seize it.
- (2) An authorised officer who intends to seize any food under paragraph (1) or any food or other thing under Article 28(1)(h) must serve a notice ("a seizure notice") on the person in whose possession the food or thing was found specifying the officer's intention to seize it and the reasons for the seizure.

- (3) Where a seizure notice has been served, no person may remove or interfere with the food or thing to which the seizure notice relates without the written approval of an authorised officer.

30 Destruction and disposal of seized food and other things

- (1) Where it appears to an authorised officer that food seized under Article 29, or any food or other thing seized under Article 28(1)(h), is unsafe or will render, or is likely to render, food unsafe, the officer may make an application to the Magistrate for an order that the food or thing is to be destroyed or disposed of.
- (2) An application must be made no more than 21 days after the day on which the seizure notice was served.
- (3) The person who owns the seized food or thing may attend before the Magistrate on the application for its destruction or disposal and is entitled to be heard and to call witnesses.
- (5) The Magistrate may make an order that the food or thing must be destroyed or disposed of.
- (6) Where the Magistrate makes an order under paragraph (5), the Magistrate may also make an order that –
 - (a) any expenses reasonably incurred in connection with the destruction or disposal are defrayed by the owner of the food or thing; or
 - (b) any compensation the Magistrate considers appropriate is paid to the owner of the food or thing.

PART 7

NOTICES

31 Emergency control notice

- (1) The Minister may make an emergency control notice where the Minister reasonably believes that the carrying out of an activity with respect to food, food sources or contact materials of any class or description involves or may involve serious risk of injury to human health.
- (2) An emergency control notice may set out measures, including the prohibition of activities, that must be taken by the person on whom it has been served to prevent or reduce the risk of injury to human health.
- (3) An emergency control notice may be addressed to one or more named persons, to a class of persons or to all persons.
- (4) An emergency control notice must –
 - (a) be made in writing;
 - (b) where addressed to named persons, served on all named persons addressed by it;
 - (c) where addressed to a class of persons or to all persons 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.
- (5) An emergency control notice –

- (a) that is served on a person takes effect when it is served;
 - (b) when it is published under paragraph (4)(c), takes effect as soon as it is published; and
 - (c) when it takes effect, is binding on the persons to whom it is addressed.
- (6) 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.

32 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 and any other factors that the Minister considers relevant.

33 Improvement notices

- (1) If the Minister has reasonable grounds for believing that a person is contravening the relevant legislation, the Minister may, by a notice served on that person –
- (a) state the Minister’s grounds for believing that the person is failing to comply with the relevant legislation;
 - (b) specify the matters which constitute the person’s failure to comply;
 - (c) specify the measures which, in the Minister’s opinion, the person must take in order to secure compliance; and
 - (d) require the person 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) The notice served under paragraph (1) may be described as a “hygiene improvement notice” where the contravention is of the 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.

34 Prohibition notices

- (1) The Minister may serve a notice (a “prohibition notice”) on a person if the Minister has reasonable grounds for believing that the person has contravened the relevant legislation and that –
- (a) the person has failed to comply with a notice served under Article 33 within the time allowed for compliance; or
 - (b) that the issue of a notice under this Article is necessary to prevent or mitigate a danger to public health.

- (2) The prohibition notice may prohibit, until the Minister otherwise directs, 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 person 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 notice.
- (3) If the Minister believes that the grounds for the issue of a prohibition notice no longer exist the Minister must withdraw the notice.

35 Remedial action notices

- (1) The Minister may serve a notice (a “remedial action notice”) on a person if it appears to the Minister that the person –
 - (a) has breached, or is breaching, any requirement of the relevant legislation; or
 - (b) is hampering an inspection under this Law or the relevant legislation.
- (2) A remedial action notice may –
 - (a) prohibit the use of any equipment or any part of the premises specified in the notice;
 - (b) impose conditions upon or prohibit the carrying out of any process; or
 - (c) require the rate of operation to be reduced to such extent as is specified in the notice, or to be stopped completely.
- (3) 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.
- (4) 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 person as soon as the Minister is satisfied that the action specified in the notice to be needed to remedy the breach has been taken.
- (5) 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.

36 Render harmless notices

- (1) If it appears to the Minister that continued use of any equipment is unsafe, the Minister may direct an authorised office to 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 notice (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.

37 Prohibition 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 36, 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.

38 Information notices

- (1) If it appears to the Minister that 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.

39 Supplementary provision as to notices

- (1) This Article applies 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 by –
 - (a) delivering it to the person personally;
 - (b) leaving it at the person’s proper address;
 - (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 authorised 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 “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) 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 as the person’s proper address for the purposes of this Article.

40 Breach of notice

A person who, without reasonable excuse, breaches a requirement, direction or condition contained in a notice commits an offence and is liable to a fine and imprisonment for a term of 2 years.

PART 8

OFFENCES AND PROCEEDINGS

41 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.
- (4) A person who contravenes this Article commits an offence and is liable to a fine and imprisonment for a term of 2 years.

42 Disclosure of information

- (1) A person must not, without reasonable excuse, disclose information relating to a food business gained in the performance of a function under the relevant legislation 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.
- (4) A person who contravenes this Article commits an offence and is liable to a fine.

43 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 authorised 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](#).

44 Offences due to fault of another person

- (1) Where 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 guilty of the offence.
- (2) A person may be charged with and 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 the accused took all reasonable precautions, and exercised all due diligence, to avoid the commission of the offence by the accused or by a person under the accused's control.
- (2) If 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 entitled to rely on that defence, without leave of the court, unless 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.
- (3) The notice must be served –
 - (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 after the accused's first such appearance.

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 the person –
 - (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 in any form.

47 Power of court to make hygiene orders

- (1) A court that convicts a food business operator of an offence under the relevant legislation may impose a hygiene order under paragraph (2) on the operator.
- (2) A hygiene order may –
 - (a) prohibit the use of a process, treatment, premises or equipment for the purposes of the business, if the court is satisfied that use of the process, treatment, premises or equipment involves risk of injury to health; and
 - (b) prohibit the food business operator from participating in the management of any food business, or any food business of a class or description specified in the order, if the court is satisfied that it is proper to do so in all the circumstances of the case.
- (3) As soon as practicable after the making of a hygiene order by the court, the Chief Food Officer must affix a copy of the order in a conspicuous position on such premises used for the purposes of the food business as the Chief Food Officer considers appropriate.
- (4) A food business operator may make an application to the court for an order that the court that the hygiene order ceases to have effect.
- (5) A food business operator may not make an application under paragraph (4) within –
 - (a) 6 months after the making of the relevant hygiene order; or
 - (b) 3 months after the making by the food business operator of a previous application under paragraph (4).
- (6) Where the court determines an application under paragraph (4), it must inform the Minister of the application and allow the Minister to make representations in respect of the application.
- (7) Where the commission of an offence by a food business operator leads to the conviction of another person under Article 44, paragraph (2) applies in relation to that other person as it applies in relation to the food business operator and any reference in this Article to the food business operator is to be construed accordingly.
- (8) A person who, without reasonable excuse, contravenes a hygiene order commits an offence and is liable to a fine and imprisonment for a term of 2 years.

48 Power of court to prohibit use of premises as a 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) The Minister may, before sentencing, apply to the court that convicted the person for an order prohibiting the person, for a period not exceeding 2 years, from using any premises, or causing or allowing any premises, to be used for the purposes of a food business.
- (3) If the Minister wishes to make an application, the Minister must, not less than 14 days before the date of the hearing, give the person notice of the Minister's intention to make the application.
- (4) The court may make an order if it thinks it proper to do so in all the circumstances of the case.
- (5) A person who is subject to an order may apply to the court for the court to revoke the order.
- (6) A person cannot make an application for the court to revoke the order –
 - (a) less than 6 months after the order comes into force; or
 - (b) less than 3 months after a previous application has been refused.
- (7) The court may grant an application to revoke an order if it thinks proper having regard to all the circumstances of the case, including in particular –
 - (a) the person's conduct subsequent to the conviction; and
 - (b) where the order relates only to specified premises, to any improvement in the state of the premises to which the order relates.
- (8) The court may order the applicant to pay the whole or any part of the costs of the application.
- (9) A person who, without reasonable excuse, contravenes an order made by the court under this Article commits an offence and is liable to a fine and imprisonment for a term of 2 years.

49 Offences by bodies corporate and others

- (1) In this Article –

“relevant offence” means an offence under this Law that is committed by a limited liability partnership, a separate limited partnership, an incorporated limited partnership or another body corporate;

“relevant person” means –

 - (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;
 - (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
 - (i) a general partner, or
 - (ii) a limited partner who is participating in the management of the partnership;

- (c) if the relevant offence is committed by a body corporate other than an incorporated limited partnership –
 - (i) a director, manager, secretary or other similar officer of the body corporate, and
 - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member's functions of management; and
- (d) a person purporting to act in any capacity described in sub-paragraphs (a) to (c) in relation to the partnership or body that commits the relevant offence.
- (2) If a relevant offence is proved to have been committed with the consent or connivance of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) Paragraph (4) applies if a relevant offence –
 - (a) is an offence that may be committed by neglect; and
 - (b) is proved to be attributable to any neglect on the part of a relevant person.
- (4) The relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

50 Alternatives to prosecutions

The States may by Regulations make provision for offences under this Law to be dealt with by means other than prosecution.

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, any of the following 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 –
 - (a) any food commonly used for human consumption;
 - (b) any article or substance commonly used in the manufacture of food 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 an analyst

- (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

- (1) A person may appeal to the inferior number of the Royal Court if that person is aggrieved by a decision –
 - (a) of the Minister –
 - (i) to refuse an approval under Article 21 or to vary, suspend or cancel an approval under Article 23, or
 - (ii) to serve a notice under Part 7;
 - (b) of an authorised officer to serve a notice under Article 29; or
 - (c) of the Magistrate –
 - (i) to make an order under Article 30, 47 or 48, or
 - (ii) not to revoke an order made under Article 47 or 48.
- (2) An appeal must be brought within 28 days after the date on which the person receives notice of the decision to be appealed against.
- (3) On an appeal against a decision of the Minister or authorised officer, the Royal Court may cancel or affirm the decision 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 any period specified in a notice would include a 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 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 an approval, or imposing a notice other than an prohibition notice issued under Article 34, makes it unlawful for a person –
 - (a) to carry on any business which the person, or the 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 the 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 the person was lawfully carrying on immediately before the decision was given, or to use any premises for any purpose for which the person was then lawfully using them.

55 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 and the [Arbitration \(Jersey\) Law 1998](#) applies as if the parties have entered into an arbitration agreement.

56 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.

57 ¹

PART 9

CLOSING PROVISIONS

58 Orders: specific provisions

- (1) The Minister may by Order –
- (a) prescribe anything that may or must be prescribed under this Law, other than anything that may be prescribed by Rules of Court;
 - (b) prohibit or regulate 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;
 - (c) 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;
 - (d) require the preparation, implementation, maintenance and monitoring of food safety programmes for food businesses to ensure that the relevant legislation is complied with;

- (e) require persons carrying on any activity to which an Order applies to keep and produce records and provide returns;
 - (f) prescribe the particulars to be entered on any register required to be kept in accordance with an Order;
 - (g) require a register to be open to inspection by the public at all reasonable times;
 - (h) 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.

59 Regulations: specific provisions

- (1) Regulations made under this Law may –
- (a) create offences; and
 - (b) confer a power or impose a duty on the Minister to make, by Order, any provision that may be made by the Regulations.
- (2) Where Regulations made under this Law create offences, the Regulations may make provision imposing a penalty of a fine and imprisonment for no more than 2 years for a criminal offence.
- (3) The provision that may be made by Order under Regulations made under paragraph (1) does not include provision –
- (a) imposing or increasing taxation;
 - (b) taking effect from a date earlier than that of the making of the Order containing the provision;
 - (c) amending this Law or the [Human Rights \(Jersey\) Law 2000](#); or
 - (d) making any provision inconsistent with this Law.

60 Further provisions as to Orders and Regulations

- (1) Without limiting the generality of the provisions under which they are made, Regulations and Orders made under this Law –
- (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) give effect to, or deal with matters arising out of or related to, a provision in an agreement between Jersey and another country or territory, or an agreement between the United Kingdom and another country or territory which applies to Jersey;
 - (e) contain provisions for prescribing and regulating the payment and recovery of expenses;
 - (f) provide for the payment of fees and charges.

- (2) Regulations and Orders 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.
- (3) 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.
- (4) Regulations and Orders under this Law may –
 - (a) 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 or Regulations; and
 - (b) 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.
- (5) In this Article –

“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 provision” has the same meaning as in Article 1(1) of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#).

61 Repeals and savings

- (1) ²
- (2) Despite paragraph (1), any Orders made under either of the Laws mentioned in paragraph (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.

62 Consequential amendments to enactments

- (1) ³
- (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.

63 Citation and commencement

This Law may be cited as the Food (Jersey) Law 2023 and comes into force on a day to be specified by the States by Act.

SCHEDULE 1

(Article 58)

ORDER MAKING POWERS

The Minister may by Order make provision for the regulation of any of the following matters –

- (a) the composition of food;
- (b) the use of any process or treatment in the handling of food;
- (c) 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;
- (d) the transportation of food;
- (e) the classification or designation of food, including any description of its origin or of the manner in which it is packed;
- (f) 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;
- (g) the disposal of food, including food that remains fit for human consumption but which cannot be sold;
- (h) the disposal of waste products in connection with food;
- (i) the deeming as safe of food, or a type of food, imported from a particular country or territory;
- (j) 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.

SCHEDULE 2⁴

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	°Projet No (where applicable)
Food (Jersey) Law 2023	L.4/2023	17 March 2026 (R&O.28/2026)	P.105/2022

°Projets available at statesassembly.gov.je

Table of Endnote References

¹ Article 57	<i>spent, omitted</i>
² Article 61(1)	<i>spent, omitted</i>
³ Article 62(1)	<i>spent, omitted</i>
⁴ Schedule 2	<i>spent, omitted</i>