

# STATES OF JERSEY



Jersey

## DRAFT FOOD (JERSEY) LAW 202-

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**Lodged au Greffe on 1st November 2022  
by the Minister for the Environment  
Earliest date for debate: 13th December 2022**

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**STATES GREFFE**





Jersey

## **DRAFT FOOD (JERSEY) LAW 202-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for the Environment has made the following statement –

In the view of the Minister for the Environment, the provisions of the Draft Food (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy J. Renouf of St. Brelade**  
*Minister for the Environment*

Dated: 27th October 2022



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## REPORT

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This Law, if passed, will regulate food for the purposes of protecting human health and consumers' interests in Jersey. It will increase food security and facilitate export and innovation within the food sector.

The Law replaces the [Food Safety \(Jersey\) Law 1966](#), which is outdated and not fit for purpose in the 21st century. Changes in food technology such as microwaves, blast chillers and sous vide, along with changes in production and storage techniques, require a Law which is up to date and which can be updated as required. Newly emerging pathogens, genetic modifications of food and changing animal husbandry can have an effect on food products and may require regulation. The public has a greater interest in what it is consuming and regulation of labelling for method of production or for specific allergens or for ingredients such as palm oil is also demanded.

The Minister for the Environment in 2019 commenced an extensive public consultation including the circulation of an early draft in a White Paper, presentations to food businesses and an online survey. In summary, the trade and public were hugely supportive with the majority in favour of the proposed draft.

Whilst progress was delayed during Covid with Environmental Health Officers deployed to establish the Contact Tracing Team, it gave valuable time to gauge how Brexit was progressing in the UK and create an opportunity to review the draft to ensure it was complete in the event of a hard Brexit.

The Law introduces a suite of notices which allows a nuanced approach to regulation which will be less disruptive to, and more encouraging of, businesses while still protecting Public Health. These notices will allow threats to Public Health to be dealt with proportionately, with minimal disruption of food businesses. Such notices may require minor physical improvements to reduce the risk of pathogenic contamination, a change to techniques to ensure there is no contamination of food stuffs or, in the most extreme circumstances, a business to close until issues are addressed. The Law allows for appeal to the Magistrate's Court in the first instance, rather than the Royal Court, making an appeal more affordable and a more realistic possibility for small businesses.

With the UK leaving the European Union, the UK Department for International Trade has signed-up to a series of trade agreements which opened the UK's internal market to imports of many products that would have previously been seen as politically contentious – such as hormone-treated beef, chlorine washed chicken, and GM foodstuffs.

Jersey is an autonomous jurisdiction with regard to domestic legislation, including legislation on sanitary and phytosanitary requirements for the production, import and sale of live animals, food and plants. However, Jersey is also within the WTO (by extension of the UK's membership). Historically Jersey has placed only very limited prohibitions and restrictions on goods entering from the UK or indeed from the EU. As things stand, Jersey's restrictions on the movement of goods into the Bailiwick from the EU are aligned with the restrictions implemented on such imports to the UK; and, in addition, Jersey licenses the movement of certain livestock and prohibits the import of liquid cows' milk from the UK and elsewhere.

The Food (Jersey) Law 202- has been drafted with potential changes in the UK regulatory regime and in its border operating model very much in sight, and built-in to the law is the ability, for example, to licence the import and export of food so that controls can be put in place that are appropriate and proportionate to Jersey. Similarly,

the law provides the ability to label the means of production of foods so that, even if Jersey does not prohibit de-regulated goods from entering the Bailiwick, it will allow Jersey consumers to make up their own minds about whether or not they choose to consume them.

The Law is future proofed to allow the introduction of Regulations and Orders to deal with a rapidly changing food environment. A provision of the Law is that any such Regulations and Orders are subject to consultation with food businesses unless there is an urgent requirement.

The Law facilitates the development of the southern supply route for either commercial or food security reasons.

It will enable Jersey to implement policy to the advantage of the Island which may differ from decisions made in the UK or EU, whilst still giving the necessary assurance to other jurisdictions that Jersey is a well-regulated regime which will prevent the export of products they prohibit.

The Law provides for the Minister, by Regulation, to ensure food which is safe to eat but unsaleable is offered to the charitable sector, so reducing food waste.

If this legislation is approved, officers in the Environmental and Consumer Protection team will enforce this legislation within their existing budget and headcount. They will continue to work with food business operators through engagement, explanation and encouragement, with enforcement action being a last resort.

### **Financial and manpower implications**

There are no financial and manpower implications arising from the adoption of this draft Law.

### **Children's rights impact assessment**

An assessment of the impact of this proposition on the rights of children has been carried out and is in **Appendix 1** of this report.

### **Human Rights Notes**

The notes on the human rights aspects of the draft Law in **Appendix 2** have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

## APPENDIX 1 TO REPORT

## CHILDREN'S RIGHTS IMPACT ASSESSMENT

**Children's Rights Impact Assessment – European Network of  
Ombudspersons for Children (ENOC)**

**Impact Assessment by:** Environmental Health

**Date:** 20/10/2022

**STAGE 1: SCREENING**

<b>Question 1: Name the measure / proposal and briefly describe its overall aim</b>
Draft Food (Jersey) Law 202-. The Law, if adopted, will bring up to date measures to ensure food production, distribution and sale is safe. It allows for measures to regulate labelling, including for allergens. The Law further allows for measures to enhance food security and to facilitate imports and exports of food.
<b>Question 2: What children's rights does it impact upon?</b>
There are no direct impacts on children's rights. Indirect (and positive) impacts can be seen to the rights set out at Articles 14, 24, 27 & 30 of the UNCRC. Details of how these measures will impact children's rights can be found in Stage 2.
<b>Question 3: What children and young people will be affected?</b>
All consumers of food in Jersey of all ages will be better protected.
<b>Question 4: What is the likely impact of the proposal / measure on children?</b>
Fewer cases of food-borne illnesses. Fewer cases caused by allergic reaction to food or ingredients within food. More food made available to less well-off families.
<b>Question 5: Is a full child rights impact assessment required? Explain your reasons</b>
Yes. The proposed legislation has a neutral effect on the rights of the child. All consumers of food on the Island of any age will be better protected from food-related illness or adverse allergic reactions to known allergens.

**If a full child rights impact assessment is required proceed to stage 2**

**STAGE 2: SCOPING (Background and Rights Framework)**

**Question 6: Name the measure / proposal being assessed and describe the overall aim**

See above answer to Q1

**Question 7: Which human rights instruments and articles are relevant to the measure / proposal?**

Human Rights Instrument	Article	Further analysis on the expected / actual effect
UNCRC	14: Freedom of thought, belief and religion 30: right to learn and use the language, customs and religion of their family, whether or not these are shared by the majority of the people in the country where they live	Improved labelling of food products, which may include lists of ingredients and methods of production, will support children and young people to choose or avoid certain foods according to their particular religion or beliefs.
UNCRC	24: Right to the best possible health 27: Right to a standard of living that is good enough to meet the child's physical and social needs and support their development	Improved standards of food safety will contribute towards improved standards of health for all children. Improvements to food labelling, including methods of production, may contribute to improved standards of health for children who have allergies, dietary needs, and particular religious or lifestyle beliefs. The ability to redistribute unsaleable but safe food may contribute towards improved health for children in less well-off households

**STAGE 3: EVIDENCE**

<b>Question 8a: What quantitative evidence have you used to inform your assessment? What does it tell you?</b>			
Evidence collected	Evidence source	Explanation of the importance	What are the data gaps, if any?
No new evidence was collected for the development of the proposed Law.	n/a	n/a	n/a

<b>Question 8b: What key missing information / evidence would have been beneficial to your analysis?</b>
Detailed discussion with children and young people on food issues.

<b>Question 9a: What qualitative evidence have you used to inform your assessment? What does it tell you?</b>		
Evidence collected	Evidence source	Explanation of the importance
No new evidence was collected in the development of the proposed Law. Existing evidence does exist.	<a href="http://childcomjersey.org.je">Life on the Rock   Children's Commissioner for Jersey (childcomjersey.org.je)</a>	The Report found that children are cognisant of wealth disparity in Jersey, and the cost of food, leisure, energy, and housing. It was remarked that: 'Some children have less food (and less nutritious food) than others in Jersey related to the high prices in the school canteens.'  The redistribution of unsaleable fit to eat food via the third sector will enable better value offerings in school canteens and better packed lunch options for less well-off families.
No new evidence was collected in the development of the proposed Law.	<a href="http://gov.je">ID Children and Young People Plan 2019 to 2023 EW.pdf (gov.je)</a>	One of the principles of the Children and Young People's Plan 2019-23 is that all children in Jersey should live healthy lives. The report highlighted issues of obesity and the varying consumption of healthy, fresh food in certain demographic groups.

Existing evidence does exist.		Improvements to food labelling resulting from the Law will enable consumers to make more healthy food choices. Redistribution of unsaleable but fit to eat food will enable less well-off families to access fresh and nutritious food.
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**Question 9b: What key missing information / evidence would have been beneficial to your analysis?**

An in-depth study of food-related illness and food allergies among children and young people.

**STAGE 4: SCRUTINISING CHILDREN'S INVOLVEMENT**

**Question 10: Has evidence from third party consultations with children and young people been considered in the development of the proposal or measure?**

Groups consulted	Source of Information	Please provide a brief description of process	What were the findings?
Consultation was carried out with stakeholders from the food industry, the coeliac society and the third sector.	Food industry including major retailers and restaurants. Full consultation via government website	Formal consultation and conversation with food business operators	Overwhelming support for the draft Law
	Third Sector stakeholders	Meeting and conversation with third sector stakeholders including representatives from Oxfam, Red Cross, Salvation Army and Grace Trust	Support for the proposals on redistribution of foodstuffs
	Coeliac Society	Discussion with representatives	Support for allergen proposals

<b>Question 11: What groups of children and young people have been directly involved in developing the proposal or measure?</b>			
Groups involved [✓ if those affected by the proposal]	✓	How were they involved	What were the findings
No children were directly involved in developing the proposals		n/a	n/a

**STAGE 5: ASSESSING THE IMPACT**

<b>Question 12: What impact will (or does) the proposal or measure have on children and young people's rights</b>		
Type of impact [ <i>please highlight</i> ]	Justification for Argument	likely or actual short/medium/long-term outcomes
Positive	Please see responses in Stage 1	Fewer cases of allergic reaction to foodstuffs. Reduced number of food poisoning cases.
Positive	Please see responses in Stage 2 (Q7)	Improved ability for children to choose or avoid foods according to their religion or beliefs.

<b>Question 13: Will there be (or are there) different impacts on different groups of children and young people?</b>		
Group of children affected	Initial analysis of the positive impact on rights	Initial analysis of the negative impact on rights
Children and young people will be differently impacted dependent on their own circumstances and those of their family. Children in low-income families may be impacted by more than one measure.	The redistribution of safe unsaleable food which would otherwise be disposed of will have a positive impact on children and young people in less well-off families.  Allergen information will impact any young person or child who suffers from allergies.	n/a

<b>Question 14: If a negative impact is identified for any area of rights or any group of children and young people, what options are there to modify the proposal or measure to mitigate the impact?</b>	
Negative impact	
There are no negative impacts identified.	n/a

## STAGE 6: CONCLUSIONS AND RECOMMENDATIONS

<b>Question 15: In summary, what are your key findings on the impact of the measure or proposal on children and young people's rights?</b>
<p>The proposed Law will have a direct impact on children and young people who are allergic to certain foodstuffs. The clear identification of allergens on all foods at the point of sale or on packaging will allow for a better informed choice on what to purchase and/or consume.</p> <p>The proposed Law will have an indirect impact on all consumers of food in Jersey and therefore on children and young people by enhancing the safety of food on the Island.</p> <p>The provisions to make available, to the charitable sector, any food which is safe to eat but unsaleable will impact children and young people in less well-off families.</p> <p>The provisions relating to increased food security will impact everyone on the Island, including children and young people.</p>

## STAGE 7: PUBLISH CRIA

<b>Question 16: Should the full assessment or a summary be published? Will a child-friendly version be produced?</b>
The assessment will be published as the draft Law is lodged.

## STAGE 8: MONITOR & REVIEW

<b>Question 17: Have the recommendations made in Stage 6 been acted upon?</b>
n/a

<b>Question 18: Where recommendations have not been acted upon, is further action required?</b>
n/a

**APPENDIX 2 TO REPORT****Human Rights Notes on the Draft Food (Jersey) Law 202-**

1. These Notes have been prepared in respect of the Draft Food (Jersey) Law 202- (the “draft Law”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“ECHR”).

**These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.**

2. The draft Law seeks to regulate food for the protection of human health and consumers’ interests. The draft Law also provides authorised officers with various powers including powers of inspection and seizure to address suspected contraventions of the draft Law. The draft Law potentially engages three of the convention rights under Article 6 (the right to a fair trial), Article 8 (the right to respect for private and family life, home and correspondence) and Article 1 of Protocol 1 to the convention (the right to peaceful enjoyment of property). Each Article is addressed in turn.

The right to a fair trial

3. Article 6(1) provides that:  
“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly by the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.”
4. Article 6 is fundamental to the rule of law and democracy and has two limbs; a civil limb and a criminal limb. It should be noted that any limitations placed upon the Article 6 right should only restrict its exercise in such a way or to such an extent that the essence remains unimpaired. This means that there must be a legitimate aim to any interference and that there must be a reasonable proportionality between the means employed and the aim to be achieved.
5. The civil limb requires that those who face a determination of their “civil rights and obligations” must be entitled to a ‘fair and public hearing by an independent and impartial tribunal’. Elements of the civil limb of Article 6(1) are potentially engaged by Articles 29 and 30 of the draft Law. Article 29 allows an authorised officer to examine any food placed on the market and, in the event that the food appears to be unsafe, to seize that food and make an application to the Magistrate to have the food condemned as unsafe and destroyed. Before seizing any food,

- the authorised officer must issue a food seizure notice giving the reasons for seizure to the person in whose possession the food had been.
6. Article 30 applies to things other than food which are specified in the seizure notice such as contaminated equipment or food contact materials involved in the preparation and packaging of food.
  7. Under both Articles 29 and 30, the owner of the food or thing is given a right to attend the condemnation hearing before the Magistrate, to make representations and to call witnesses. If the owner is dissatisfied with the Magistrate's decision, then a further right of appeal lies to the Royal Court (see Article 53 of the draft Law).
  8. For the purposes of Article 6(1) the courts in Jersey are independent and impartial tribunals and any hearing before them fair. Moreover, it is unlawful for a public authority such as a court to act in a way which is incompatible with a Convention right.<sup>1</sup> Thus it is considered that Articles 29 and 30 of the draft Law meet the requirements of Article 6(1) ECHR.
  9. It is worth noting that the United Kingdom has similar provisions to Article 29 in section 9 of the Food Safety Act 1990. Condemnation proceedings under section 9 have been raised in the UK over the years without a successful challenge on a convention point.
  10. Article 6(1) ECHR (the criminal limb) requires that those who face a determination of any criminal charges against them must be entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Under Article 6(2), everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
  11. The general requirements of fairness contained in Article 6 ECHR apply to all criminal proceedings irrespective of the type of offence at issue.
  12. The criminal limb of Article 6(1) is potentially engaged by Articles 9, 11 to 14, 19, 28 and 40 to 42 of the draft Law. The draft Law creates a number of offences for food business operators and their employees who fail to comply with food safety requirements imposed upon them. The offences for breaches of food hygiene and food safety are compromised may arise in a range of circumstances, namely –
    - (a) Article 9 – placing on the market food that is unsafe;
    - (b) Article 11 – failure to meet the required production, processing and distribution standards;
    - (c) Article 12 – failure to have a system for traceability of food, or to have adequate labelling as to traceability or failure to provide authorised officers with evidence of compliance;
    - (d) Article 13 – failure to withdraw unsafe food from the market and to inform the Minister;
    - (e) Article 14 – failure to produce food in accordance with the Hazard Analysis at Critical Control Points principles<sup>2</sup>;
    - (f) Article 19 – making false or misleading descriptions of food in labelling or advertising of food;
    - (g) Article 28 – disclosure of trade secrets by an authorised officer;

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<sup>1</sup> Article 7(1) and (2) of the Human Rights (Jersey) Law 2000.

<sup>2</sup> See Regulation (EC) 852/2004, Article 5.

- (h) Article 40 – breaches of any conditions, directions or requirements contained in emergency control notices, improvement notices, prohibition notices, remedial action notices, render harmless notices and prohibition of use notices;
  - (i) Article 41 – obstructing an authorised officer in the conduct of the officer’s enforcement duties;
  - (j) Article 28 – disclosure of information about a food business gained in the performance of a function under the relevant legislation;
  - (k) Article 47 – contravention of a hygiene order imposed by the court; and
  - (l) Article 48 – contravention of a prohibition against use of premises imposed by the court.
13. In the majority of the above offence provisions which relate to food safety and compliance, the defence of acting with reasonable cause is available to the accused. However, in respect of Articles 28, 41 and 42, there is no basis for any “reasonable cause” where there have been unauthorised disclosures by authorised officers, or where there has been obstruction or impersonation of authorised officers.
14. Furthermore, in any proceedings for an offence, the defences of due diligence (taking all reasonable precautions and exercising all due diligence to avoid the commission of the offence) and in any proceedings for an offence relating to the advertisement for any food, the defence that publication was in the course of business of the accused (see Articles 45 and 46 respectively).
15. The offences created by the draft Law may have serious consequences for human health, public health and confidence in the food system and also the reputation of Jersey as a producer of high quality food.
16. The penalties on conviction for the offences relating to breaches of food safety requirements are a fine and/or a term of imprisonment up to two years. These are considered to be proportionate the serious nature of the offence. Two additional offences have different penalties. The first is where an authorised officer unlawfully discloses trade secrets about a food business operator from information gained in the course of investigation (Article 28(3) and (5)). The penalty on conviction for this is a level 3 fine. The second is again for unlawful disclosure by authorised officers but in respect of other information gained in the course of their duties. An offence under Article 42 carries a penalty of a fine. Fines are considered in these circumstances to be proportionate and commensurate with the seriousness of the offence. Furthermore, the court will have heard the evidence and mitigating factors before determining the level of fine to be imposed.
17. In terms of compliance with the requirements of Article 6(1), the accused is given a right of access to the courts in Jersey which are independent and impartial tribunals for the purposes of Article 6. Any hearing or trial will be in public and the accused will have the usual rights to make representations. A further right of appeal exists to the Royal Court under Article 53 of the draft Law.
18. The UK has similar provisions in relation to offences and penalties in its food legislation many of which derive from EU legislation.
19. For the above reasons, the requirements of the criminal limb of Article 6(1) ECHR are considered to be met.

The right to respect for private and family life, home and correspondence

20. Article 8 of ECHR provides that:
- “1. *Everyone has the right to respect for his private and family life, his home and his correspondence.*
  2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*”
21. The right to privacy under Article 8 is a qualified right which is subject to interference by a public authority. Any interference with the Article 8(1) ECHR right must be justified under Article 8(2) of the Convention, meaning it must be: (a) in accordance with the law; (b) in pursuit of one of the legitimate aims set out in Article 8(2) of the Convention; and (c) necessary in a democratic society. ‘Necessity’ requires the identification of a pressing social need and the existence of “relevant and sufficient” reasons to justify the interference at issue. A measure will only be proportionate to the legitimate aim if supported by sufficiently persuasive reasons.
22. The nature of the interference constituted by the power to enter premises in Articles 27(1) would be deemed to be “in accordance with the law”; that power is contained in a provision which will have a basis in domestic law and which can be viewed as sufficiently precise and accessible, therefore being foreseeable. Powers of entry and associated powers (such as search and seizure) are important tools that facilitate the protection of the public from harm, enable the effective investigation of offences and allow for the necessary enforcement of regulations. Articles 26 to 30 of the draft Law permit authorised officers to enter premises, take samples, seize food and other items, inspect records, gather evidence for prosecutions etc. The purpose of the Article 26(1) power is to ensure that authorised officers are able to ascertain whether or not an offence under the draft Law is being or has been committed. Those offences relate to the need to protect human health, so the rationale for the Article 26(1) power can be categorised within the ‘protection of health or morals’ qualifications in Article 8(2) of the Convention.
23. “Necessary in a democratic society” requires there to be a pressing social need for the interference in question and that the interference is proportionate to the legitimate aim pursued. In the present case, it is fair to conclude that enabling entry onto premises is “necessary” for ensuring that there is appropriate regulation of food businesses and that offences can be detected as that is, in practice, the only means by which authorised officers can perform the required inspections. Measures aimed at protecting the safety of food and public health are a “pressing social need” and, balanced against those legitimate aims, the interference with the Article 8 ECHR right constituted by the power to enter premises is proportionate, in principle. There remains, at all times, a need for the Article 26(1) power to be exercised in a proportionate manner. Article 27, under which a search warrant may be granted by the Bailiff, affords a level of scrutiny over search warrants and warrants may be granted only where admission to the premises has been refused or a refusal is expected, where a request for admission

- would defeat the object of entry, where the case is an emergency or where the premises are unoccupied. The warrant is valid for only one month.
24. An important aspect in determining what is “necessary in a democratic society” is the identification of procedural safeguards which mitigate the exercise of powers interfering with the Article 8(1) right. Safeguards ensure that a state remains within its margin of appreciation in fixing the applicable regulatory framework. The European Court of Human Rights has enunciated a list of safeguards which provide adequate protection against abuse of the Article 8 right, one of which is the requirement for the law to contain explicit and detailed provisions about how the powers interfering with Article 8 ECHR should be exercised.
  25. In the draft Law, the purpose for the exercise of the Article 26(1) power is clearly stated as being for ascertaining whether or not a food business is a serious risk to human health or an offence under the Law is being or has been committed. Linking the entry power to a specific purpose should in theory temper any frivolous or unnecessary exercise of the power. In addition, there are a number of other safeguards against excessive operation of the power: excluding the application of the power from personal dwellings; stating that the power may only be exercised at reasonable hours; 24 hours’ notice in the case of private dwellings and requiring evidence of the authority of authorised officers if required to do so.
  26. Food safety and public health are vital aims of a state. Powers of entry and inspection/search are necessary to achieve the aims of food safety and public health. In extreme cases, food may require to be seized quickly and removed from the food supply chain. It is difficult to envisage how this could be achieved by less intrusive means than in Part 6 of the draft Law.
  27. For these reasons, it is considered that any interference would be lawful, in pursuit of a legitimate aim of the protection of human health and necessary and proportionate in the wider interests of public health and consumer confidence in food in Jersey.

#### The right to the peaceful enjoyment of property

28. Article 1 of Protocol No. 1 to the ECHR (“A1P1”) provides that –
  - (1) *Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*
  - (2) *The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”*
29. A1P1 guarantees the right to the peaceful enjoyment of possessions and provides that a person may only be deprived of their possessions where that occurs in the public interest and in accordance with the law. The concept of “possessions” is a broad one under the case law of the ECHR. A1P1 also recognises that states are entitled to control the use of property in accordance with the public interest and to secure the payment of taxes or other contributions or penalties. A1P1 is a qualified right, so if the interference with the A1P1 right takes place in

- accordance with the law and can be justified in the public interest then no breach of the A1P1 right occurs.
30. A1P1 is potentially engaged by Part 6 of the draft Law. Article 26(3) permits customs and police officers to detain vehicles involved in the transportation of storage of any food. Article 28 gives wide ranging powers to authorised officers to examine food, labelling, equipment or records, to take samples of food or water and to seize and retain anything as evidence of an offence or a contravention of the relevant legislation. Article 29 permits an authorised officer to seize food suspected of being unsafe and bringing it before a Magistrate for condemnation and destruction. Article 30 applies to things other than food including equipment and packaging.
  31. In A1P1 terms, the seizure of property ancillary to the enforcement of domestic legislation, such as the draft Law, has generally been treated in case law as a control of use of property<sup>3</sup> rather than as a deprivation. For a measure constituting a control of use to be justified it must be in accordance with law and for “the general interest”. The measure must also be proportionate to the aim pursued.
  32. In the context of A1P1, a general interest has been found in measures enabling the seizure of goods taken in relation to legal proceedings, and for reasons relating to legality such that compliance by an entity with certain laws has been held to constitute a legitimate general interest objective. The powers to seize goods and to and to have unsafe food destroyed which are provided in the draft Law, are imposed to meet objectives that can be aligned closely to these recognised interests. Entry onto premises is necessary to detect the commission of offences and to protect human health. It should be appreciated that, where property rights are concerned, states have a considerable margin of appreciation in determining the existence of a general public concern and in implementing measures designed to meet it, so in providing a power to seize and destroy unsafe food and unsafe equipment and packaging which amount to an interference with property rights but which is required in pursuance of an identifiable public interest, the States would be afforded a degree of deference.
  33. A further strand of justification for a “control of use” under A1P1 is the need for measures to be in “accordance with the law”. Again, this requires the law to be sufficiently precise and foreseeable, and it is fair to conclude that the draft Law would satisfy this requirement. The nature of the interferences constituted by the power to seize goods and impose injunctions would be deemed to be “in accordance with the law” those powers are contained in provisions which will have a basis in domestic law and which can be viewed as sufficiently precise and accessible, therefore being foreseeable.
  34. Proportionality requires a fair balance to be struck between the means employed in furtherance of the general interest identified and the protection of fundamental rights. The requisite balance will not be struck if the person concerned has had to bear an “individual and excessive burden”. In the present context, a power to seize goods in pursuance of the aim of detecting the commission of offences and to protect human health is entirely proportionate to the general interest of protecting public health and consumer confidence in the food system in Jersey.
  35. In relation to Articles 29 and 30, where an authorised officer may examine and seize food or apply to the Magistrate’s Court for the destruction of unsafe food or unsafe things, notice must be given to the owner who has all the rights

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<sup>3</sup> See *Sporrong and Lönnroth v Sweden (1982) 5EHRR 85 in relation to the three rules of A1P1*.

described in paragraph 7 above. In addition, in the event that the Magistrate is not satisfied that the food or thing is unsafe, the owner will be entitled to compensation.

36. For these reasons, the draft Law complies with the second paragraph of A1P1.



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## EXPLANATORY NOTE

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This Law, if passed, will regulate food for the purposes of protecting human health and consumers' interests.

**Part 1** contains preliminary provisions.

*Article 1* contains relevant definitions. In particular it defines “relevant legislation” as this Law, any enactment made under this Law, or any Regulations or Orders that relate to food that were made under Article 2 of the European Union Legislation (Implementation) (Jersey) Law 2014.

*Article 2* sets out the meaning of “food” for the purposes of the Law. It includes water, drink, chewing gum and substances intentionally incorporated into the food during its manufacture, preparation or treatment. It does not include feed, live animals (unless prepared for placing on the market for human consumption), plants that are not yet harvested, medical products, cosmetic products, tobacco and tobacco products, and narcotic or psychotropic substances.

*Article 3* sets out the meaning of “premises” and “commercial operation”. Premises includes any place, vehicle, stall or immovable structure, including ships and aircraft (apart from some exempt ships and aircraft). Commercial operation means any stage of production, processing or distribution of food. The Minister for the Environment (“the Minister”) may amend these definitions by Order.

*Article 4* requires that the Minister appoints a Chief Food Officer. The Chief Food Officer and the State Veterinary Officer (appointed under the Animal Health (Jersey) Law 2016) are authorised offices for the purposes of the Law and the relevant legislation. The Minister may also authorise other persons to carry out functions as authorised officers. Any appointment must be in writing.

*Article 5* allows the Minister to publish a code of practice in order to provide practical guidance in respect of any provision in the relevant legislation. It further provides that failure to comply with such a code does not directly render a person liable to proceedings but the code is admissible in proceedings and may be taken into account by the court.

**Part 2** contains provisions relating to licences.

*Article 6* allows the States to make Regulations to provide for the licensing of food businesses (as defined in *Article 1*).

*Article 7* allows the States to make Regulations to provide for the licensing of the import and export of food.

*Article 8* contains further provisions relating to what Regulations relating to licences may do.

**Part 3** contains provisions relating to food safety.

*Article 9* makes provision in relation to food safety requirements. In particular a person must not place on the market any food that is unsafe, that is, injurious to health or unfit for human consumption. The Article sets out how it is determined whether food is unsafe, injurious to health or unfit for human consumption. A person who contravenes paragraph (1) of the Article commits an offence and is liable to a fine, imprisonment for a term of 2 years or both.

*Article 10* makes provision for water safety. Water must comply with the standards set out in Directive 2020/2184 of 16 December 2020 on the quality of water intended for human consumption. The Minister may, by Order, amend the water safety requirements.

*Article 11* sets out the obligations of food business operators in relation to the production, processing and distribution of food. A person who contravenes this Article commits an offence and is liable to a fine, imprisonment for a term of 2 years or both.

*Article 12* sets out the obligations of food business operators in relation to the traceability of food. A person who contravenes this Article commits an offence and is liable to a fine, imprisonment for a term of 2 years or both.

*Article 13* sets out the obligations of food business operators in relation to unsafe food. A person who contravenes this Article commits an offence and is liable to a fine, imprisonment for a term of 2 years or both.

*Article 14* sets out the obligations of food business operators in relation to Hazard Analysis at Critical Control Points (HACCP) in the production, processing and distribution of food. A person who contravenes this Article commits an offence and is liable to a fine, imprisonment for a term of 2 years or both.

*Article 15* requires the Minister to take appropriate steps to inform the general public of the risks to health where there are reasonable grounds to suspect food may present a risk to animal or human health. The Minister must have regard to the nature, seriousness or extent of the risks.

*Article 16* allows the States to make Regulations relating to food contact materials and equipment used in relation to food.

*Article 17* allows the States to make Regulations relating to food hygiene, including the rating of food hygiene standards and publicising those ratings.

*Article 18* allows the States to make Regulations relating to novel foods. This includes genetically modified food sources.

**Part 4** relates to labelling and consumer protection.

*Article 19* prohibits a person from describing, labelling, advertising or presenting food in a way that is misleading or making available information about the food that is misleading. A person who contravenes this Article commits an offence and is liable to a fine, imprisonment for a term of 2 years or both.

*Article 20* allows the States to make Regulations relating to the labelling and description of food.

**Part 5** contains provisions relating to food safety auditors.

*Article 21* allows the Minister to approve people to be food safety auditors and makes provision for the application process. The Minister must publish a register of food safety auditors.

*Article 22* requires a food safety auditor to notify the Minister of any direct or indirect interest in any food business (which does not include any payment for carrying out the functions of an auditor in relation to the food business).

*Article 23* allows the Minister to vary the conditions of an approval of a food safety auditor, or to suspend or cancel such an approval. The Minister must give reasons to the person and the variation, suspension or cancellation must be in writing.

*Article 24* sets out the powers of a food safety auditor.

*Article 25* makes provision for a report to be made by a food safety auditor either with the consent of the food business operator or where the food safety auditor has discovered a contravention of any relevant legislation or code of practice or where the food safety auditor considers that the priority classification of a food business should be changed.

**Part 6** makes provision in relation to powers of investigation.

*Article 26* makes provision for an authorised officer to enter premises (as defined in Article 3) and food businesses.

*Article 27* allows the Bailiff to grant a warrant authorising an authorised officer to enter premises with a police officer.

*Article 28* makes further provision as to the powers of an authorised officer entering premises.

*Article 29* allows an authorised officer to examine any food placed on the market and to seize it if it appears to be unsafe.

*Article 30* allows an authorised officer to make an application to the Magistrate for an order from the Magistrate to allow food or things seized under Article 29 to be destroyed or disposed. The Magistrate may make an order that requires the owner to pay for destruction or disposal, or for compensation to be paid to the owner if appropriate.

**Part 7** makes provision for notices.

*Article 31* allows the Minister to make an emergency control notice where the Minister reasonably believes that the carrying out of a commercial operation involves (or may involve) serious risk of injury to human health. Such a notice must be in writing.

*Article 32* makes provision for compensation to be paid by the Minister where a person has suffered loss as a result of complying with an emergency control notice.

*Article 33* allows the Minister to serve an improvement notice where the Minister believes person is contravening the relevant legislation. The notice may be described as a hygiene improvement notice where the contravention concerns use of any process or treatment in the production, processing or distribution of food or the observance of hygienic conditions and practices.

*Article 34* allows the Minister to serve a prohibition notice on person if the Minister believes they have contravened relevant legislation and failed to comply with an improvement notice or hygiene improvement notice, or a prohibition notice is necessary to prevent or mitigate a serious danger to public health.

*Article 35* allows the Minister to serve a remedial action notice if it appears to the Minister that a requirement of relevant legislation is being breached or an inspection under the Law is being hampered.

*Article 36* allows an authorised officer to render harmless any equipment that is unsafe by taking measures to prevent its use. The Minister must serve a render harmless notice on the operator of the equipment.

*Article 37* allows the Minister to serve a prohibition of use notice instead of a render harmless notice where the Minister considers any continued use of the equipment is unsafe.

*Article 38* allows the Minister to serve an information notice where food is labelled in such a way as to cause confusion to consumers.

*Article 39* contains supplementary provisions relating to notices.

*Article 40* provides that a person who, without reasonable excuse, breaches a requirement, direction or condition contained in a notice which has been served upon that person commits an offence and is liable to a fine, imprisonment for a term of 2 years or both.

**Part 8** contains provisions relating to offences and proceedings.

*Article 41* makes it an offence to obstruct or impeded anyone acting in the enforcement or execution of the relevant legislation or interfere with anything done by anyone enforcing or executing the relevant legislation. It is also an offence to fail without reasonable cause to provide information or assistance that is reasonably required or to provide such information knowing it to be false or misleading or untrue, or to fail to

produce a record when required to do so. A person who commits this offence is liable to an unlimited fine, imprisonment for a term of 2 years, or both.

*Article 42* makes it an offence to disclose information relating to a food business without the consent of the person carrying on the business unless it is in accordance with directions of the Minister, or for the purposes of any proceedings under the relevant legislation. A person who commits this offence is liable to an unlimited fine.

*Article 43* provides that the Minister or an authorised officer (or any other officer performing the function of an authorised officer or the Minister) is not liable in damages for anything done or omitted in the discharge of any functions under the relevant legislation unless it is shown that the act or omission was in bad faith.

*Article 44* provides that where an offence committed by any person (A) is due to the act or default of another person (B), B is guilty of the offence and may be convicted whether or not proceedings are taken against A.

*Article 45* provides a defence of due diligence.

*Article 46* provides a defence in relation to offences relating to the publication in the course of business of an advertisement for the placing on the market of any food.

*Article 47* provides that where a food business operator is convicted of an offence and the court is satisfied that the use of any process or treatment, the construction of any premises, or the state of any premises or equipment involves risk of injury to public health, the court may impose a hygiene order.

*Article 48* allows the court, on the application of the Minister, to make an order prohibiting a person from using premises following conviction for an offence in relation to hygiene or food safety.

*Article 49* makes provision in relation to offences committed by bodies corporate and other bodies.

*Article 50* allows the States to make Regulations that provide for offences to be dealt with otherwise than by means of a prosecution.

*Article 51* provides that where food commonly used for human consumption is placed on the market or offered, exposed or kept for placing on the market, it 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.

*Article 52* provides that 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 that the sample is sent for further analysis.

*Article 53* provides a right of appeal to the Royal Court where a person is aggrieved by certain decisions. These are a decision of the Minister to serve a notice under Part 7 of the Law or by a decision in relation to the approval of a food safety auditor; a decision of an authorised officer to serve a seizure notice under Article 29; and a decision of the Magistrate to make an order under Article 30 in relation to the disposal or destruction of food or other things, or to make a hygiene order or prohibition order under Article 47 or 48, respectively, or not to revoke a prohibition order. The appeal must be brought within 28 days from the date on which notice of the decision to be appealed is received by the person.

*Article 54* allows a person to carry on business pending an appeal against a decision of the Minister cancelling, suspending or revoking a licence or approval, or imposing a notice (other than a prohibition notice issued under Article 34).

*Article 55* provides that any disputes arising to the fact of damage or loss or the amount of compensation to be paid under the relevant legislation are to be determined by arbitration.

*Article 56* allows Rules of Court to be made to make such provision as the Superior Number of the Royal Court consider necessary or expedient for the purposes of this Law.

*Article 57* contains amendments to the Criminal Procedure (Jersey) Law 2018 to allow for the making of Criminal Procedure Rules and practice directions.

**Part 9** contains closing provisions.

*Article 58* sets out what an Order under the Law may make provision for. It introduces Schedule 1 which includes further purposes.

*Article 59* sets out what Regulations under the Law may make provision for.

*Article 60* contains further provisions about the making of Orders and Regulations.

*Article 61* provides that the Food Safety (Jersey) Law 1966 and the Food Safety (Miscellaneous Provisions) (Jersey) Law 2000 are repealed. Any Orders made under either of those Laws are treated as having been made under this Law except to the extent that they are inconsistent with this Law.

*Article 62* provides that Schedule 2 contains consequential amendments. It also allows the States to make Regulations making such amendments to any enactment as appears to be expedient for the general purposes, or any particular purpose, of this Law, in consequence of any provision made by or under this Law; or for giving full effect to this Law or any provision of it.

*Article 63* gives the title of the Law and provides that it comes into force on a day to be specified by the States by Act.





Jersey

## DRAFT FOOD (JERSEY) LAW 202-

### Contents

#### Article

<b>PART 1</b>	<b>31</b>
PRELIMINARY	31
1 Interpretation.....	31
2 Meaning of "food".....	33
3 Meaning of "premises" and "commercial operation".....	34
4 Appointment of authorised officers.....	35
5 Codes of practice.....	35
<b>PART 2</b>	<b>36</b>
LICENCES	36
6 Food businesses licensing scheme.....	36
7 Import and export licences.....	36
8 Further provisions relating to licences.....	36
<b>PART 3</b>	<b>37</b>
FOOD SAFETY	37
9 Food safety requirements.....	37
10 Water safety requirements.....	38
11 Responsibility of food business operators: production, processing and distribution of food.....	38
12 Responsibilities of food business operators: traceability of food.....	38
13 Responsibilities of food business operators: unsafe food.....	39
14 Responsibilities of food business operators: hazard analysis and critical control points.....	40
15 Public information about food health risks.....	41
16 Equipment used with food and food contact materials.....	41
17 Food hygiene.....	41
18 Novel foods.....	42
<b>PART 4</b>	<b>43</b>
LABELLING AND CONSUMER PROTECTION	43
19 False descriptions of food.....	43

20	Labelling and description of food .....	43
<b>PART 5</b>		<b>44</b>
FOOD SAFETY AUDITORS		44
21	Approval of food safety auditors .....	44
22	Food safety auditor to give notice of certain interests .....	44
23	Variation of conditions or suspension or cancellation of approval of auditor .....	45
24	Food safety auditor's assessment of food business .....	45
25	Food safety auditor's report .....	45
<b>PART 6</b>		<b>46</b>
POWERS OF INVESTIGATION		46
26	Power to enter premises and food businesses.....	46
27	Search warrants .....	47
28	Other powers.....	47
29	Examination and seizure of food and other things.....	49
30	Destruction and disposal of seized food and other things .....	49
<b>PART 7</b>		<b>49</b>
NOTICES		49
31	Emergency control notice .....	49
32	Compensation resulting from emergency control notice.....	50
33	Improvement notices.....	50
34	Prohibition notices.....	51
35	Remedial action notices.....	51
36	Render harmless notices.....	52
37	Prohibition of use notices .....	52
38	Information notices .....	52
39	Supplementary provision as to notices.....	52
40	Breach of notice .....	54
<b>PART 8</b>		<b>54</b>
OFFENCES AND PROCEEDINGS		54
41	Obstruction .....	54
42	Disclosure of information .....	55
43	Protection of officers acting in good faith .....	55
44	Offences due to fault of another person .....	56
45	Defence of due diligence .....	56
46	Defence of publication in the course of business.....	56
47	Power of court to make hygiene orders .....	57
48	Power of court to prohibit use of premises as a food business .....	57
49	Offences by bodies corporate and others .....	58
50	Alternatives to prosecutions.....	59
51	Presumption as to placing on market for human consumption.....	59
52	Evidence of certificate of an analyst.....	59
53	Appeals.....	60

54	Right to carry on business pending appeal .....	60
55	Disputes as to compensation .....	61
56	Rules of Court.....	61
57	Criminal Procedure (Jersey) Law 2018 amended.....	61
<b>PART 9</b>		<b>61</b>
<b>CLOSING PROVISIONS</b>		<b>61</b>
58	Orders: specific provisions .....	61
59	Regulations: specific provisions .....	62
60	Further provisions as to Orders and Regulations.....	62
61	Repeals and savings.....	63
62	Consequential amendments to enactments.....	63
63	Citation and commencement.....	63
<b>SCHEDULE 1</b>		<b>64</b>
<b>ORDER MAKING POWERS</b>		<b>64</b>
<b>SCHEDULE 2</b>		<b>66</b>
<b>CONSEQUENTIAL AMENDMENTS</b>		<b>66</b>
1	Community Provisions (Food Supplements) (Jersey) Regulations 2014 amended .....	66
2	Community Provisions (Nutrition and Health Claims on Foods) (Jersey) Regulations 2014 amended.....	66
3	EU Legislation (Milk and Dairies) (Jersey) Order 2017 amended.....	66
4	Article 2(5)(a) (effect of EU residues provisions) of the EU Legislation (Monitoring of Residues in Animals) (Jersey) Regulations 2019 substituted .....	67
5	Regulation 2(5)(a) (effect of EU food and feed provisions in relation to wild aquatic animals) of the EU Legislation (Wild Aquatic Animals – Food and Feed) (Jersey) Regulations 2019 substituted .....	67
6	Article 4(1)(b) (exceptions to the prohibitions imposed by Articles 2 and 3) of the Medicines (Aristolochia, Mu Tong and Fangji) (Prohibition) (Jersey) Order 2002 substituted.....	67
7	Article 3(1)(b)(ii) (exceptions to the prohibition imposed by Article 2) of the Medicines (Kava-kava) (Prohibition) (Jersey) Order 2003 substituted .....	67
8	Schedule 2 (exemption for certain persons from Article 57(2) of the Law) to the Medicines (Prescription Only) (Jersey) Order 1997 amended.....	67
9	Article 6(4)(h) (production and supply of schedules 2, 3, 4 and 5 drugs) of the Misuse of Drugs (General Provisions) (Jersey) Order 2009 substituted .....	67
10	Article 2(2)(b) (application) of the Pesticides (General Provisions) (Jersey) Order 1991 amended .....	68
11	Places of Refreshment (Jersey) Law 1967 amended.....	68
12	Schedule 3 (enactments conferring power to issue a search warrant) of the Police Procedures and Criminal Evidence (Jersey) Law 2003 amended .....	68
13	Regulation 1 (interpretation) of the Price Indicators (Jersey) Regulations 2008 amended .....	69





Jersey

## DRAFT FOOD (JERSEY) LAW 202-

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

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<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

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

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### 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 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 subparagraphs (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 [Criminal Procedure \(Jersey\) Law 2018](#) amended**

- (1) This Article amends the [Criminal Procedure \(Jersey\) Law 2018](#).
- (2) In Article 112(3) after sub-paragraph (r) there is inserted –  
    “(s) the Food (Jersey) Law 202-.”
- (3) In Article 113(1) after “criminal proceedings” there is inserted “or other proceedings under enactments listed in Article 112(3)”.

**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) The [Food Safety \(Jersey\) Law 1966](#) and the [Food Safety \(Miscellaneous Provisions\) \(Jersey\) Law 2000](#) are repealed.
- (2) Despite paragraph (1), any Orders made under either of the Laws mentioned in 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) Schedule 2 contains consequential amendments.
- (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 202- 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 2**

(Article 62(1))

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

- (1) The Community Provisions (Food Supplements) (Jersey) Regulations 2014 are amended as follows.
- (2) In Regulation 1(1) –
  - (a) for the definition “1966 Law” there is substituted –  
“202- Law” means the Food (Jersey) Law 202-;”;
  - (b) in the definition “authorized officer” for “1966 Law” there is substituted “202- Law”.
- (3) In Regulation 5(2) for “Without prejudice to the requirements of any Order made under Article 9 of the 1966 Law” there is substituted “Without limiting the effect of any Order made under the 202- Law”.
- (4) Regulations 9(2), 10 and 11 are deleted.

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

- (1) The Community Provisions (Nutrition and Health Claims on Foods) (Jersey) Regulations 2014 are amended as follows.
- (2) In Regulation 1(1) –
  - (a) for the definition “1966 Law” there is substituted –  
“202- Law” means the Food (Jersey) Law 202-;”;
  - (b) in the definition “authorized officer” for “1966 Law” there is substituted “202- Law”.
- (3) Regulations 3(3) and (4), 4 and 5 are deleted.

**3 EU Legislation (Milk and Dairies) (Jersey) Order 2017 amended**

- (1) The EU Legislation (Milk and Dairies) (Jersey) Order 2017 is amended as follows.
- (2) In Article 2 for “Food Safety (Jersey) Law 1966” there is substituted “Food (Jersey) Law 202-”.
- (3) Article 3 is deleted.

**4 Article 2(5)(a) (effect of EU residues provisions) of the [EU Legislation \(Monitoring of Residues in Animals\) \(Jersey\) Regulations 2019](#) substituted**

For Article 2(5)(a) of the [EU Legislation \(Monitoring of Residues in Animals\) \(Jersey\) Regulations 2019](#) there is substituted –

“(a) the Food (Jersey) Law 202-;”.

**5 Regulation 2(5)(a) (effect of EU food and feed provisions in relation to wild aquatic animals) of the [EU Legislation \(Wild Aquatic Animals – Food and Feed\) \(Jersey\) Regulations 2019](#) substituted**

For Regulation 2(5)(a) of the [EU Legislation \(Wild Aquatic Animals – Food and Feed\) \(Jersey\) Regulations 2019](#) there is substituted –

“(a) the Food (Jersey) Law 202-;”.

**6 Article 4(1)(b) (exceptions to the prohibitions imposed by Articles 2 and 3) of the [Medicines \(Aristolochia, Mu Tong and Fangji\) \(Prohibition\) \(Jersey\) Order 2002](#) substituted**

For Article 4(1)(b) of the [Medicines \(Aristolochia, Mu Tong and Fangji\) \(Prohibition\) \(Jersey\) Order 2002](#) there is substituted –

“(b) an authorised officer appointed under Article 4 of the Food (Jersey) Law 202-; or”.

**7 Article 3(1)(b)(ii) (exceptions to the prohibition imposed by Article 2) of the [Medicines \(Kava-kava\) \(Prohibition\) \(Jersey\) Order 2003](#) substituted**

For Article 3(1)(b)(ii) of the [Medicines \(Kava-kava\) \(Prohibition\) \(Jersey\) Order 2003](#) there is substituted –

“(ii) an authorised officer appointed under Article 4 of the Food (Jersey) Law 202-, or”.

**8 Schedule 2 (exemption for certain persons from Article 57(2) of the Law) to the [Medicines \(Prescription Only\) \(Jersey\) Order 1997](#) amended**

In the table in Part 1 of Schedule 2 to the [Medicines \(Prescription Only\) \(Jersey\) Order 1997](#), in entry 2(b) in column 1 for “[Food Safety \(Jersey\) Law 1966](#)” there is substituted “Food (Jersey) Law 202-”.

**9 Article 6(4)(h) (production and supply of schedules 2, 3, 4 and 5 drugs) of the [Misuse of Drugs \(General Provisions\) \(Jersey\) Order 2009](#) substituted**

For Article 6(4)(h) of the [Misuse of Drugs \(General Provisions\) \(Jersey\) Order 2009](#) there is substituted –

“(h) an authorised officer appointed under Article 4 of the Food (Jersey) Law 202-;”.

## 10 **Article 2(2)(b) (application) of the [Pesticides \(General Provisions\) \(Jersey\) Order 1991](#) amended**

In Article 2(2)(b) of the [Pesticides \(General Provisions\) \(Jersey\) Order 1991](#) for “[Food Safety \(Jersey\) Law 1966](#)” there is substituted “Food (Jersey) Law 202-”.

## 11 **[Places of Refreshment \(Jersey\) Law 1967](#) amended**

- (1) The [Places of Refreshment \(Jersey\) Law 1967](#) is amended as follows.
- (2) For Article 8(b)(iv) and the proviso that follows it there is substituted –
  - “(iv) is disqualified under Article 9 of this Law or prohibited under Article 48 of the Food (Jersey) Law 202- (either generally or in respect of premises to which the application applies), or that the person named as manager in the application or an officer of a body corporate applicant is so disqualified or prohibited.is a person;”.
- (3) In Article 9 –
  - (a) in paragraph (2) for “under Article 18 of the [Food Safety \(Jersey\) Law 1966](#), the Court orders that a person be disqualified from using specified premises or, as the case may be, any premises as catering premises” there is substituted “under Article 48 of the Food (Jersey) Law 202- the Court orders that a person be prohibited from using specified premises”;
  - (b) for paragraph (3) there is substituted –
    - “(3) Where a person is prohibited under Article 48 of the Food (Jersey) Law 202-, the Judicial Greffier must, as soon as practicable, deliver to the Minister a copy of the order of the Court prohibiting that person.”.

## 12 **Schedule 3 (enactments conferring power to issue a search warrant) of the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#) amended**

In Schedule 3 to the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#) –

- (a) For the entry relating to the [Food Safety \(Jersey\) Law 1966](#) there is substituted –
  - “Food (Jersey) Law 202- Article 27(1)”;
- (b) the entry relating to the [Food Safety \(Miscellaneous Provisions\) \(Jersey\) Law 2000](#) is deleted.

**13 Regulation 1 (interpretation) of the [Price Indicators \(Jersey\) Regulations 2008](#) amended**

In Regulation 1 of the [Price Indicators \(Jersey\) Regulations 2008](#), in the definition “food” for “Article 1 of the [Food Safety \(Jersey\) Law 1966](#)” there is substituted the words “Article 2 of the Food (Jersey) Law 202-”.