

- 4 APR 1996

GUERNSEY

1996 No. 9

The Food and Drugs (Improvement and Prohibition - Prescribed Forms) Order,
1996

Made 3rd April 1996

Laid before the States ...

Coming into operation ... 3rd April

1996

THE STATES BOARD OF HEALTH, in exercise of the powers conferred on it by section 52 (2) of the Food and Drugs (Guernsey) Law, 1970, as amended (a), and of all other powers enabling it in that behalf, hereby orders:-

Forms prescribed for certain purposes

1. The form of a document used for the purposes of the Food and Drugs (Guernsey) Law, 1970, as amended (a), and referred to in a numbered paragraph in the first Schedule to this Order is hereby prescribed as that being set out in the correspondingly numbered form in the second Schedule to this Order.

Extent

2. This Order shall have effect in the islands of Guernsey, Alderney, Herm and Jethou.

Citation

3. This Order may be cited as The Food and Drugs (Improvement and Prohibition - Prescribed Forms) Order, 1996.

Commencement

4. This Order shall come into force on the 3rd day of April, 1996.



S. M. PLANT

President of the States Board of Health
for and on behalf of the Board

Dated this 3rd day of April, 1996

First Schedule

Section 1

FORMS

1. Notice served by an authorised officer under section 14(1) of the Food and Drugs (Guernsey) Law, 1970, as amended (a) (“improvement notice”).
2. Notice served by an authorised officer under section 14B(1) of the Food and Drugs (Guernsey) Law, 1970, as amended (a) (“emergency prohibition notice”).
3. Notice given under section 14B(3) of the Food and Drugs (Guernsey) Law, 1970, as amended (a), by an authorised officer of his intention to apply for an emergency prohibition order (“notice of intention to apply for an emergency prohibition order”).
4. Certificate issued by the Board under section 14A(6)(a) or section 14B(8) of the Food and Drugs (Guernsey) Law, 1970, as amended (a), that it is satisfied that the proprietor of a food business has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the business (“certificate that there is no longer a risk to health”).
5. Notice given by the Board under section 14A(7)(b) or section 14B(9)(b) of the Food and Drugs (Guernsey) Law, 1970, as amended (a), that it is not satisfied that the proprietor of a food business has taken sufficient measures to secure that the health risk condition is fulfilled with respect to the business (“notice of continuing risk to health”).

States of Guernsey Board of Health
Food and Drugs (Guernsey) Law, 1970, as amended - Section 14
IMPROVEMENT NOTICE

Reference No:

1. To: (Proprietor of the food business)

At: (Address of proprietor)

2. In my opinion the

used in connection with your food business (Name of food business)

at (Address of food business)

do/does not* meet the requirements of Section(s) of the Food and Drugs (Food Hygiene) Order, 1976, as amended, because:

3. In my opinion, the following measures are needed for you to comply with the Order:

4. These measures, or measures that will achieve the same effect, must be taken by:

5. ***It is an offence not to comply with this improvement notice by the date stated.***

6. ***You have the right to appeal against the issue of this notice. Any appeal must be brought within 21/..... days of the service of this Notice.***

Signed: Authorised Officer

Name in capitals: Date:

Environmental Health Department, Princess Elizabeth Hospital, St. Martins, Guernsey. GY4 6UU
Telephone: (01481) 711161 Fax: (01481) 725989

Please read the notes overleaf carefully. If you are not sure of your rights,
or of the implications of this notice, you may wish to seek legal advice.

NOTES

In the opinion of the officer you are not complying with the Order made under Section 13 of the Food and Drugs (Guernsey) Law, 1970, as amended, described in paragraph 2 of the notice. The work needed, in the officer's opinion, to put matters right is described in paragraph 3 of the notice and must be finished by the date set in paragraph 4.

You are responsible for ensuring that the work is carried out within the period specified (not being less than 14 days or, where the measures consist of only of the cleaning of premises or equipment, not being less than 7 days).

You have a right to carry out work that will achieve the same effect as that described in the notice. If you think that there is another equally effective way of complying with the law, you should first discuss it with the officer.

YOUR RIGHT OF APPEAL

If you disagree with all or part of this notice, you may appeal to the Royal Court. Under section 43(1) of the Law an appeal must be commenced within 21 days or such shorter period as may be specified in the Notice.

If you decide to appeal, the time set out in the notice is suspended and you do not have to carry out the work described until the appeal is heard. However, if you are not complying with the Order described in the notice, you may still be prosecuted for failure to comply with that Order.

When the appeal is heard, the Royal Court may cancel or affirm the notice and, if it affirms it, may do so in its original form or with such modifications as the Court may in the circumstances think fit.

WARNING

FAILURE TO COMPLY WITH THIS NOTICE IS AN OFFENCE

Offenders are liable to be fined and/or imprisoned for up to 2 years

States of Guernsey Board of Health
Food and Drugs (Guernsey) Law, 1970, as amended - Section 14 B
EMERGENCY PROHIBITION NOTICE

Reference No:

1. To: (Proprietor of the food business)

At:

..... (Address of proprietor)

2. I am satisfied that:

at

..... (Address of business)

POSES AN IMMINENT RISK OF INJURY TO HEALTH because:

(* See Note 1 overleaf)

3. YOU MUST NOT USE IT FOR THE PURPOSES OF THIS / ANY / THIS OR ANY SIMILAR * FOOD BUSINESS.

(* Officer to delete as appropriate)

Signed: Authorised Officer

Name in capitals: Date:

Environmental Health Department, Princess Elizabeth Hospital, St. Martins, Guernsey. GY4 6UU
 Telephone: (01481) 711161 Fax: (01481) 725989

**Please read the notes overleaf carefully. If you are not sure of your rights,
 or of the implications of this notice, you may wish to seek legal advice.**

NOTES

1. When you receive this notice you must **IMMEDIATELY** stop using the premises, process, treatment or equipment described by the officer in paragraph 2 of the notice and located at the address stated.
2. Within 3 days of the service of this notice, an authorised officer must apply to the Magistrate's Court for an order confirming the prohibition. You will be told of the date of the hearing which you are allowed to attend and at which you may call witnesses if you wish.
3. If you believe that you have acted to remove the imminent risk of injury to health, you should apply in writing to the Board of Health for a certificate which would allow you to use the premises, process, treatment or equipment again. You can do this even if court hearing has not taken place.
4. You are not allowed to use the premises, process, treatment or equipment for the purpose specified in paragraph 3 of the notice (see Section 14A(3) of the Food and Drugs (Guernsey) Law, 1970, as amended) until (a) the Court decides you may do so; (b) the Board issues you with a certificate as in paragraph 3 above; (c) 3 days have passed since the service of the notice and the officer has not applied to the Court as in paragraph 2 above; or (d) the application is made but then abandoned.
5. **COMPENSATION:** If no application is made to the Magistrate's Court within three days of the service of this Notice, or if the Court decides at the hearing that the Notice was wrongly served, you will be entitled to compensation for any losses you have suffered due to complying with the Notice.

WARNING

FAILURE TO COMPLY WITH THIS NOTICE IS AN OFFENCE

Offenders are liable to be fined and/or imprisoned

States of Guernsey Board of Health
Food and Drugs (Guernsey) Law, 1970, as amended - Section 14 B
NOTICE OF INTENTION TO APPLY FOR AN EMERGENCY PROHIBITION ORDER

Reference No:

1. To: (Proprietor of the food business)

At: (Address of proprietor)

You are the proprietor of the food business at:

..... (Name and address of food business)

2. I give notice that I shall be applying to the Magistrate's Court for an Emergency Prohibition Order because:

.....

3. If an Order is made by the Court you will not be able to use the premises, process, treatment or equipment described:

.....

for the purpose of this / any / this or any similar* food business.

(Officer to delete as appropriate)*

Signed: Authorised Officer

Name in capitals: Date:

Environmental Health Department, Princess Elizabeth Hospital, St. Martins, Guernsey. GY4 6UU
 Telephone: (01481) 711161 Fax: (01481) 725989

Please read the notes overleaf carefully. If you are not sure of your rights,
 or of the implications of this notice, you may wish to seek legal advice.

NOTES

This notice tells you that an authorised officer of the Board of Health (hereafter called the "Board") intends to apply to the Magistrate's Court for an emergency prohibition order which, if granted, would mean that you could not use the premises, process, treatment or equipment described for the purposes described in paragraph 3 of the notice (see Section 14A (3) of the Food and Drugs (Guernsey) Law, 1970, as amended).

The Court will consider the evidence from the Board as to why it believes there is an imminent risk of injury to health from the operation of your food business or part of it. You may bring your own evidence and witnesses before the Court and you may choose to be represented by an Advocate.

If the Court is convinced by the Board's evidence, then an order will be made stating what you may not do. The order will be served on you by the Board. A copy of it must be fixed by the Board at your premises and it is an offence to contravene it.

The making of an order does not mean you are guilty of an offence but the Board may seek to prosecute you for offences under the Food and Drugs (Guernsey) Law, 1970, as amended, or associated Orders.

If you have been issued with an emergency prohibition notice from the Board, you will know what steps should be taken to remove the imminent risk to health.

If the Court is not satisfied by the Board's evidence and an order is not issued, then you will be entitled to continue your business. If the Board has already issued you with an emergency prohibition notice and you have suffered loss because you have complied with it, then you will also be entitled to compensation from the Board.

States of Guernsey Board of Health
Food and Drugs (Guernsey) Law, 1970, as amended - Sections 14A & 14B
CERTIFICATE THAT THERE IS NO LONGER A RISK TO HEALTH

1. To: (Name of proprietor)

At:

..... (Address of proprietor)

2. The Board of Health certifies that it is satisfied that you have taken sufficient measures to secure the removal of the imminent* risk of injury to health described in the emergency prohibition notice* / emergency prohibition order* / prohibition order*.

(* Officer to delete as appropriate)

served on you on: (date)

Signed: Authorised Officer

Name in capitals: Date:

Environmental Health Department, Princess Elizabeth Hospital, St. Martins, Guernsey. GY4 6UU
Telephone: (01481) 711161 Fax: (01481) 725989

Please read the notes overleaf carefully. If you are not sure of your rights,
or of the implications of this notice, you may wish to seek legal advice.

NOTES

The Board of Health is now satisfied that the imminent* risk of injury to health no longer exists in respect of the circumstances that caused an authorised officer to issue you with an emergency prohibition notice or the Magistrate's Court to impose a prohibition order or an emergency prohibition order.

(* Officer to delete as appropriate)

The relevant notice or order is now lifted and you may use the premises, process, treatment or equipment again.

States of Guernsey Board of Health
Food and Drugs (Guernsey) Law, 1970, as amended - Sections 14A & 14B
NOTICE OF CONTINUING RISK TO HEALTH

1. To: (Name of proprietor)

At:

..... (Address of proprietor)

Proprietor of:

..... (Name and address of food business)

2. The Board of Health is **NOT** satisfied that you have taken sufficient measures to secure the removal of the imminent* risk of injury to health described in the emergency prohibition notice* / emergency prohibition order* / prohibition order*

(* Officer to delete as appropriate)

served on you on (date), a further copy of which is attached.

The Board of Health is not satisfied because:

.....

.....

3. You must not use the premises, process, treatment or equipment in question until the Board of Health notifies you that you may do so.

Signed: Authorised Officer

Name in capitals: Date:

Environmental Health Department, Princess Elizabeth Hospital, St. Martins, Guernsey. GY4 6UU
 Telephone: (01481) 711161 Fax: (01481) 725989

Please read the notes overleaf carefully. If you are not sure of your rights,
 or of the implications of this notice, you may wish to seek legal advice.

NOTES

The Board of Health (hereafter called the Board) is not yet satisfied that the imminent* risk of injury to health has been removed at your business. The reasons why the Board is not satisfied are given.

You still cannot use the premises, process, treatment or equipment in question for the purposes described in the emergency prohibition notice* / emergency prohibition order* / prohibition order* even if you are appealing against the terms of this notice.

You are entitled to appeal against this notice to the Royal Court within 21 days of the date on which this notice is served on you.

As soon as you think that there is no longer a/an imminent* risk of injury to health, because of actions you have taken, you may apply to the Board for the prohibition notice or order to be lifted.

(* Officer to delete as appropriate)

WARNING

FAILURE TO COMPLY WITH THE ORIGINAL NOTICE OR ORDER IS AN OFFENCE

Offenders are liable to be fined and/or imprisoned for up to 2 years

EXPLANATORY NOTE

(THIS NOTE DOES NOT FORM PART OF THE ORDER)

This Order prescribes the forms of notice which may be used in connection with improvement notices under section 14, prohibition orders (other than those relating to proprietors under section 14A (4)) and or emergency prohibition notices or orders under section 14B of the Food and Drugs (Guernsey) Law, 1970, as amended.