

# ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

## **The Food Safety (Fishery Products) Ordinance, 1996 \***

[CONSOLIDATED TEXT]

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* No. XIX of 1996 (Recueil d'Ordonnances Tome XXVII, p. 63); as amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). This Ordinance has been repealed by the European Communities (Food and Feed Controls) (Guernsey) Ordinance, 2016 (No. XXI of 2016).

# ORDINANCE

## OF THE STATES OF DELIBERATION

ENTITLED

### **The Food Safety (Fishery Products) Ordinance, 1996**

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REPEALED

*(Made on 31st July, 1996.)*

## **The Food Safety (Fishery Products) Ordinance, 1996**

**THE STATES**, in pursuance of their Resolution of the 27<sup>th</sup> day of September, 1995<sup>a</sup>, in exercise of the powers conferred on them by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994<sup>b</sup>, and in exercise of all other powers enabling them in that behalf, hereby order: –

### *Approvals and registrations*

#### **Approval of factory vessels and establishments.**

1. (1) No person shall operate any factory vessel or establishment unless upon application it has been approved by [the Committee] and no such vessel or establishment shall be approved unless [the Committee] is satisfied that it meets the requirements of this Ordinance.

(2) Without prejudice to section 15 of the Food and Drugs (Guernsey) Law, 1970, as amended<sup>c</sup>, an application pursuant to subsection (1) shall be made by the proprietor of the food business in the course of which fishery products are handled and shall be –

- (a) in writing, and
- (b) accompanied by such supplementary information, documents, plans and diagrams as are necessary to

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<sup>a</sup> Article XVIII of Billet d'État No. XX of 1995.

<sup>b</sup> Order in Council No. III of 1994.

<sup>c</sup> Ordres en Conseil Vol. XXII, p. 412; Vol. XXV, p. 378; Vol. XXIX, p. 329; No. X of 1995.

enable [the Committee] to determine the application having regard to the matters specified in Chapters I to IV.

(3) An approval may only be granted if [the Committee] is satisfied in relation to the matters referred to in subsection (2)(b).

(4) An approval may be granted subject to limitations as to the particular activities approved, the method of operation and the intensity of use approved.

(5) [The Committee] shall give written notification to each applicant in accordance with subsection (1) of the result of the application and, in the case of a refusal, the reasons for that refusal.

(6) If such an application is approved, [the Committee] shall –

(a) designate the factory vessel or establishment by a unique approval number, and

(b) enter those details in the relevant part of a list maintained by it for that purpose.

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**NOTE**

*In section 1, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.*

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**Supplementary provisions about approvals.**

2. (1) Before finally determining an application, [the Committee]

may, in writing, request an applicant to provide supplementary written information to enable it properly to determine the application.

(2) A person may at any time apply to [the Committee] to vary the terms or limitations of any approval granted to him, and [the Committee] may vary any such terms or limitations as it thinks fit.

(3) If [the Committee] discovers that the conditions for approval in respect of a factory vessel or an establishment specified in section 1 are no longer being met, it shall suspend the vessel or establishment's approval on such terms and for such period as it thinks fit.

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**NOTE**

*In section 2, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.*

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**Registration of fishing vessels on which shrimps or molluscs are processed by cooking.**

3. (1) A person operating a fishing vessel on board which shrimps or molluscs are, for the purpose of a food business, processed by cooking shall, unless such processing is to be supplemented subsequently by cooking, comply with subsections (2) to (4).

(2) The person operating the fishing vessel shall –

(a) prior to engaging for the first time in the business of cooking, notify in writing [the Committee] of his intention to do so, and shall at the same time supply the information specified in subsection (3), and

- (b) subsequently, similarly notify [the Committee] of any changes to the information originally supplied.
- (3) The information referred to in subsection (2)(a) is –
  - (a) the name of the vessel,
  - (b) the usual place of landing of the fishery products, and
  - (c) the name and address of the owner of the vessel.
- (4) Any cooking on board of shrimps or molluscs shall be in accordance with the requirements of paragraph 5 of Section II of Chapter I or paragraph 7 of Section IV of Chapter IV, as the case may be.
- (5) [ The Committee] shall maintain a register of all information supplied pursuant to subsections (2) and (3).

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**NOTE**

*In section 3, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.*

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**Registration of wholesale and auction markets that are not establishments.**

4. (1) No person shall operate a wholesale or auction market which is not an establishment for the purposes of this Ordinance unless that market has been registered with [the Committee].

(2) Without prejudice to section 15 of the Food and Drugs

(Guernsey) Law, 1970, as amended, an application for registration pursuant to subsection (1) shall be in writing and shall be accompanied by such supplementary information, documents, plans and diagrams as are necessary to enable [the Committee] to determine the application, having regard to the requirements of paragraphs 3 to 7 of Chapter II.

(3) In every case [the Committee] shall notify the applicant of the result of the application and in the case of a refusal of the reasons for that refusal.

(4) [The Committee] shall register a market in respect of which an application is made if it is satisfied that the market meets such of the requirements of the Council Directive as apply to it.

(5) If [the Committee] registers a market pursuant to an application made under subsection (1) it shall –

- (a) designate the market by a unique registration number,  
and
- (b) enter those details in the relevant part of a list maintained by it for that purpose.

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**NOTE**

*In section 4, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.*

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**Obligations on proprietors.**

5. (1) The proprietor of a food business in the course of which a factory vessel, an establishment or a market is operated shall operate in accordance

with such of the provisions of this Ordinance, and in particular those specified in this section, as apply to it and shall take all reasonable steps to secure compliance with those provisions by any person employed by him or any person admitted to a place where the business is undertaken.

- (2) Each proprietor shall carry out checks to –
  - (a) identify points critical to ensuring safe and hygienic production in his factory vessel or establishment on the basis of the manufacturing processes used,
  - (b) establish and implement methods for monitoring and checking such critical points, and
  - (c) take samples for analysis in a laboratory recognised by [the Committee] for the purpose of checking compliance with the standards for particular fishery products, where these have been established by this Ordinance.

(3) Each proprietor shall keep a written record registered in an indelible fashion of the matters set out in subsection (2), which shall be retained by him for a period of at least two years from the date on which they were recorded, and which shall be made available to [the Committee] on request.

(4) If the results of the proprietor's checks reveal a serious health risk or suggest one might exist, [the Committee] shall be immediately notified by the proprietor and such notification shall be confirmed in writing within 48 hours.

(5) In the event of an immediate health risk, any necessary withdrawal, reprocessing, or destruction of products may take place under the

supervision and control of [the Committee] where it considers it necessary.

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**NOTE**

*In section 5, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.*

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*Hygiene of fishing vessels*

**Hygiene conditions for fishing vessels.**

6. (1) No person shall carry out on a fishing vessel any commercial operation in relation to fishery products unless the general hygiene conditions specified in Annex I to the Fishing Vessels Directive are fulfilled in relation to that vessel and the operations carried out on it.

(2) No person shall carry out on a fishing vessel designed and equipped to preserve fishery products on board under satisfactory conditions for more than 24 hours, other than those equipped for keeping fish, shellfish and molluscs alive without other means of conservation, any commercial operation in relation to fishery products unless the additional hygiene conditions specified in Annex II to the Fishing Vessels Directive are also fulfilled in relation to that vessel and the operations carried out on it.

*Monitoring*

**Monitoring by [the Committee].**

7. [ The Committee] shall perform the functions specified in Chapter V.

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**NOTE**

*In section 7, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.*

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*Placing on the market*

**Placing fishery products on the market.**

8. (1) Subject to subsections (2) to (4), no person shall place on the market for human consumption any fishery products, unless –

- (a) if they have been handled on board a British Islands fishing vessel, the applicable requirements of the Annexes to the Fishing Vessels Directive are satisfied in relation to those fishery products which he places on the market,
- (b) if they have been handled on board a British Islands factory vessel, the applicable requirements of Chapter I and the Commission Decisions are satisfied in relation to those fishery products which he places on the market,
- (c) if they were landed in the British Islands, during and after landing the applicable requirements of Chapter II are satisfied in relation to those fishery products which he places on the market,
- (d) at establishments on land in the British Islands, they have been handled and, where appropriate, packaged, prepared, processed, frozen, defrosted, stored hygienically and inspected in accordance with the

applicable requirements of Chapters III and IV and the Commission Decisions,

- (e) they have been subject to such of the health controls and monitoring described in Chapter V as is appropriate in the particular circumstances of the case, unless [the Committee] authorised the transfer of those fishery products *ex quay* to an approved establishment or registered auction or wholesale market to be checked there, in which case a check on the conditions of landing is not required,
- (f) they shall have been appropriately packaged in accordance with Chapter VI,
- (g) they comprise or form part of a consignment which bears an identification mark which is in accordance with Chapter VII,
- (h) they have been stored and transported under satisfactory conditions of hygiene, in accordance with Chapter VIII,
- (i) if they are imported products, prior to importation such of the requirements specified in sections 14 and 15 as are applicable to his case are satisfied in relation to those fishery products which he places on the market, and
- (j) any additional requirements contained in sections 10 to 13 which relate to those fishery products are satisfied in

relation to those products which he places on the market.

(2) For the purpose of subsection (1), compliance with any law passed by the legislature of any of the other British Islands which is intended to give effect to the results to be achieved by the corresponding provisions of the Council Directive, the Fishing Vessels Directive and the Commission Decisions in those territories shall be accepted as compliance with the provisions of this Ordinance, the Council Directive, the Fishing Vessels Directive or the Commission Decisions, as the case may be, referred to therein.

(3) Paragraphs (a) to (c) of subsection (1) shall not apply to aquaculture products or to processed bivalve molluscs or other shellfish.

(4) Subsection (1) shall not apply to consignments of fishery products solely to be placed on the market within the Islands, save to the extent that such applicable requirements of the Commission Decisions, as specified from time to time by an order made by [the Committee], must be satisfied in relation to those fishery products which are placed on that market.

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**NOTE**

*In section 8, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.*

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**Gutting.**

9. An operator having control over the timing of the gutting of a fishery product, where such gutting is possible from a technical and commercial viewpoint, shall ensure that it is carried out as soon as possible after the product has been caught or landed.

**Placing aquaculture products on the market.**

10. No person shall place aquaculture products on the market for human consumption, unless –

- (a) they have been slaughtered under conditions of hygiene considered by [the Committee] to be appropriate,
- (b) they have not been soiled with earth, slime or faeces, and
- (c) if they were not processed immediately after being slaughtered, they have been kept chilled.

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**NOTE**

*In section 10, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.*

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**Placing processed bivalve molluscs or other shellfish on the market.**

11. (1) Subject to subsections (2) and (3), no person shall place fishery products which are processed bivalve molluscs or other shellfish on the market for human consumption unless prior to processing there were satisfied in relation to those processed bivalve molluscs or other shellfish those of the requirements set out in section 10 of the Food Safety (Live Bivalve Molluscs and Other Shellfish) Ordinance, 1996<sup>d</sup> to which those products would have been subject if, when they were processed, they had instead been placed on the market as live bivalve molluscs or other shellfish.

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<sup>d</sup> Ordinance No. XX of 1996.

(2) For the purposes of subsection (1), section 10 of the Food Safety (Live Bivalve Molluscs and Other Shellfish) Ordinance, 1996 shall apply as if, where reference is made in section 10(1)(b) and (5) of that Ordinance to transportation to an approved dispatch centre, reference had also been made to transportation to an establishment or factory vessel which has been approved in accordance with –

- (a) section 1, or
- (b) any law passed by the legislature of any of the other British Islands which is intended to give effect to the results to be achieved in relation to the approval of establishments on land and factory vessels by the Council Directive, in so far as it applies to those territories,

and the requirements in relation to movement documents or permanent transport authorisations set out in section 10(1)(b) of the Food Safety (Live Bivalve Molluscs and Other Shellfish) Ordinance, 1996 and Chapter II of the Annex to the Live Bivalve Molluscs Directive shall apply as if modified accordingly.

(3) Subsection (1) shall not apply to imported products which were processed before they were imported.

**Placing live fishery products on the market.**

**12.** A person with control over the survival conditions of a fishery product which is to be placed on the market alive shall ensure that it is at all times kept under conditions most suitable for its survival.

**Specified fishery products not to be placed on the market.**

**13.** No person shall place on the market any of the following –

- (a) poisonous fish of the following species, *Tetraodontidae*, *Moridae*, *Diodontidae* or *Canthigasteridae*, and
- (b) fishery products containing biotoxins including ciguatera or muscle-paralysing toxins.

*Imports*

**General restriction on importing fishery products.**

14. (1) Subject to subsection (2), no person shall import any fishery products which are for human consumption, unless –

- (a) except where paragraph (b) or (c) applies, they are products in respect of which all applicable requirements of the Council Directive, the Fishing Vessels Directive, the Live Bivalve Molluscs Directive and the Commission Decisions are satisfied,
- (b) if they originate in a third country (including products taken from the sea and then landed in the Islands by the vessel of a third country), then unless paragraph (c) applies, in the opinion of [the Committee] they are products in respect of which all applicable requirements at least as stringent as those specified in this Ordinance are satisfied,
- (c) if they are products in respect of which two or more countries have been concerned with their production –

- (i) where they have undergone any process or operation in an EEA State or on board a vessel of an EEA State, all applicable requirements of the Council Directive, the Fishing Vessels Directive, the Live Bivalve Molluscs Directive and the Commission Decisions which relate to that process or operation are satisfied, and
- (ii) where they have undergone any process or operation in a third country or on board a vessel of a third country, in the opinion of [the Committee] all applicable requirements at least as stringent as those specified in this Ordinance which relate to that process or operation are satisfied, and
- (d) any additional conditions imposed under section 15 are satisfied,

in relation to those fishery products which he imports.

(2) Subsection (1) shall not apply to a person importing a private consignment –

- (a) from a country or territory within the European Community, unless that consignment is a consignment of trade samples which weighs more than 10 kilograms, or
- (b) from any country or territory, if that consignment weighs 1 kilogram or less.

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**NOTE**

*In section 14, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.*

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**Additional conditions in relation to certain third country imports.**

**15.** (1) Subject to subsection (3), no person shall import any fishery products which are for human consumption –

- (a) from a third country,
- (b) from a country or territory within the European Community if those fishery products do not originate from within the European Economic Area, unless those products were in free circulation in that country or territory within the European Community, or
- (c) from an EEA State which is not also a member State, unless those fishery products originate from within the European Economic Area,

unless the conditions specified in subsection (2) are satisfied in relation to those fishery products which he imports.

(2) The conditions referred to in subsection (1) are that a person importing fishery products in circumstances where –

- (a) those fishery products originate in a third country in respect of which the Commission has adopted approved

import conditions, and

- (b) those approved import conditions relate to those fishery products,

shall import those fishery products in accordance with those approved import conditions.

(3) Subsection (1) shall not apply to a person importing a private consignment, if that consignment weighs 1 kilogram or less.

*Appeals and offences*

**Appeals.**

**16.** (1) A person aggrieved by any decision of [the Committee] under any of the provisions of this Ordinance may appeal therefrom to the Court on the grounds that the decision of [the Committee] was *ultra vires* or was an unreasonable exercise of its powers.

(2) An appeal under this section shall be instituted by way of summons which shall set out the material facts upon which the appellant relies and which shall be served upon [the President] of [the Committee] within a period of two months immediately following the date of the notice giving the decision of [the Committee].

(3) On an appeal under this section the appellant shall have the burden of proof and the final right of reply.

(4) An appeal on a question of law shall lie to the Court of Appeal from any decision of the Court under this section within such period and in such manner as may be prescribed by Order of the Royal Court.

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**NOTE**

*In section 16, the words "the Committee" and "the President" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 6 and section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016.<sup>1</sup>*

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**Offences.**

**17.** (1) If a person contravenes any provision of this Ordinance specified in subsection (2) he shall be guilty of an offence.

(2) The provisions of this Ordinance referred to in subsection (1) are sections 1(1), 3(1), 4(1), 5(1), 6(1), 6(2), 8(1), 9, 10, 11(1), 12, 13, 14(1), 15(1), 20(7), 21(1) and 21(2).

(3) A person guilty of an offence against this Ordinance shall be liable on summary conviction to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding three months or to both.

**Offences by bodies corporate.**

**18.** (1) Where an offence under this Ordinance is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

**Defence of due diligence.**

**19.** (1) In any proceedings for an offence under this Ordinance, it shall, subject to subsection (2), be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

(2) If in any case the defence provided by subsection (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 person charged shall not, without leave of the court, be entitled to rely on that defence unless

–

- (a) at least seven clear days before the hearing, and
- (b) where he has previously appeared before the court in connection with the alleged offence, within one month of his first appearance,

he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

*General provisions*

**Powers of entry.**

**20.** (1) An authorised officer shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises, ship or aircraft at all reasonable hours –

- (a) for the purpose of ascertaining whether there is or has

been on, or in connection with, the premises, ship or aircraft any contravention of the provisions of this Ordinance, and

- (b) generally for the purpose of the performance by [the Committee] of its functions under this Ordinance.

PROVIDED THAT admission to any premises used only as a private dwelling-house shall not be demanded as of right unless 24 hours' notice of the intended entry has been given to the occupier.

- (2) If the Bailiff is satisfied by information on oath –
  - (a) that there is a reasonable ground for entry in or on to any premises, ship or aircraft for any such purpose as aforesaid, and
  - (b) is also satisfied either –
    - (i) that admission to the premises, ship or aircraft has been refused, or a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier, or
    - (ii) that an application for admission, or the giving of such a notice would defeat the object of the entry, or that the case is one of urgency, or that the premises, ship or aircraft are unoccupied or the occupier is temporarily absent,

the Bailiff may grant a warrant authorising [the Committee] by any authorised officer

to enter the premises, ship or aircraft, if need be by reasonable force.

(3) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises, ship or aircraft which he has entered by virtue of such a warrant shall leave them as effectively secured against trespassers as he found them.

(4) Every warrant granted under this section shall continue in force for a period of one month.

(5) An authorised officer entering premises, a ship or aircraft by virtue of this section, or of a warrant issued thereunder, may inspect any records (in whatever form they are held) relating to any provision of this Ordinance, the Council Directive, the Fishing Vessels Directive and the Commission Decisions, as the case may be, and, where any such records are kept by means of a computer –

(a) may have access to, and inspect and check the operation of, any computer and associated apparatus or material which is or has been in use in connection with the records, and

(b) may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require.

(6) Any authorised officer exercising any power conferred by subsection (5) may –

(a) seize and detain any records which he has reason to

believe may be required as evidence in proceedings under any of the provisions of this Ordinance, and

- (b) where the records are kept by means of a computer, require the records to be produced in a form in which they may be taken away.

(7) No person who enters any premises, ship or aircraft by virtue of this section, or of a warrant issued thereunder, shall disclose to any person any information obtained by him in the premises, ship or aircraft with regard to any trade secret, unless such disclosure is made in the performance of his duty.

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**NOTE**

*In section 20, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.*

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**Obstruction etc. of officers.**

- 21.** (1) No person shall –
- (a) intentionally obstruct any person acting in the execution of this Ordinance, or
  - (b) without reasonable cause, fail to give to any person acting in the execution of this Ordinance any assistance or information which that person may reasonably require of him for the performance of his functions under this Ordinance.
- (2) No person shall, in purported compliance with any such

requirement as is mentioned in subsection (1)(b) –

- (a) furnish information which he knows to be false or misleading in a material particular, or
- (b) recklessly furnish information which is false or misleading in a material particular.

(3) Nothing in subsection (1)(b) shall be construed as requiring any person to answer any question or give any information if to do so might incriminate him.

**Interpretation.**

22. (1) In this Ordinance, unless the context otherwise requires, –

**"approved import conditions"** means the conditions for the importation of fishery products which are laid down from time to time in any Commission Decision,

**"aquaculture products"** means –

- (a) all fishery products born or raised in controlled conditions until placed on the market as foodstuffs, and
- (b) all seawater fish, freshwater fish or crustaceans caught in their natural environment when juvenile and kept until they reach the desired commercial size for human consumption, other than fish or crustaceans of commercial size caught in their natural environment and kept alive to be sold at a later date, if they are merely kept alive without any attempt being made to

increase their size or weight,

**"authorised officer"** means a person authorised by [the Committee] in writing, either generally or specially, to act in matters of any specified kind or in any specified matter,

**"the Bailiff"** means the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff or the Juge Délégué,

**"batch"** means a quantity of fishery products obtained under practically identical circumstances,

**"bivalve molluscs"** means filter-feeding lamellibranch molluscs,

**"[the Committee]"** means the States [Committee for Health & Social Care],

**"chilling"** means the process of cooling fishery products to a temperature approaching that of melting ice,

**"clean seawater"** means seawater or briny water which is free from any microbiological contamination, harmful substances or toxic marine plankton in such quantities as may affect the health quality of fishery products, and which is used under the conditions laid down in the Council Directive,

**"the Commission"** means the Commission of the European Communities,

**"the Commission Decisions"** means Commission Decision

93/25/EEC<sup>e</sup> approving certain treatments to inhibit the development of pathogenic micro-organisms in bivalve molluscs and marine gastropods, Commission Decision 93/51/EEC<sup>f</sup> on the microbiological criteria applicable to the production of cooked crustaceans and molluscan shellfish and Commission Decision 93/140/EEC<sup>g</sup> laying down the detailed rules relating to the visual inspection for the purposes of detecting parasites in fishery products,

**"the competent authority"** means [the Committee],

**"consignment"**, except in the expression **"private consignment"**, means a quantity of fishery products bound for one or more customers in the country of destination and conveyed at any one time by a single means of transport,

**"the Council Directive"** means Council Directive 91/493/EEC<sup>h</sup> of 22<sup>nd</sup> July, 1991 laying down the health conditions for the production and the placing on the market of fishery products,

**"the Court"** means the Royal Court sitting as an Ordinary Court,

**"the Court of Appeal"** means the Court of Appeal established under the Court of Appeal (Guernsey) Law, 1961<sup>i</sup>,

**"EEA Agreement"** means the Agreement on the European Economic

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- e** O.J. L16, 25.1.93, p. 22.  
**f** O.J. L13, 21.1.93, p. 11.  
**g** O.J. L56, 9.3.93, p. 42.  
**h** O.J. L268, 24.9.91, p. 15.  
**i** Ordres en Conseil Vol. XVIII, p. 315.

Area signed at Oporto on 2<sup>nd</sup> May, 1992<sup>j</sup> as adjusted by the Protocol signed at Brussels on 17<sup>th</sup> March, 1993<sup>k</sup> and "**the European Economic Area**" shall be construed accordingly,

**"EEA State"** means a State which is a Contracting Party to the EEA Agreement,

**"establishment"** means any premises where fishery products are prepared, processed, chilled, frozen, packaged or stored prior to their export, whether directly or indirectly, to an EEA State, including auction or wholesale markets where any such preparation or processing of fishery products takes place but not such auction or wholesale markets where only display and sale by wholesale takes place,

**"factory vessel"** means any vessel on which fishery products undergo one or more of the following operations followed by packaging prior to their export, whether directly or indirectly, to an EEA State, namely, filleting, slicing, skinning, mincing, freezing or processing but does not include a fishing vessel in which only shrimps and molluscs are cooked on board or a fishing vessel on board which only freezing is carried out,

**"final consumer"** means a person who buys fishery products –

- (a) for his own consumption or consumption by his partner, family or other person in a solely domestic context,
- (b) for direct transport to, and consumption on, premises either in his ownership or under his personal

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<sup>j</sup> O.J. L1, 3.1.94, p. 3.

<sup>k</sup> O.J. L1, 3.1.94, p. 572.

supervision or in the ownership or under the personal supervision of a person employed by him, or

- (c) for cooking on premises either in his ownership or under his personal supervision or in the ownership or under the personal supervision of a person employed by him for sale as take-away food for consumption off those premises,

**"fishery products"** means all seawater or freshwater animals or parts thereof, including their roes but excluding aquatic mammals, frogs and aquatic animals covered by Community Acts other than the Council Directive,

**"the Fishing Vessels Directive"** means Council Directive 92/48/EEC<sup>1</sup> of 16<sup>th</sup> June, 1992 laying down minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with Article 3(1)(a)(i) of the Council Directive,

**"food business"** means any business in the course of which commercial operations with respect to food or food sources are carried out and, for this purpose, **"food"** and **"food source"** have the same meanings as in the Food and Drugs (Guernsey) Law, 1970, as amended,

**"fresh products"** means any fishery products, whether whole or prepared, including products packaged under vacuum or in a modified atmosphere, which have not undergone any treatment to ensure preservation other than chilling,

**"frozen products"** means fishery products which have undergone a

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<sup>1</sup> O.J. L187, 7.7.92, p. 41.

freezing process to reach a core temperature of -18°C or lower after temperature stabilization,

**"the Islands"** means the Islands of Guernsey, Herm and Jethou,

**"the Live Bivalve Molluscs Directive"** means Council Directive 91/492/EEC<sup>m</sup> of 15<sup>th</sup> July, 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs,

**"market"** means a market from which fishery products are exported, whether directly or indirectly, to an EEA State,

**"means of transport"** means those parts set aside for goods in motor vehicles, rail vehicles and aircraft, holds of vessels and containers for transport by land, sea or air,

**"other shellfish"** means echinoderms, tunicates and marine gastropods,

**"packaging"** means the procedure of protecting fishery products by a wrapper, a container or any other suitable means,

**"placing on the market"** means, in relation to fishery products for human consumption, the holding for sale, exposing for sale, displaying for sale, offering for sale, selling, consigning, delivering or any other associated activity of marketing, excluding retail sales,

**"premises"** includes a building or part of a building, and any forecourt, yard or place of storage used in connection with a building or part

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<sup>m</sup> O.J. L268, 24.9.91, p. 1.

of a building, a vehicle, and a stall or moveable structure,

**"preserving"** means the process whereby fishery products are packaged in hermetically sealed containers and subjected to heat treatment to the extent that any micro-organisms that might proliferate are destroyed or inactivated, irrespective of the temperature at which the product is to be stored,

**"private consignment"** means a quantity of fishery products which are –

- (a) imported as trade samples, or
- (b) not being imported by way of trade, and which—
  - (i) form part of a traveller's personal luggage, or
  - (ii) have been sent to a person, other than a body of persons corporate or unincorporate, in the Islands,

**"processed product"** means any fishery product, which has undergone a chemical or physical process, such as the heating, smoking, salting, dehydration or marinating of chilled or frozen products, whether or not associated with other foodstuffs, or a combination of these processes,

**"ship"** includes any vessel, boat or craft and any hover vehicle, that is to say, a vehicle designed to be supported on a cushion of air,

**"third country"** means any country or territory which is not part of the European Economic Area.

- (2) Unless the context otherwise requires, a reference –
- (a) to a numbered Chapter is to the Chapter in the Annex to the Council Directive bearing that number,
  - (b) to any other enactment (including a European Community Act) shall be construed as a reference to that enactment as repealed and replaced, amended or extended or applied by any other enactment, including this Ordinance.

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**NOTES**

*In section 22, the words, first, "the Committee" and, second, "Committee for Health & Social Care" in square brackets in the definition of the expression "the Committee" in subsection (1) and, third, the words "the Committee" in square brackets wherever else occurring were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 6, section 2, Schedule 1, paragraph 5 and section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.<sup>2</sup>*

*The functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.<sup>3</sup>*

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**Transitional arrangements.**

**23.** Approvals of factory vessels and establishments and registrations of fishing vessels and markets informally granted by [the Committee] prior to this Ordinance coming into force shall remain valid for a period of one month following the date on which this Ordinance enters into force.

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**NOTE**

*In section 23, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.*

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**Extent.**

24. This Ordinance shall have effect in the Islands of Guernsey, Herm and Jethou.

**Citation.**

25. This Ordinance may be cited as the Food Safety (Fishery Products) Ordinance, 1996.

**Commencement.**

26. This Ordinance shall come into force on 1<sup>st</sup> October, 1996.

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1 The words "the President" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 4, with effect from 6th May, 2004.

2 The words "Committee for Health & Social Care" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 4, with effect from 6th May, 2004.

3 The functions, rights and liabilities of the Health and Social Services Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Board of Health and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 4, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.