

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

The Export of Produce (Other than Tomatoes) (Packing and Grading) Ordinance, 1956 *

[CONSOLIDATED TEXT]

NOTE

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* Recueil d'Ordonnances Tome XI, p. 222; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1958 (Recueil d'Ordonnances Tome XII, p. 22); the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment No. 2) Ordinance, 1958 (Recueil d'Ordonnances Tome XII, p. 76); the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1962 (Recueil d'Ordonnances Tome XIII, p. 223); the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1964 (Recueil d'Ordonnances Tome XIV, p. 1); the States Civil Service Board (Implementation) Ordinance, 1964 (Recueil d'Ordonnances Tome XIV, p. 4); 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). See also the Export of Produce (Other than Tomatoes) Order, 1965 (G.S.I. No. 1 of 1965). This Ordinance has been repealed by the European Communities (Food and Feed Controls) (Guernsey) Ordinance, 2016 (No. XXI of 2016).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

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SCHEDULE

(Made on 16th May, 1956.)

The Export of Produce (Other than Tomatoes) (Packing and Grading) Ordinance, 1956

THE STATES, on the representations of the States Committee for Horticulture, hereby order: –

Definitions.

1. In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"**carrier**", "**consignor**", and "**consignee**" shall include their respective agents and servants,

"**the Committee**" means the States [Committee for Economic Development],

"**export**" means export by way of trade and "**exported**" shall be construed accordingly,

"**exporter**" means any person whose [description or code letter and number allocated to him in pursuance of the provisions of subsection (1) of section four of this Ordinance] appears upon any container of produce delivered at any place from which produce may lawfully be exported from the Island for the purpose of being exported,

"**fit for market**" means packed in a clean and sound container, clean, in such condition, of such quality, sufficiently free from disease and blemishes, and so packed, on the date of exportation from the Island, that it can reasonably be expected that at the time at which the produce would

normally reach the consignee to whom it is addressed it will be of merchantable quality,

"inspector" means a person appointed by [the States [Policy & Resources Committee]] to execute and perform the powers and duties of an inspector in accordance with the provisions of this Ordinance,

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

"merchantable quality" means of such quality and in such condition that a reasonable man would, after a full examination, accept the goods in the circumstances of the case in performance of his offer to buy them whether he buys for his own use or to sell again,

"preserved" means treated by drying, tinning, bottling, cooking, pickling or deep-freezing,

"produce" means fruit, vegetables, potatoes, mushrooms, roots, flowers, ferns, herbs, foliage or any other agricultural or horticultural produce grown in the Island, but does not include any such produce which is preserved or tomatoes,

"true to indicated quantity" means weighing or consisting of not less than the weight or other measure of quantity indicated by the statement of net weight or other quantity on or attached to the container.

NOTES

In section 1,

the words in square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1,

paragraph 1(a), with effect from 1st May, 2016;¹

the words in square brackets in the definition of the expression "exporter" were substituted by the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1964, section 1(a), with effect from 2nd March, 1964;

the words in square brackets in the definition of the expression "inspector" were substituted by the States Civil Service Board (Implementation) Ordinance, 1964, section 1, Schedule, with effect from 29th January, 1964;²

the words in square brackets within the square brackets in the definition of the expression "inspector" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016.³

The functions, rights and liabilities of the Commerce and Employment 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 Economic Development and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁴

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁵

Produce to be fit for market and true to quantity.

2. A person shall not export, cause to be exported or attempt to export produce from the Island unless the produce is fit for market and true to indicated quantity.

Containers describing produce, weight and quantity.

3. (1) A person shall not export, cause to be exported or attempt to export produce from the Island otherwise than in a container showing either by imprint on the outside of the container or by clear and legible writing on a label

securely attached to the outside of the container a brief and accurate description sufficient to indicate the nature of the produce contained therein and also, in the case of produce in respect of which weight or quantity commonly enters into the calculation of the price returnable in respect thereof by the consignee, a statement of the net weight or quantity of that produce.

(2) Any such imprint or label as is mentioned in the last preceding subsection of this section shall be in such form and colour and contain such particulars as the Committee may from time to time by order direct.

(3) Where two or more containers are attached together to form one package, the information required to be shown on a container under the provisions of subsection (1) of this section shall be at the same end of each container in the package.

Imprint or label showing destination.

4. [(1) A person shall not export, cause to be exported or attempt to export produce from the Island otherwise than in a container showing –

(a) the place of destination of the produce, and

(b) in bold characters of not less than one-half inch in height the code letter and number which may, from time to time, be allocated to the exporter by the Committee for the purposes of identification,

by imprint or by means of a rubber stamp either on the outside of each end of the container or on a label securely attached to each end of the container.]

(2) Any such imprint or label as is mentioned in the last preceding subsection shall be in such form and colour and contain such particulars as the

Committee may from time to time by order direct.

(3) Where two or more containers are attached together to form one package, the package shall be deemed to comply with the provisions of subsection (1) of this section if one container in the package complies with the provisions of that subsection.

NOTES

In section 4, subsection (1) was substituted by the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1964, section 1(b), with effect from 2nd March, 1964.⁶

The following Orders have been made under section 4:

Export of Produce (Other than Tomatoes) Order, 1958 (No. 35 of 1958);

Export of Produce (Other than Tomatoes) Order, 1969.

Exemptions from labelling provisions.

4A. (1) Notwithstanding the provisions of subsection (1) of section three and subsection (1) of section four of this Ordinance, the Committee may by licence, in writing, exempt any person from complying with any or all of those provisions in respect of containers of produce exported from the Island to any place outside the British Islands and the Committee may attach to any such licence any conditions it may deem necessary or expedient.

(2) The Committee may, from time to time, vary or revoke any conditions attached to a licence granted in pursuance of the provisions of the last preceding subsection and may at any time revoke any such licence.]

NOTE

Section 4A was inserted by the Export of Produce (Other than Tomatoes)

(Packing and Grading) (Amendment) Ordinance, 1962, section 1(c), with effect from 28th November, 1962.

Consignment notes.

5. (1) Except as otherwise agreed in writing between the consignor and the carrier, a consignor shall not deliver to a carrier for export from the Island any consignment of containers containing produce unless the consignment is accompanied by a consignment note bearing –

- (a) the full names and addresses of the consignor and the consignee,
- (b) the station or place of destination,
- (c) the gross weight of the containers inclusive of packing, and
- (d) the number of the containers and the nature of their contents.

(2) In respect of any consignment of containers accepted by a carrier without reserve, the gross weight referred to in subsection (1) of this section shall, as between the consignor and the carrier, be deemed to be the actual gross weight thereof unless and until the contrary is proved.

(3) A carrier may delay the acceptance for carriage of any consignment of containers of produce for export if the gross weight of the consignment is not clearly indicated on the consignment note or other document referring thereto and may give priority to any other consignment of containers the gross weight of which is clearly indicated on the consignment note or other document referring thereto.

(4) A carrier to whom any consignment of containers of produce for export is offered for carriage may have the whole or any part thereof weighed and for that purpose may have any consignment or part thereof removed from its position in the line of vehicles or elsewhere and in the meanwhile may proceed to accept other consignments save that the shipment of any consignment of produce offered before the closing time fixed for acceptance thereof shall not be refused in consequence of the delay incurred by any such removal.

Grapes—Poundage in containers and sugar content.

6. (1) A person shall not export, cause to be exported or attempt to export grapes as produce from the Island –

(a) unless they are packed in containers containing eight, nine or fifty-six or more pounds weight of grapes and each container containing eight or nine pounds weight of grapes is clearly marked on the outside thereof with the words and figures "8 lbs." or "9 lbs." as the case may be, and

(b) unless the percentage sugar solution of a representative sample of the grapes measured on a refractometer is –

(i) where the grapes are packed in containers marked as containing grapes which are "choice", "selected" or "first quality" or otherwise indicating that the grapes are of superior quality, fourteen or more, and

(ii) where the grapes are packed otherwise than as mentioned in the last preceding sub-paragraph,

eleven or more.

(2) The Committee may, from time to time, by order vary the amounts of percentage sugar solution mentioned in the last preceding subsection.

Grapes—packing and containers.

6A. A person shall not export, cause to be exported or attempt to export grapes from the Island unless –

- (a) the interior of the container of the grapes is lined and padded in such manner as will give adequate protection to the grapes from damage in transit,
- (b) if the container is of a type commonly known as and hereinafter referred to as "**a Dutch tray**" there shall be attached to the pegs at each corner thereof a protective framework of such type as may, from time to time, be approved by the Committee, save that where two or more Dutch trays are parcelled together to constitute one package such framework need only be attached to the pegs of the top tray.]

NOTES

Section 6A was inserted by the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1962, section 1(d), with effect from 28th November, 1962.

Flowers—Packing and containers.

[**7.** (1) A person shall not export, cause to be exported or attempt to export flowers from the Island unless –

Consolidated text

- (a) the container of the flowers is of a type and size which the Committee may, from time to time, by order direct,
- (b) the flowers in the container are held in a reasonably secure position by such method as the Committee may, from time to time, by order direct, and
- (c) the container, other than the lid thereof, of the flowers is completely lined with paper and the flowers in the container are completely covered with paper.

(2) An order made under the provisions of paragraph (a) of the last preceding subsection may prescribe different types and sizes of containers as respects different kinds of flowers, and an order made under the provisions of paragraph (b) of the said subsection may make different provisions as respects different types of containers and different kinds of flowers.

(3) Notwithstanding the provisions of paragraph (c) of subsection (1) of this section the Committee may, from time to time, by order direct that flowers of a kind specified in the order may be exported from the Island in containers of a type specified in the order –

- (a) without the containers being lined or the flowers covered in accordance with the provisions of paragraph (c) of subsection (1) of this section, or
- (b) with the containers lined or the flowers covered to such extent or in such manner as shall be specified in the order.

(4) Paragraph (a) of subsection (1) of this section shall come into

force on such date as the Committee may by order appoint.]

NOTES

Section 7 was substituted by the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1962, section 1(e), with effect from 28th November, 1962.⁷

The following Orders have been made under section 7:

*Export of Produce (Other than Tomatoes) Order, 1964;
Export of Produce (Other than Tomatoes) Order, 1965;
Export of Produce (Other than Tomatoes) Order, 1971.*

In accordance with the provisions of the Export of Produce (Other than Tomatoes) Order, 1965, article 1, paragraph (a) of subsection (1) of this section was brought into force on 15th April, 1965.

[Fern and other foliage containers.]

7A. (1) A person shall not export, cause to be exported or attempt to export fern or other foliage from the Island unless the container thereof is of a type and size which the Committee may, from time to time, by order direct.

(2) An order made under the provisions of the last preceding subsection may prescribe different types and sizes of containers as respects different kinds of fern and other foliage.

(3) Subsection (1) of this section shall come into force on such date as the Committee may by order appoint.]

NOTES

Section 7A was inserted by the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1964, section 1(c), with effect from 2nd March, 1964.

The following Orders have been made under section 7A:

Export of Produce (Other than Tomatoes) Order, 1965;
Export of Produce (Other than Tomatoes) Order, 1971.

In accordance with the provisions of the Export of Produce (Other than Tomatoes) Order, 1965, article 1, subsection (1) of this section was brought into force on 15th April, 1965.

Powers of inspector.

8. (1) An inspector, on the production by him, if required, of a certificate of his appointment signed by the [[President] of the Committee], may examine any produce and any containers thereof which are delivered for export within the limits of any place from which produce may lawfully be exported.

(2) An inspector, at such place as mentioned in the last preceding subsection, may open or cause to be opened and may examine, count and weigh the contents of any container in which produce arriving for export is packed and may order the removal of any consignment of produce or any part thereof from its place or position to any other place or position at or near the place of export and may order the unloading or separation of any such consignment or part thereof.

(3) If on examining or counting or weighing any container or the contents thereof it appears to an inspector that –

- (a) any of the provisions of this Ordinance or the provisions of any order made hereunder has been contravened, or
- (b) the produce in the container is not fit for market, or
- (c) the produce in the container is not true to indicated quantity, or
- (d) the description indicating the nature of the produce is

insufficient or inaccurate,

the inspector shall forthwith report the matter in writing to the [Committee] and the inspector may, in his discretion, take action in any one or more of the following ways, that is to say –

- (i) he may forbid the exportation of the container and its contents,
- (ii) he may order that the consignment or part thereof of which the container forms part be returned for repacking to the exporter or his agent and may require that the consignment or part thereof after repacking be presented to him for inspection,
- (iii) he may, if in his opinion the produce in the container can be rendered fit for market, permit the container to proceed after the produce therein has been rendered fit for market by the exporter or his agent,
- (iv) he may, if the description borne by the container of the produce therein does not conform to the requirements of section three of this Ordinance or the provisions of any order made hereunder or in his opinion is insufficient or inaccurate and not wilfully misleading, or if the container, contrary to section three of this Ordinance or order, bears no description of the produce therein, or bears no statement of the net weight

or quantity of such produce or if, the produce being not true to indicated quantity, he is satisfied that the disparity resulted from inadvertence and not from intent to cheat and defraud, permit such container and the contents thereof to proceed after such description or such statement of net weight or quantity or both shall have been correctly marked on such container in accordance with the provisions of section three of this Ordinance by the exporter thereof or his agent, and

- (v) he may, if the container or the produce therein does not conform to the requirements of either section six[, section six A] or section seven of this Ordinance and he is satisfied that the disparity resulted from inadvertence and not from intent to cheat or defraud, permit the container and the produce therein to proceed after the container or the produce, as the case may be, has been made to conform to those requirements by the exporter or his agent.

(4) An inspector may, as respects any produce and the containers thereof examined by him under the foregoing provisions of this section, seize any such produce and containers as he may deem necessary for the purposes of any prosecution under the provisions of this Ordinance.

(5) Where an inspector takes any action under subsections (3) or (4) of this section he shall forthwith inform the exporter or his agent of the action taken.

(6) In any case where, under the provisions of this section, the exportation of a container and the produce therein has been forbidden by an inspector and has not been collected by the exporter or his agent by five o'clock in the afternoon on the working day but one next following the date of such detention, or been made to conform by that time with the provisions of sections three, six[, six A] or seven of this Ordinance, as the case may be, by the exporter or his agent, the inspector may, with the approval of the [President] of the Committee [...], confiscate and destroy or otherwise dispose of the container and produce.

(7) The proceeds of disposal of any produce or containers disposed of for value after confiscation under the provisions of the last preceding subsection shall be placed to the credit of the General Revenue of the States and, if there be no such proceeds or if such proceeds are less than the charges and expenses incurred by or on behalf of the inspector in respect of the detention, removal, storage or destruction or other disposal of the produce or containers, the charges and expenses or the difference between the charges and expenses and the proceeds, as the case may be, shall be payable by and recoverable as a civil debt from the exporter of the produce.

NOTES

In section 8,

the words in square brackets in, first, subsection (1) and, second, subsection (3) were substituted by the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1962, section 1, respectively paragraph (f) and paragraph (g), with effect from 28th November, 1962;

the word "President" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016;⁸

the punctuation, words and letter in square brackets in paragraph (v) of subsection (3) were inserted by the Export of Produce (Other than

Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1962, section 1(h), with effect from 28th November, 1962;

the punctuation, word and letter in the first pair of square brackets in subsection (6) were inserted, and the words omitted in the third pair of square brackets therein were repealed, by the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1962, section 1(i), with effect from 28th November, 1962.

Saving for experimental produce.

9. Nothing in this Ordinance shall apply in relation to any produce or the container thereof which is the subject of any experiment conducted by or on behalf of the Committee.

Penalties.

10. (1) Except where otherwise specifically provided, any person who

(a) contravenes any of the provisions of this Ordinance or of any order made thereunder, or

(b) impedes or obstructs an inspector in the exercise of his duties under the provisions of this Ordinance, or

(c) refuses or neglects to obey an inspector in the execution of his duties under the provisions of this Ordinance,

shall be guilty of an offence and liable, on conviction, in the case of a first offence to a fine not exceeding [level 1 on the uniform scale], and in the case of a second or subsequent offence to a fine not exceeding [level 2 on the uniform scale].

(2) Any person who contravenes the provisions of subsection (1) of section five of this Ordinance (which requires the declaration of the weight of any

container of produce for export) shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 1 on the uniform scale].

NOTES

In section 10,

the words and figures in the first pair of square brackets in subsection (1), and in the square brackets in subsection (2), were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;

the words and figure in the second pair of square brackets in subsection (1) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(4), with effect from 1st July, 1989.

Orders made by the Committee.

11. Any order made by the Committee under the provisions of this Ordinance shall be laid before a meeting of the States as soon as may be after the making thereof and, if at that meeting or at the next subsequent meeting the States resolve that the order be annulled, the order shall cease to have effect but without prejudice to anything done thereunder or to the making by the Committee of any new order.

Repeals.

12. The Ordinances set out in the first column of the Schedule to this Ordinance are hereby repealed to the extent set out in the second column thereof.

Commencement.

13. This Ordinance shall come into force on the 11th day of June, 1956.

NOTE

In accordance with the provisions of the Export of Produce (Other than Tomatoes) Order, 1965, article 1, paragraph (a) of subsection (1) of section

7 and subsection (1) of section 7A of this Ordinance (as amended) were brought into force on 15th April, 1965.

REPEALED

SCHEDULE

Section [eleven]

<i>Ordinances Repealed.</i>	<i>Extent of Repeal.</i>
<p>Ordinance entitled "Ordonnance relative à l'Exportation de Fruits et autres Produits", made permanent on the 5th day of October, 1931.</p>	<p>The whole Ordinance.</p>
<p>Ordinance entitled "Ordonnance relative à l'Expédition de Fleurs", made permanent on the 18th day of January, 1932.</p>	<p>The whole Ordinance.</p>
<p>Ordinance entitled "Ordonnance relative à l'Inspection des Produits du Sol (autres que les Tomates) exportés de cette Île", of the 24th day of February, 1934.</p>	<p>So much of the Ordinance as remains unrepealed.</p>
<p>Ordinance entitled "Ordonnance portant amendement à l'Ordonnance relative à l'Inspection des Produits du Sol (autres que les Tomates) exportés de cette Île", of the 4th day of May, 1940.</p>	<p>The whole Ordinance.</p>
<p>Ordinance entitled "Ordonnance portant amendement à l'Ordonnance dite 'The Produce (other than Tomatoes) Inspection Ordinance 1934-40' (1946)", of the 31st day of August, 1946.</p>	<p>The whole Ordinance.</p>
<p>The Produce (other than Tomatoes) Inspection</p>	<p>The whole Ordinance.</p>

Ordinance, 1934-46, Amendment Ordinance, 1949.	
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NOTE

The word in square brackets shown, incorrectly, in the printed version of this Schedule as "eleven" should read "twelve".

REPEALED

¹ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 10, with effect from 6th May, 2004.

² These words were previously substituted by the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1962, section 1(a), with

effect from 28th November, 1962.

3 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 12(a), with effect from 6th May, 2004.

4 The functions, rights and liabilities of the Commerce and Employment Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Committee for Horticulture and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 10, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

5 The functions, rights and liabilities of the Policy Council and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Civil Service Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 12(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

6 Prior to its substitution, subsection (1) was amended by the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1962, section 1(b), with effect from 28th November, 1962.

7 Prior to its substitution, section 7 was amended by the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment) Ordinance, 1958, section 1, with effect from 14th April, 1958; and the Export of Produce (Other than Tomatoes) (Packing and Grading) (Amendment No. 2) Ordinance, 1958, section 1, with effect from 18th May, 1958.

8 This word was previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 10, with effect from 6th May, 2004.