

Island of  Guernsey

Ordinance of the States **X**

Made 26th March, 1958.
Coming into Operation 1st May, 1958

1958

**The Milk (Control) (Guernsey) Ordinance,
1958**

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The Milk (Control) (Guernsey) Ordinance, 1958

THE STATES, in pursuance of their Resolution of the sixteenth day of October, nineteen hundred and fifty-seven, and in exercise of the powers conferred upon them by section two and section eight of the Milk and Milk Products (Guernsey) Law, 1955, and of all other powers thereunto them enabling, hereby order:—

PART I

Interpretation

1. (1) In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say— Interpreta-
tion.

“buy” includes offer or agree to buy;

“catering business” means the business or undertaking of an inn, public house, hotel, restaurant, buffet, coffee-stall or any place of refreshment open to the public, or of any club, boarding-house, guest house, refreshment contractor or canteen, and the expression “caterer” shall be construed accordingly;

“the Committee” means the States Dairy Committee;

“establishment” means a catering business or an institution;

“farmer” has the meaning assigned to it by subsection (1) of section two of this Ordinance;

“household consumption” means consumption by any person as a member of or guest in a household;

- “institution” means any hospital, mental home, sanatorium, convalescent home, nursing-home, infirmary, residential nursery and other similar establishment;
- “the Law” means the Milk and Milk Products (Guernsey) Law, 1955;
- “licence” includes a provisional licence;
- “manufacturer” means a person who in the course of his trade or business, other than the trade or business of an establishment, uses milk in the composition, manufacture or preparation of any other article;
- “Medical Officer of Health” includes the Assistant Medical Officer of Health;
- “milk” means liquid cow’s milk but does not include separated milk, skimmed milk or liquid cow’s milk contained in any hermetically sealed tin;
- “milk depot” has the meaning assigned to it by subsection (1) of section two of this Ordinance;
- “milk which is not surplus to the Island’s milk requirements” means milk sold by retail, and the expression “milk which is surplus to the Island’s milk requirements” shall be construed accordingly;
- “obtain” includes offer or agree or attempt to obtain;
- “owner” when used in relation to a cow includes any person having the right or holding himself out as having the right to milk produced from that cow, and the expression “ownership” shall be construed accordingly;
- “pot” means four pints;
- “sale by retail” means any sale to a person buying otherwise than for the purpose of resale and

includes any sale to a person for the purposes of his catering business and any supply of milk to a beneficiary under any scheme for the time being in force provided by the States for the supply of milk whether free of cost or at a reduced price, and includes any sale to a manufacturer for the purposes of his manufacturing business; and the expressions "sell by retail" and "retailer" shall be construed accordingly;

"sell" includes offer or agree to sell or expose for sale;

"the States Dairy" means the dairy operated by the Committee on behalf of the States;

"supply" includes offer or agree or attempt to supply.

(2) Except in so far as the context otherwise requires, any reference in this Ordinance to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment.

PART II

Delivery of milk to the Committee

2. (1) Subject to the provisions of this Ordinance, it shall be the duty of every owner of any cows (and any such owner is hereafter in this Ordinance referred to as a "farmer") to deliver all the milk produced from those cows to the Committee at the States Dairy or, by agreement with the Committee, at any other place established by the Committee for the purpose (and any such place is hereafter in this Ordinance referred to as a "milk depot").

Delivery of
milk to the
Committee.

(2) The Committee shall from time to time fix and forthwith make known by means of a conspicuous and legible notice displayed in a prominent place at the States Dairy and at every milk depot or by notification made directly by the Committee to every farmer, a limit of time by which the milk produced in the morning of each day shall be delivered as aforesaid that day, and a limit of time by which milk produced otherwise than in the morning of each day shall be delivered as aforesaid that day, and every farmer shall deliver the milk produced from his cows accordingly.

(3) The property and risk in any milk delivered to the Committee in accordance with the foregoing provisions of this section shall pass to the Committee at the time when it is accepted at the States Dairy by or on behalf of the Committee.

Exemptions
from
delivery.

3. (1) Nothing in the last preceding section shall be deemed to prohibit a farmer from retaining out of the milk produced from his cows such quantity thereof as may be required for—

- (a) household consumption in his household;
- (b) supply by him by way of gift;
- (c) supply to any servant employed by him in whole time service in the care and supervision of his cows for household consumption in the servant's household; or
- (d) feeding any calves owned by him.

(2) Where the ownership of any cows is vested in two or more persons or in a limited liability company, each of such persons and each shareholder of the company shall be deemed to be a farmer for the purposes of the last preceding subsection in relation to the milk produced from the cows owned by such persons or the company, as the case may be.

(3) Any milk retained under the foregoing provisions of this section for any of the purposes specified in subsection (1) of this section shall be used only for that purpose.

PART III

Classification and prices

4. (1) All milk received at the States Dairy shall be classified for the purposes of this Ordinance by some person for the time being authorised in that behalf by the Committee. Classifica-
tion of milk.

(2) For the purpose of classifying milk the Committee shall cause to be applied thereto such tests as the Committee shall from time to time direct, so however that all milk shall fall into one of the following grades, that is to say:—

Grade 1—Satisfactory for retail milk trade;

Grade 2—Unsatisfactory for retail milk trade but satisfactory for manufacturing purposes;

Grade 3—Unfit for retail milk trade or for manufacturing purposes.

(3) The classification of milk under the foregoing provisions of this section shall take place not later than three hours after the time when such milk is received at the States Dairy.

5. Where any milk received at the States Dairy, being milk delivered to the Committee under the provisions of this Ordinance, is— Notification
to farmers.

(a) certified by the Medical Officer of Health as unfit for human consumption; or

(b) classified under this Ordinance as Grade 2 milk or Grade 3 milk;

the Committee shall notify the farmer who delivered the milk to the Committee of such certification or classification as soon as may be after such certification or classification has taken place and shall, in every case, send to the farmer by post at his usual address, within twenty-four hours of such certification or classification, as the case may be, all the information reasonably likely to be required by him regarding such certification or classification.

Prices payable by Committee.

6. (1) Subject to the provisions of this section, the Committee may, from time to time, after consultation with the States Committee for Agriculture and Fisheries, by order fix the price payable by the Committee in respect of milk delivered to the Committee under the provisions of this Ordinance and classified as Grade 1 milk and the price so payable in respect of milk so delivered and classified as Grade 2 milk, and different prices may be so fixed by the Committee for Grade 1 milk which is surplus to the Island's milk requirements and for Grade 1 milk which is not surplus to those requirements.

(2) Subject to the provisions of this section, during the twelve months commencing on the first day of May in any year (hereafter in this section referred to as "the prescribed period") the price per pot fixed by the Committee as aforesaid for Grade 1 milk so delivered to the Committee during that period which is not surplus to the Island's milk requirements shall be the aggregate of the following amounts (hereafter in this section referred to as "the standard price"), that is to say—

(a) the average cost of production per pot during the twelve months ending on the thirty-first day of December last preceding the said first day of May as determined by the States Committee for Agriculture and Fisheries on

the basis of the accounts of the cost of production of milk of such number of farmers as that Committee considers necessary; and

(b) an amount of one and one half penny.

(3) Notwithstanding anything contained in subsection (2) of this section the Committee may, from time to time, after consultation with the States Committee for Agriculture and Fisheries and for the purpose of reducing the seasonal variation in the supply of milk and of meeting the anticipated demands of milk consumers, by order vary the price which but for this subsection would be payable by the Committee for Grade 1 milk which is not surplus to the Island's milk requirements so delivered to the Committee during the prescribed period.

(4) Where as respects any prescribed period the total amount paid by the Committee to farmers collectively in respect of Grade 1 milk so delivered to the Committee during that period which is not surplus to the Island's milk requirements—

(a) is in excess of the total amount which would have been so paid by the Committee in respect of such milk had the Committee paid therefor at the standard price, the Committee may recover from every farmer as a simple contract debt an amount calculated by multiplying—

(i) the quotient, calculated to eight decimal points of a penny, of the excess amount so paid divided by the total number of pots of Grade 1 milk so delivered to the Committee during that period; by

(ii) the number of pots of Grade 1 milk so delivered by that farmer to the Committee during that period;

(b) is less than the total amount which would have been so paid by the Committee in respect of such milk had the Committee paid therefor at the standard price, the Committee shall pay to every farmer an amount calculated by multiplying—

- (i) the quotient, calculated to eight decimal points of a penny, of the difference between the total amount so paid and the total amount which would have been so paid as aforesaid divided by the total number of pots of Grade 1 milk so delivered to the Committee during that period; by
- (ii) the number of pots of Grade 1 milk so delivered by that farmer to the Committee during that period.

(5) The Committee shall not pay any price in respect of milk delivered to it under the provisions of this Ordinance which has been—

- (a) certified by the Medical Officer of Health as unfit for human consumption; or
- (b) classified as Grade 3 milk.

(6) In the event of any milk so delivered which has been received at the States Dairy not having been, before three hours have elapsed from the time of such receipt—

- (a) certified by the Medical Officer of Health as unfit for human consumption; or
- (b) classified under this Ordinance as a Grade other than Grade 1 milk;

the Committee shall pay for that milk as if it were milk classified as Grade 1 milk.

Milk recording subsidy.

7. (1) Subject to the provisions of this section and to compliance by the farmer with such conditions,

if any, as the States Committee for Agriculture and Fisheries may, from time to time, either generally or in any particular case see fit to impose, the Committee shall pay to every farmer during such time as his whole herd is continuously milk and butter fat recorded under any scheme for the time being operated by the Royal Guernsey Agricultural and Horticultural Society a subsidy, payable fortnightly, at the rate of one penny per pot in respect of all milk delivered under the provisions of this Ordinance during that time by the farmer to the Committee.

(2) The payment of the subsidy under subsection (1) of this section shall not be withheld on the grounds only that any cow in any herd has been exempted by the said Society from the operation of the said scheme provided that the exemption has for the time being been approved by the States Committee for Agriculture and Fisheries.

(3) The States Committee for Agriculture and Fisheries may, from time to time, withdraw either generally or in any particular case the subsidy which but for this subsection would be payable under subsection (1) of this section.

(4) In the determination of the average cost of the production of milk for the purposes of paragraph (a) of subsection (2) of section six (which relates to the prices payable by the Committee) of this Ordinance account shall not be taken of any subsidy payable under this section.

8. (1) The Committee may from time to time by order fix the price to be charged for milk on a sale by retail and different prices may be so fixed for different classes or descriptions of milk and in respect of sales by retail to different classes or descriptions of consumer. Retail selling prices.

(2) A person shall not buy or sell by retail any milk at a price other than the price applicable in accordance with the provisions of any order for the time being in force under subsection (1) of this section.

(3) A person shall not in connection with the sale or disposition of any milk enter or offer to enter into any artificial transaction or make or demand any charge not authorised by the Committee.

PART IV

Control of distribution and licensing of retailers

Control of
purchases
and sales.

9. Except with the authority of the Committee, a retailer shall not buy or obtain milk from any person other than the Committee and no person except the Committee shall sell or supply milk to any retailer.

Sale by retail
prohibited
except under
licence.

10. Except under and in accordance with the conditions of a licence granted by or on behalf of the Committee for the purposes of this Part of this Ordinance, a person shall not sell by retail any milk: PROVIDED that the foregoing restriction shall not apply to any sale by retail—

- (a) by a farmer of milk produced from his cows to any servant employed by him in whole time service in the care and supervision of those cows, for household consumption in the household of such servant;
- (b) by a caterer, for consumption on his business premises, of milk supplied to him by the Committee or by a retailer.

Transfer of
retail
business.

11. In the event of the transfer of a business in respect of which a licence is held under this Part of this Ordinance or in the event of the death of the

holder of such licence, the transferee or the person succeeding to the business, as the case may be, shall, on having duly made an application to the Committee for a licence under this Part of this Ordinance and pending the decision of the Committee upon such application, be deemed to hold a provisional licence under this Part of this Ordinance whereby he shall be entitled, unless the Committee shall otherwise direct, to sell milk by retail subject to any conditions attached to the first-mentioned licence.

12. (1) A person licensed under this Part of this Ordinance to sell milk by retail shall, before ceasing to carry on business as a retailer at any premises, give to the Committee not less than fourteen days' notice in writing of his intention to cease carrying on business as aforesaid, and shall return to the Committee any licence held by him under this Part of this Ordinance in respect of those premises:

Return of
retailers'
licences.

PROVIDED that where in any proceedings a person is charged with a contravention of this section it shall be a defence for him to prove that it was not practicable for him to give such notice or that he gave notice as soon as it was practicable for him so to do.

(2) Where the business of a retailer is no longer carried on owing to the death of the retailer and notice has not been given under subsection (1) of this section, the retailer's personal representative shall forthwith give notice to the Committee that such business is no longer carried on and shall return to the Committee any licence granted under this Part of this Ordinance.

13. A person licensed under this Part of this Ordinance to sell milk by retail shall not sell by retail any milk other than milk in containers and packaged by the Committee by the "Tetra Pak" method:

Milk to be
sold in
packages.

PROVIDED that a person licensed as aforesaid may sell by retail milk not in containers and not packaged as aforesaid—

- (a) to a consumer on any day when that consumer takes delivery of not less than six pots of milk; or
- (b) to a consumer if that consumer has a medical certificate to the effect that it is desirable that he should have unpasteurised milk and if that consumer provides a suitable receptacle for delivery of the milk to him by the retailer.

PART V

Control of supplies to manufacturers

Control of
supplies to
manu-
facturers.

14. Milk shall not be obtained by or supplied to a manufacturer except under and in accordance with the conditions of an authorisation granted by or on behalf of the Committee either to the manufacturer or his supplier.

PART VI

Public health

Precautions
against con-
tamination.

15. Every person engaged in the reception, storage, distribution, sale or delivery of milk shall—

- (a) cause every vessel, receptacle, utensil and appliance used by him for any purpose for which it is brought into contact with milk to be thoroughly cleansed before use and to be, immediately before and during use, in a state of thorough cleanliness; and
- (b) use all reasonable precautions for preventing the milk from being unnecessarily exposed

to heat and from being contaminated by dirt, dust, rain-water or otherwise.

16. Nothing in this Ordinance shall be deemed to affect the provisions of Part 4 of the Public Health Ordinance, 1936 (which relates to the inspection of food, farms and dairies) and of the Clean Milk Ordinance, 1945. Saving for public health Ordinances.

PART VII

Miscellaneous and general

17. Every person who buys or sells milk in the course of his trade or business shall furnish to the Committee such estimates, returns or information relating to the purchase, sale, acquisition, delivery or disposal by him of milk as the Committee may direct, and shall furnish the same in such manner and at such times and in such form as the Committee may direct. Returns.

18. (1) Every document issued by or on behalf of the Committee for the purposes of this Ordinance is, and shall remain, the property of the Committee. Return of documents.

(2) Where any person is in possession of any such document and such possession is not authorised by virtue of this Ordinance, then such person shall forthwith deliver the document to the Committee or otherwise in accordance with the directions contained in such document.

(3) Any person to whom any such document has been issued or who is in possession of any such document shall, if requested so to do by or on behalf of the Committee, produce such document or deliver it to such person or to a person of such class or description as may be specified in the request.

Validity of documents.

19. Any document issued by or on behalf of the Committee for the purposes of this Ordinance or having effect for such purposes shall continue to be valid for such purposes only if and so long as—

- (a) subject as in this Ordinance otherwise provided, when used or retained by or on behalf of the person in respect of whom it is issued and for the purposes of obtaining milk on his behalf and while such person is living in the Island of Guernsey;
- (b) it is used in accordance with any instructions or conditions specified thereon or on any document issued in connection therewith.

Duties and powers of Committee.

20. (1) The Committee shall—

- (a) be responsible for taking all measures necessary to ensure that milk to be delivered under this Ordinance is so delivered by any farmer and otherwise for carrying out the provisions of this Ordinance; and
- (b) have power to give any instructions and to do or cause to be done any act which it may deem necessary for the carrying out of the provisions of this Ordinance or with a view to ascertaining if such provisions are being carried out.

(2) Any person who shall refuse or fail to comply either wholly or in part with any direction, demand or instruction given to or made upon him by the Committee with a view to carrying out the provisions of this Ordinance or ascertaining whether or not such provisions have been complied with shall be guilty of an offence under this Ordinance.

Entry and inspection of premises.

21. (1) Any member of the Committee or any person thereunto appointed by the Committee in that

behalf shall, on production if so required of some duly authenticated document showing his authority, have a right to enter and inspect any premises in which milk is produced, kept otherwise than for household consumption or sold and to demand any information of the occupier relating to the production, keeping, sale or delivery of milk so produced, kept or sold.

(2) The occupier of any premises as aforesaid, his servants and agents, shall furnish the means required by any person, having the right under subsection (1) of this section to enter and inspect those premises, as necessary for an entry and inspection and the occupier shall give any information demanded as aforesaid as it is in his power to give.

22. (1) A person shall not—

- (a) except when required so to do by or under this Ordinance or any direction of the Committee, alter any document issued or authorised to be issued for the purposes of this Ordinance, or make or alter any entry therein or deface any such document;
- (b) personate or falsely represent himself to be the person to whom any such document has been issued or applies;
- (c) except where he is required or authorised so to do by or under this Ordinance or any direction of the Committee, obtain, use or retain or attempt to obtain, use or retain any such document other than a document issued to him;
- (d) use or dispose of any such document otherwise than for the purposes and in accordance with the provisions of this Ordinance or any direction of the Committee;

False statements,
forgery of
documents
and fraud.

- (e) obtain or represent himself as entitled to receive a supply of milk as or on behalf of a beneficiary under any scheme for the time being in force provided by the States for the supply of milk whether free of cost or at a reduced price.

(2) A person who contravenes or attempts to contravene or fails to comply with any of the provisions of subsection (1) of this section shall be guilty of an offence under this Ordinance and liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such imprisonment and such fine.

Licences,
authorisations
and
directions.

23. (1) The provisions of this Ordinance are subject to—

- (a) any direction which may at any time be given by or on behalf of the Committee; and
(b) any licence or authorisation which may be granted by or on behalf of the Committee.

(2) The Committee may attach—

- (a) any conditions to the grant of any licence or authorisation under this Ordinance;
(b) any further conditions to any licence granted under this Ordinance;

and may vary or revoke any such conditions.

(3) Every person holding an authorisation or a licence granted under this Ordinance shall comply with every condition imposed by such authorisation or licence.

(4) The Committee may at any time revoke any directions given or any authorisation or any licence granted under this Ordinance.

Offences.

24. A person who contravenes, or attempts to contravene, or fails to comply with any of the provisions

of subsection (1) of section two (which relates to the delivery of milk to the Committee), subsection (3) of section three (which provides for exemptions from delivery), subsection (2) and subsection (3) of section eight (which relates to retail selling prices), section nine (which relates to the control of purchases and sales), section ten (which prohibits sale by retail except under licence), section twelve (which relates to the return of retailers' licences), section thirteen (which requires milk to be sold in packages), section fourteen (which relates to the control of supplies to manufacturers), section fifteen (which relates to precautions against contamination), section seventeen (which relates to returns), subsection (2) and subsection (3) of section eighteen (which relates to the return of documents), subsection (2) of section twenty-one (which relates to the entry and inspection of premises) and subsection (3) of section twenty-three (which relates to licences, authorisations and directions) of this Ordinance shall be guilty of an offence under this Ordinance.

25. (1) Any person guilty of an offence under the Law shall, in the case of an offence against section four of the Law, be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months, or to both such imprisonment and such fine and, in the case of any other offence, to a fine not exceeding fifty pounds. Penalties.

(2) Any person guilty of an offence under this Ordinance for which no express penalty is provided by this Ordinance shall be liable on conviction to a fine not exceeding fifty pounds.

26. The Milk Supply (Temporary Provisions) Ordinance, 1940, and the Clean Milk (Classification and Fixing of Prices) Ordinance, 1951, are hereby repealed. Repeals.

Citation,
commence-
ment and
duration.

27. (1) This Ordinance may be cited as the Milk (Control) (Guernsey) Ordinance, 1958.

(2) This Ordinance shall come into force on the first day of May, nineteen hundred and fifty-eight:

PROVIDED that any power conferred by Part III (which relates to classification and prices) of this Ordinance on the Committee to make any order may be exercised at any time before that day, subject to the restriction that any order made under the power shall not come into force until this Ordinance comes into force.

(3) Subsections (2), (3) and (4) of section six (which relates to the prices payable by the Committee) and section seven (which relates to the milk recording subsidy) of this Ordinance shall cease to have effect on the first day of May, nineteen hundred and sixty-two.

JAMES E. LE PAGE,
Her Majesty's Greffier.