

ORDINANCE

OF THE STATES OF DELIBERATION

ENTITLED

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

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. 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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Recueil d'Ordonnances Tome XII, p. 23; as amended by the States Dairy Committee (Transfer of Functions) (Guernsey) Law, 1988 (Ordres en Conseil Vol. XXXI, p. 19); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Milk (Control) (Amendment) (Guernsey) Ordinance, 1962 (Recueil d'Ordonnances Tome XIII, p. 84); the States Committee for Agriculture and Fisheries (Transfer of Functions) Ordinance, 1962 (Recueil d'Ordonnances Tome XIII, p. 251); the Milk (Control) (Amendment) (Guernsey) Ordinance, 1963 (Recueil d'Ordonnances Tome XIII, p. 259); the Milk (Control) (Amendment) (Guernsey) Ordinance, 1964 (Recueil d'Ordonnances Tome XIV, p. 28); the Milk Control (Amendment) (Guernsey) Ordinance, 1966 (Recueil d'Ordonnances Tome XIV, p. 277); the Milk (Control) (Amendment) (Guernsey) Ordinance, 1971 (Recueil d'Ordonnances Tome XVII, p. 1); the Milk (Control) (Amendment) (Guernsey) Ordinance, 1980 (Recueil d'Ordonnances Tome XXI, p. 427); the Milk (Control) (Increase in Fines) (Guernsey) Ordinance, 1983 (Recueil d'Ordonnances Tome XXII, p. 453); the Milk (Control) (Amendment) (Guernsey) Ordinance, 1983 (Recueil d'Ordonnances Tome XXII, p. 473); the States Committee for Agriculture (Transfer of Functions) Ordinance, 1987 (Recueil d'Ordonnances Tome XXIV, p. 17); the Milk (Control) (Amendment) (Guernsey) Ordinance, 1996 (No. XII of 1996, Recueil d'Ordonnances Tome XXVII, p. 51); the States Agricultural and Milk Marketing Board (Transfer of Functions) Ordinance, 2001 (No. XX of 2001, Recueil d'Ordonnances Tome XXVIII, p. 433); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010 (No. III of 2010). See also the Milk (Control) (Guernsey) Ordinance, 1967 (Recueil d'Ordonnances Tome XV, p. 200). This Ordinance has been repealed by the Milk (Control) (Guernsey) Ordinance, 2016 (No. ** of 2016).

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(Made on 26th March, 1958.)

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

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 –

"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 Department]" means the [the States [Commerce and Employment Department] or such other Committee as the States may from time to time prescribe by Ordinance under section 2 of the States Dairy Committee (Transfer of Functions) (Guernsey) Law, 1988],

"[enactment]" includes a Community instrument within the meaning of section 1(1) of the European Communities (Bailiwick of Guernsey) Law,

1973*,]

"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"

* Ordres en Conseil Vol. XXIV, p. 27.

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,

[...]

"**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 Department] 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.

[(3) Unless the context requires otherwise, an expression used in this Ordinance has the same meaning as in the Law.]

NOTES

In section 1,

the words "the Department" and "Commerce and Employment Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004;¹

the words in the second pair of square brackets in subsection (1) were substituted by the States Dairy Committee (Transfer of Functions) (Guernsey) Law, 1988, section 3(b), with effect from 3rd May, 1988, subject to the savings in section 4 of the 1988 Law;

the definition of the expression "enactment" in subsection (1) was inserted by the Milk (Control) (Amendment) (Guernsey) Ordinance, 1996, section 1(a), with effect from 1st July, 1996;

the words omitted in the third pair of square brackets in subsection (1) were repealed, and subsection (3) was inserted, by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, respectively section 1(2)(a) and section 1(2)(b), with effect from 1st February, 2010.

The functions, rights and liabilities of the Agriculture and Countryside Board and of its President arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Commerce and Employment Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 2, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.²

In accordance with the provisions of the Milk (Control) (Guernsey) Ordinance, 1967, section 2(2), with effect from 31st May, 1967, that Ordinance shall be construed as one with this Ordinance.

In accordance with the provisions of the Milk (Control) (Amendment) (Guernsey) Ordinance, 1996, section 3, with effect from 1st July, 1996, this Ordinance, when cited together with the amending enactments, may be cited as the Milk (Control) (Guernsey) Ordinances, 1958 to 1996.³

The States Dairy Committee (Transfer of Functions) (Guernsey) Law, 1988 has since been repealed by the States Committee for Agriculture and States Dairy Committee (Transfer of Functions) (Repeal) (Guernsey) Law, 2001, section 1, with effect from 21st January, 2002.

PART II

Delivery of milk to [the Department]

Delivery of milk to [the Department].

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

Department] at the States Dairy or, by agreement with [the Department], at any other place established by [the Department] for the purpose (and any such place is hereafter in this Ordinance referred to as a "**milk depot**").

(2) [The Department] 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 Department] 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 Department] in accordance with the foregoing provisions of this section shall pass to [the Department] at the time when it is accepted at the States Dairy by or on behalf of [the Department].

NOTE

In section 2, and the heading thereto, the words "T/the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

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,

[...]

- (d) feeding any calves owned by him[, or]
- [(e) the manufacture of a milk product by him subject always to –
 - (i) prior written approval, given by [the Committee], of –
 - (A) the manufacture of that milk product, and
 - (B) the quantity of milk that can be retained for such manufacturing purposes (which approval may be limited in time and/or terminated), and
 - (ii) such conditions as [the Committee] from time to time deem appropriate].

(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.

NOTES

In section 3, the word omitted in the first pair of square brackets was repealed, the word in the second pair of square brackets was inserted, and paragraph (e) was inserted by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, respectively section 1(3)(a), section 1(3)(b) and section

1(3)(c), with effect from 1st February, 2010.

In accordance with the provisions of the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004, the Committee herein referred to has been replaced by the States Commerce and Employment Department.

PART III

Classification and prices

Classification of milk.

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 Department].

[(1A) For the purpose of classifying milk the States Dairy shall test all milk received, in accordance with the tests, standards and/or protocols specified by [the Committee] from time to time, for –

- (a) the milk's –
 - (i) water content,
 - (ii) microbiological content,
 - (iii) somatic cell count,
 - (iv) contamination levels,
- (b) the existence in the milk of antibiotics or any other veterinary medicinal product that [the Committee] may specify, and/or
- (c) any other thing that [the Committee] may specify from time to time.]

[(2) The tests carried out under subsection (1A) shall enable all milk received to fall into one of the following grades, that is to say –

Grade 1 Satisfactory for retail milk trade or for manufacturing purposes

Grade 2 Unfit for retail milk trade or for manufacturing purposes.]

[(2A) If any milk is delivered to the States Dairy which has not been produced at a holding, from cattle, and by methods, for the time being approved by [the Department] as meeting the health conditions laid down in Council Directive 92/46/EEC** that milk must be classified as [Grade 2] milk without applying any further tests in respect thereof.]

(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.

NOTES

In section 4,

the words "the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004;

subsection (1A) was inserted, and subsection (2) was substituted, by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, respectively section 1(4)(a) and section 1(4)(b), with effect from 1st February, 2010;⁴

subsection (2A) was inserted by the Milk (Control) (Amendment) (Guernsey) Ordinance, 1996, section 1(c), with effect from 1st July, 1996;

the word and figure in square brackets within subsection (2A) were substituted by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, section 1(4)(c), with effect from 1st February, 2010.

** Council Directive of 16th June 1992, laying down the health rules for the production and placing on the market of raw milk, heat-treated milk and milk-based products, as amended: 1992 OJ No. L268/1; 1994 OJ No. L146/23 & L368/33.

In accordance with the provisions of the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004, the Committee herein referred to has been replaced by the States Commerce and Employment Department.

Notification to farmers.

5. Where any milk received at the States Dairy, being milk delivered to [the Department] under the provisions of this Ordinance, is –

- (a) certified by the Medical Officer of Health as unfit for human consumption, or
- (b) classified under this Ordinance as [...] [Grade 2] milk,

[the Department] shall notify the farmer who delivered the milk to [the Department] 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.

NOTE

In section 5,

the words "the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004;

the words and figures in the first and second pairs of square brackets were, respectively, repealed and substituted by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, section 1(5)(a) and section 1(5)(b), with effect from 1st February, 2010.

Prices payable by [Department].

6. [(1) Subject to the provisions of this section, [the Committee] may, from time to time, 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 different prices may be so fixed by [the

Committee] for Grade 1 milk which –

- (a) is surplus to the Island's milk requirements,
- (b) is not surplus to the Island's milk requirements,
- (c) is used for the manufacture of milk products for sale on the Island,
- (d) is used for the manufacture of milk products for sale outside of the Island,
- (e) is delivered to the States Dairy at different times of the year in order to account for the seasonal variation in the supply of milk,
- (f) exceeds any quality standard that [the Committee] may specify, such quality being determined by any test specified by [the Committee] pursuant to section 4(1A),
- (g) has a fat, protein, mineral, lactose (or any other constituent of milk specified by [the Committee]) content which is equal to or greater than such level as [the Committee] may specify, such content being determined by any test specified by [the Committee] pursuant to section 4(1A), and/or
- (h) meets such other standards or criteria that [the Committee] may determine.]

[(2) Subject to the provisions of this section, during the twelve months commencing on the first day of July in any year (hereafter in this section referred to as "**the prescribed period**") the price per [litre] fixed by [the Department] as aforesaid for Grade 1 milk so delivered to [the Department] during that period which is not surplus to the Island's milk requirements shall be such price

per [litre] (hereafter in this section referred to as "**the standard price**") as shall have been approved by the States by Resolution in respect of that period on the recommendation of the [Committee].

(2A) During any period within the two months next following the thirtieth day of April, nineteen hundred and sixty-four, the price per [litre] fixed by [the Department] as aforesaid for Grade 1 milk so delivered to [the Department] during that period which is not surplus to the Island's milk requirements shall be such price per [litre] as shall have been approved by the States by Resolution in respect of that period on the recommendation of the States [Commerce and Employment Department].]

(3) Notwithstanding anything contained in subsection (2) of this section [the Department] may, from time to time, [...] 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 Department] for Grade 1 milk which is not surplus to the Island's milk requirements so delivered to [the Department] during the prescribed period.

(4) Where as respects any prescribed period the total amount paid by [the Department] to farmers collectively in respect of Grade 1 milk so delivered to [the Department] 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 Department] in respect of such milk had [the Department] paid therefor at the standard price, [the Department] 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 [new penny], of the excess amount so paid divided by the total number of [litres] of Grade 1 milk so delivered to [the Department] during

that period, by

(ii) the number of [litres] of Grade 1 milk so delivered by that farmer to [the Department] during that period,

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

(i) the quotient, calculated to eight decimal points of a [new 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 [litres] of Grade 1 milk so delivered to [the Department] during that period, by

(ii) the number of [litres] of Grade 1 milk so delivered by that farmer to [the Department] during that period.

(5) [The Department] 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 2] 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 Department] shall pay for that milk as if it were milk classified as Grade 1 milk.

NOTES

In section 6,

subsection (1) was substituted by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, section 1(6)(a), with effect from 1st February, 2010;⁵

subsection (2) was substituted, and subsection (2A) was inserted, by the Milk (Control) (Amendment) (Guernsey) Ordinance, 1964, section 1(a), with effect from 29th April, 1964, subject to the saving in section 3 of the 1964 Ordinance;⁶

the word "litre" in square brackets in, first, subsection (2) and, second, subsection (2A) was substituted by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, respectively section 1(6)(b)(i) and section 1(6)(c), with effect from 1st February, 2010;

the words "Department", "T/the Department" and "Commerce and Employment Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004;

the word "Committee" in subsection (2) was substituted by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, section 1(6)(b)(ii), with effect from 1st February, 2010 and, in accordance with the provisions of the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004, that Committee has been replaced by the States Commerce and Employment Department.;

the words omitted in square brackets in subsection (3) were repealed by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, section 1(6)(d), with effect from 1st February, 2010;

the words in the first pairs of square brackets in paragraph (a)(i) and paragraph (b)(i) of subsection (4) were substituted by the Milk (Control) (Amendment) (Guernsey) Ordinance, 1971, respectively section 1(a) and section 1(b), with effect from 15th February, 1971;

the word "litres" in square brackets, wherever occurring in

subsection (4), was substituted by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, section 1(6)(e), with effect from 1st February, 2010;

the word and figure in paragraph (b) of subsection (5) were substituted by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, section 1(f)(ii), with effect from 1st February, 2010.

In accordance with the provisions of the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004, the Committee herein referred to has been replaced by the States Commerce and Employment Department.

[Reduction in the price payable to a farmer during accounting periods when milk is classified as Grade 2 or Grade 3.]

6A. (1) Notwithstanding anything contained in this Ordinance and for the purpose of discouraging the production of milk of inferior grades, where during any accounting period any milk delivered by a farmer in pursuance of the provisions of section two of this Ordinance is classified as [...] [Grade 2] milk (in this section referred to as "**inferior grading**") then, the price which, but for the provisions of this section would be payable by [the Department] to the farmer in accordance with the provisions of section six of this Ordinance, shall, in respect of all the milk so delivered by that farmer at any time during that accounting period before and after the inferior grading occurred, be reduced to the extent, if any, set out as follows –

- (a) where the inferior grading occurred during any accounting period immediately following an accounting period in which no inferior grading occurred, there shall be no reduction in the price payable,
- (b) where the inferior grading occurred during any accounting period immediately following an accounting period in which any inferior grading occurred, there shall be a reduction of twelve and one-half per centum in the price otherwise payable,
- (c) where the inferior grading occurred during any accounting period immediately following two

successive accounting periods in which, as regards each such accounting period, any inferior grading occurred, there shall be a reduction of twenty-five per centum in the price otherwise payable,

- (d) where the inferior grading occurred during any accounting period immediately following three successive accounting periods in which, as regards each such accounting period, any inferior grading occurred, there shall be a reduction of fifty per centum in the price otherwise payable.

(2) For the purposes of this section –

- (a) where any inferior grading first occurs during any accounting period immediately following any successive accounting periods amounting to a continuous period of six months or more in which no inferior grading occurred, then no inferior grading shall be deemed to have occurred during that first accounting period, and

- (b) where any inferior grading occurs on the last day of any accounting period, then that inferior grading shall be deemed to have occurred on the first day of the accounting period immediately following.

(3) In this section the expression "**accounting period**" means such period, not exceeding one month, as [the Department] may, from time to time, by order prescribe.]

NOTES

Section 6A was inserted by the Milk (Control) (Amendment) (Guernsey) Ordinance, 1983, section 1, with effect from 1st August, 1983.

In section 6A,

the words and figures omitted in the first pair and the word and figure in the second pair of square brackets in subsection (1) were, respectively, repealed and substituted by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, section 1(7)(a) and section 1(7)(b), with effect from 1st February, 2010;

the words "the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

The following Order has been made under section 6A:

Milk (Accounting Periods for Wholesale Prices) Order, 1983.

Milk recording subsidy.

7. ...

NOTE

Section 7 was repealed by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, section 1(8), with effect from 1st February, 2010.⁷

Retail selling prices.

8. (1) [The Department] 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.

(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) [With the exception of delivery charges] [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 Department].

[(4) Every order made by [the Department] under this section and having effect after the thirtieth day of April, nineteen hundred and sixty-two, 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 Department] of a new order.]

NOTES

In section 8,

the words "T/the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004;

the words in the first and second pairs of square brackets in subsection (3) were, respectively, inserted and substituted by the Milk (Control) (Guernsey) (Amendment) Ordinance, 2010, section 1(9)(a) and section 1(9)(b), with effect from 1st February, 2010;

subsection (4) was inserted by the Milk (Control) (Amendment) (Guernsey) Ordinance, 1962, section 1(c), with effect from 30th April, 1962.

The following Orders have been made under section 8:

*Milk (Retail Prices) (Guernsey) (Revocation) (No. 2) Order, 2005;
Milk (Retail Prices) (Guernsey) (Revocation) Order, 2014.*

PART IV

Control of distribution and licensing of retailers

Control of purchases and sales.

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

NOTE

In section 9, the words "the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

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 Department] 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 Department] or by a retailer.

NOTE

In section 10, the words "the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

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 Department] for a licence under this Part of this Ordinance and pending the decision of [the Department] upon such application, be deemed to hold a provisional licence under this Part of this Ordinance whereby he shall be entitled, unless [the Department] shall otherwise direct, to sell milk by retail subject to any conditions attached to the first-mentioned licence.

NOTE

In section 11, the words "the Department" in square brackets, wherever

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

Return of retailers' licences.

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 Department] not less than fourteen days' notice in writing of his intention to cease carrying on business as aforesaid, and shall return to [the Department] any licence held by him under this Part of this Ordinance in respect of those premises:

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 Department] that such business is no longer carried on and shall return to [the Department] any licence granted under this Part of this Ordinance.

NOTE

In section 12, the words "the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

Milk to be sold in packages.

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 Department] [...]:

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.

NOTES

In section 13,

the words in the first pair of square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004;

the words omitted in the second pair of square brackets were repealed by the Milk (Control) (Amendment) (Guernsey) Ordinance, 1980, section 1, with effect from 30th April, 1980.

PART V

Control of supplies to manufacturers

Control of supplies to manufacturers.

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 Department] either to the manufacturer or his supplier.

NOTE

In section 14, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

PART VI

Public health

Precautions against contamination.

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.

Saving for public health Ordinances.

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.

PART VII

Miscellaneous and general

Returns.

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

NOTE

In section 17, the words "the Department" in square brackets, wherever

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

Return of documents.

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

(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 Department] 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 Department], 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.

NOTE

In section 18, the words "the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

Validity of documents.

19. Any document issued by or on behalf of [the Department] 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.

NOTE

In section 19, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

Duties and powers of [Department].

20. (1) [The Department] 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 Department] 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.

NOTE

In section 20, the words "Department" and "T/the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

Entry and inspection of premises.

21. (1) Any member of [the Department] or any person thereunto appointed by [the Department] 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.

NOTE

In section 21, the words "T/the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

False statements, forgery of documents and fraud.

22. (1) A person shall not –

- (a) except when required so to do by or under this Ordinance or any direction of [the Department], 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 Department], 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 Department],
- (e) [with intent to deceive 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 [level 2 on the uniform scale] or to imprisonment for a term not exceeding six months or to both such imprisonment and such fine.

NOTES

In section 22,

the words "the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004;

the words in square brackets in paragraph (e) of subsection (1) were inserted by the Milk (Control) (Amendment) (Guernsey) Ordinance, 1964, section 1(b), with effect from 29th April, 1964;

the words and figure in 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.

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 Department], and

- (b) any licence or authorisation which may be granted by or on behalf of [the Department].

(2) [The Department] 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 Department] may at any time revoke any directions given or any authorisation or any licence granted under this Ordinance.

NOTE

In section 23, the words "T/the Department" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

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 Department]), 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.

NOTE

In section 24, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

Penalties.

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 [level 4 on the uniform scale] 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 [level 3 on the uniform scale].

(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 [level 3 on the uniform scale].

NOTES

In section 25,

the words and figure in the first pair of square brackets in subsection (1) 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 figures in, first, the second pairs of square brackets in subsection (1) and, second, the square brackets in subsection (2) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(5), Schedule, Part II, with effect from 1st July, 1989.⁸

Repeals.

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

[Citation and commencement.]

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 Department] 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) ...

NOTES

In section 27,

the marginal note was substituted, and subsection (3) was repealed, by the Milk Control (Amendment) (Guernsey) Ordinance, 1966, respectively section 2 and section 1, Schedule, with effect from 29th June, 1966;⁹

the words in square brackets in the proviso thereto were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

¹ These words, in the definition of the expression "the Department" in subsection (1), were previously substituted by the States Agricultural and Milk Marketing Board (Transfer of Functions) Ordinance, 2001, section 3, Schedule 2, paragraph 13, with effect from 21st January, 2002.

² The functions, rights and liabilities of the States Agriculture and Countryside Board under this Ordinance were previously transferred to it from the States Agricultural and Milk Marketing Board by the States Agricultural and Milk Marketing Board (Transfer of Functions) Ordinance, 2001, section 1, Schedule 1, paragraph 13, with effect from 21st January, 2002, subject to the savings and transitional provisions in section 2 of the 2001 Ordinance; the functions of the States Agricultural and Milk Marketing Board under this Ordinance were previously transferred to it from the States Committee for Agriculture by the States Committee for Agriculture (Transfer of Functions) Ordinance, 1987, section 1, Schedule, with effect from 1st March, 1987, subject to the savings in section 3 of the 1987 Ordinance; the functions of the States Committee for Agriculture under this Ordinance were previously transferred to it from the States Committee for Agriculture and Fisheries by the States Committee for Agriculture and Fisheries (Transfer of Functions) Ordinance, 1962, section 1, with effect from 12th December, 1962, subject to the savings in section 2 of the 1962 Ordinance.

³ Previously, collective title provisions were made by the Milk (Control) (Amendment) (Guernsey) Ordinance, 1962, section 2(1), with effect from 30th April, 1962; the Milk (Control) (Amendment) (Guernsey) Ordinance, 1963, section 3, with effect from 27th February, 1963; the Milk (Control) (Amendment) (Guernsey) Ordinance, 1964, section 4, with effect from 29th April, 1964; the Milk (Control) (Amendment) (Guernsey) Ordinance, 1966, section 3, with effect from 29th June, 1966; the Milk (Control) (Guernsey) Ordinance, 1967, section 2(1), with effect from 31st May, 1967; the Milk (Control) (Amendment) (Guernsey) Ordinance, 1971, section 2(2), with effect from 15th February, 1971; the Milk (Control) (Amendment) (Guernsey) Ordinance, 1980, section 3, with effect from 30th April, 1980; the Milk (Control) (Increase in Fines) (Guernsey) Ordinance, 1983, section 3, with effect from 30th March, 1983.

⁴ Prior to its substitution, subsection (2) was amended by the Milk (Control) (Amendment) (Guernsey) Ordinance, 1996, section 1(b), with effect from 1st July, 1996.

⁵ Prior to its substitution, subsection (1) was amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

⁶ Subsection (2) was previously substituted by: the Milk (Control) (Amendment) (Guernsey) Ordinance, 1963, section 1, with effect from 27th

February, 1963.

⁷ Prior to its repeal, section 7 was amended by the Milk (Control) (Amendment) (Guernsey) Ordinance, 1962, section 1(b), with effect from 30th April, 1962; the Milk (Control) (Amendment) (Guernsey) Ordinance, 1964, section 2, with effect from 29th April, 1964; the Milk (Control) (Amendment) (Guernsey) Ordinance, 1971, section 1(c), with effect from 15th February, 1971; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

⁸ These words and figures were previously amended by the Milk (Control) (Increase in Fines) (Guernsey) Ordinance, 1983, section 1, with effect from 30th March, 1983.

⁹ Prior to its repeal, subsection (3) was amended by the Milk (Control) (Amendment) (Guernsey) Ordinance, 1962, section 1(d), with effect from 30th April, 1962; and the Milk (Control) (Amendment) (Guernsey) Ordinance, 1964, section 1(c), with effect from 29th April, 1964.