

PROJET DE LOI

ENTITLED

Loi pour la Prévention de la Fraude dans le Vente d'Engrais et de Nourriture pour Bétail et Volaille *

[CONSOLIDATED TEXT]

NOTE

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

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* Ordres en Conseil Vol. V, p. 124; as amended by the States Civil Service Board (Implementation) Law, 1964 (Ordres en Conseil Vol. XIX, p. 213); the States Supervisor and Treasurer of the States (Transfer of Functions) Law, 1971 (Ordres en Conseil Vol. XXIII, p. 188); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406). See also the Reform (Guernsey) Law, 1948 (Ordres en Conseil Vol. XIII, p. 288); the Magistrate's Court (Guernsey) Law, 1954 (Ordres en Conseil Vol. XVI, p. 103); the Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille (Recueil d'Ordonnances Tome VI, p. 9). This Law has been repealed by the European Communities (Food and Feed Controls) (Guernsey) Ordinance, 2016 (No. XXI of 2016).

PROJET DE LOI

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Loi pour la Prévention de la Fraude dans le Vente d'Engrais et de Nourriture pour Bétail et Volaille

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(TRANSLATION)

REPEALED

PROJET DE LOI

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Loi pour la Prévention de la Fraude dans le Vente d'Engrais et de Nourriture pour Bétail et Volaille

VU LA délibération des États de cette Île dans leur Assemblée du 16 avril 1913, adoptant avec certaines modifications les recommandations contenues dans le rapport de leur Comité comme base de législation pour la prévention de la fraude dans la vente d'engrais pour la terre et de nourriture pour bétail et volaille, et priant la Cour Royale de préparer un Projet de Loi pour donner effet à leur délibération.

DÉFINITIONS

Définitions.

Pour les besoins de cette Loi –

Les mots "**Analyste en Chef**" signifient l'Analyste en Chef (*Chief Agricultural Analyst*) du Département d'Agriculture et des Pêcheries en Angleterre (*Board of Agriculture and Fisheries*).

Les mots "**Analyste Officiel**" signifient l'Analyste nommé par [le [States Policy Council]], ou son Député.

Les mots "**Assistants-Analystes**" signifient les Assistants nommés par [le [States Policy Council]].

Les mots "**Acheteur**" et "**Vendeur**" comprennent leurs agents et employés respectifs.

Le terme "**Bétail**" comprend chevaux, taureaux, bœufs, vaches, veaux, génisses, bercaïl, chèvres et porcs.

Le terme "**Engrais**" comprend toutes espèces de substances vendues pour servir à fertiliser le sol qui ont été soumises à un procédé artificiel quelconque dans cette Île, ou qui ont été importées.

Les termes "**Soluble**" et "**Insoluble**" signifient respectivement soluble et insoluble dans l'eau ou, s'il est ainsi spécifié dans la facture, dans une solution d'acide citrique ou autre dissolvant de la force prescrite; et la proportion pour cent de phosphates solubles et la proportion pour cent de phosphates insolubles signifient respectivement la proportion de phosphate de chaux tribasique qui a été, et celle qui n'a pas été, rendue soluble.

Le terme "**Nourriture pour bétail ou volaille**" comprend toutes espèces de substances vendues pour servir à nourrir soit bétail soit volaille, et qui ont été soumises à un procédé artificiel quelconque ou qui sont composées de deux ingrédients ou plus.

NOTES

In this Article,

the words in square brackets in the definitions of the expressions "Analyse Officiel" and "Assistants-Analystes" were substituted by the States Civil Service Board (Implementation) Law, 1964, section 1, Schedule, Part I, paragraph (b)(i), with effect from 28th May, 1964;

the words in square brackets within the square brackets in the definitions of the expressions "Analyse Officiel" and "Assistants-Analystes" were 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.

The functions, rights and liabilities of the Civil Service Board and of its President arising under or by virtue of this Law were transferred to and

vested in, respectively, the Policy Council and its Minister 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.

ARTICLE GÉNÉRAL

Nomination d'un Analyste Officiel.

[L'Analyste Officiel et les Assistants Analystes seront nommés par le [States Policy Council]]. [Ils doivent] avoir les connaissances, l'habileté et l'expérience nécessaires pour exercer [leur] profession d'Analyste, et [seront] diplômé. Sans la permission des États, il ne [leur] sera pas permis d'engager dans aucun commerce, fabrique ou industrie ayant un rapport quelconque avec la vente ou l'introduction dans cette île de substances servant à fertiliser le sol ou servant de nourriture pour bétail ou volaille, lesquelles substances sont visées dans les provisions de la présente Loi.

Nomination d'Assistants Analystes.

...

Devoirs de la Cour Royale.

La Cour Royale réglera par Ordonnance tant la proportion d'acide citrique mentionnée dans les Définitions de la présente Loi que les Limites d'Erreur visées dans cette Loi.

NOTES

In the Article Général,

the words in square brackets in the first paragraph were substituted, and the second paragraph was repealed, by the States Civil Service Board (Implementation) Law, 1964, section 1, Schedule, Part I, paragraph (b)(ii), with effect from 28th May, 1964;

the words in square brackets within the square brackets in the first paragraph were 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;

the words "Ils doivent", "leur" and "seront" in square brackets in the first paragraph have been substituted as a consequence of the amendments made by the States Civil Service Board (Implementation) Law, 1964, section 1, Schedule, Part I, paragraph (b)(ii), with effect from 28th May, 1964.

The following Ordinance has been made under the Article Général:

Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille¹.

In accordance with the provisions of the Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille, Article 1, with effect from 16th October, 1915, the proportion of citric acid mentioned herein is as prescribed in Schedule A to the 1915 Ordinance.

Vendeurs de l'engrais tenu de fournir à l'acheteur facture indiquant la désignation de la substance.

1. Quiconque vendra de l'engrais sera tenu de fournir à l'acheteur avant ou au moment de la vente ou de la livraison du dit engrais une facture indiquant la désignation de la dite substance, et quelles sont respectivement les proportions pour cent, s'il y en a, de nitrogène, de phosphates solubles, de phosphates insolubles, et de potasse, contenues dans la dite substance, et cette facture constituera une garantie par le vendeur que les proportions pour cent actuelles ne diffèrent pas de celles qui sont déclarées dans la facture au-delà des limites d'erreur prescrites par Ordonnance de la Cour Royal.

NOTE

In accordance with the provisions of the Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille, Article 2, with effect from 16th October, 1915 and for the purposes of this Article, the limits of error ("limites d'erreur") mentioned herein are as prescribed in Schedule B and Schedule C to the 1915 Ordinance.

Vendeur de la nourriture pour bétail tenu de livrer à l'acheteur facture

contenant certains détails.

2. Quiconque vendra aucune nourriture pour bétail ou volaille sera tenu de livrer à l'acheteur avant ou au moment de la vente, ou de la livraison, une facture indiquant –

- (a) le nom de la substance,
- (b) si la substance est composée d'un seul ingrédient, ou d'une seule espèce de graines ou de semence, ou de plus d'un ingrédient, ou de plus d'une espèce de graines ou de semence,
- (c) et,—dans le cas où telle substance a été soumise à un procédé artificiel autrement que par avoir été mélangée, broyée, moulue ou hachée,—quelles sont les proportions pour cent, s'il y en a, d'huile et d'albuminoïdes que renferme la dite substance.

La facture constituera une garantie par le vendeur quant aux faits indiqués; mais par rapport aux proportions pour cent mentionnées dans la facture, celle-ci ne constituera de garantie qu'à l'effet que les proportions pour cent ne diffèrent pas de celles déclarées dans la facture au-delà des limites d'erreur prescrites par Ordonnance de la Cour Royale.

NOTE

In accordance with the provisions of the Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille, Article 2, with effect from 16th October, 1915 and for the purposes of this Article, the limits of error ("limites d'erreur") mentioned herein are as prescribed in Schedule B and Schedule C to the 1915 Ordinance.

Présomption de la garantie par le vendeur que la substance est pure.

3. Lorsqu'une substance est vendue à l'usage de nourriture pour bétail ou volaille sous une désignation indiquant qu'elle est composée d'un ingrédient particulier, ou de deux ou de plus de deux ingrédients, et sans aucune indication que la dite substance est mélangée avec ou composée d'un autre ingrédient ou graine, une garantie par le vendeur sera légalement présumée à l'effet que la substance est pure, c'est-à-dire qu'elle est composée seulement de l'ingrédient ou des ingrédients désignés, ou des graines désignées.

Article 4.

4. Lors de la vente d'une substance à l'usage d'engrais pour la terre ou à l'usage de nourriture pour bétail ou volaille, une garantie par le vendeur sera légalement présumée à l'effet que la substance est propre au dit usage. Il ne sera pas nécessaires de fournir des factures pour des quantités moindres de Cent livres pesant. Dans les lieux où les susdites substances sont vendues ou exposées en vente en quantités moindres de Cent livres pesant, une déclaration des détails requis dans la facture doit être exposée en lettres et chiffres lisibles dans un endroit bien en vue.

Garantie par le vendeur.

5. Après l'enregistrement de la présente loi toute déclaration faite par le vendeur par rapport aux proportions pour cent des ingrédients chimiques ou autres d'une substance quelconque vendue à l'usage d'engrais, ou par rapport aux ingrédients nutritifs ou autres d'une substance quelconque vendue à l'usage de nourriture pour bétail et volaille, constituera une garantie par le vendeur, si la déclaration est faite dans la facture, ou dans le contrat de vente, une lettre, un bordereau, une lettre circulaire ou autre annonce.

Déclaration par rapport aux différents ingrédients.

6. Lorsqu'une substance vendue à l'usage d'engrais ou à l'usage de nourriture de bétail ou volaille consistera de deux ou de plus de deux ingrédients qui auront été mélangés à la requête de l'acheteur, il suffira pour se conformer aux

provisions des susdits articles quant aux proportions pour cent, que la facture contienne une déclaration des proportions pour cent par rapport aux différents ingrédients avant le mélange et une déclaration qu'elles ont été mélangées à la requête de l'acheteur, et en quelles proportions.

Acheteur a droit de demander analyse.

7. L'acheteur d'une substance à l'usage d'engrais ou à l'usage de nourriture pour bétail ou volaille qui en aura pris un échantillon dans le courant de dix jours après la livraison ou après la réception par lui de la facture si elle arrive après livraison, aura le droit de demander à l'Analyste Officiel d'en faire l'analyse après paiement de l'honoraire prescrit.

Devoirs de l'analyste.

8. L'Analyste Officiel sera tenu à la requête de l'acheteur et après paiement de l'honoraire prescrit, et pourra, sans recevoir aucune requête, prendre ou faire prendre un échantillon d'une substance à l'usage d'engrais ou de nourriture pour bétail ou volaille laquelle a été vendue ou est exposée ou gardée en vente. Lorsqu'il s'agit d'une substance qui a été vendue l'échantillon sera pris dans les dix jours après la livraison à l'acheteur ou après la réception par lui de la facture, si elle arrive après livraison, et l'acheteur ou celui à la requête duquel l'échantillon a été pris, sera tenu de faire preuve que la substance n'avait pas été altérée avant la prise de l'échantillon.

Formalités à observer dans le cas d'institution de procédure.

9. Celui qui prend un échantillon dans le but d'instituer des procédures civiles ou criminelles, devra le diviser en trois parties; il fera enfermer, marquer, et sceller chaque partie, et livrera ou enverra par la poste deux parties à l'Analyste Officiel et une partie au vendeur.

Devoirs de l'analyste.

10. L'Analyste Officiel auquel un échantillon est remis comme dessus afin d'en faire l'analyse en vertu de l'article 8 ou 9, –

- (a) si l'échantillon n'a pas été divisé en trois parties et les dites parties n'ont pas été enfermées, marquées et scellées comme ci-dessus,

enverra une copie du certificat de son analyse à la personne qui aura soumis l'échantillon pour l'analyse, et –

- (b) si l'échantillon a été ainsi divisé en parties, enfermé, marqué, et scellé, –

fera l'analyse d'une des parties de l'échantillon à lui livré ou envoyé, et retiendra l'autre. Il enverra le certificat de son analyse dans la forme prescrite et contenant les particularités prescrites à la personne qui lui aura soumis l'échantillon, et dans le cas où cette personne n'est pas l'acheteur il enverra le dit certificat aussi à l'acheteur; dans tous les cas il enverra le certificat au vendeur, et à toutes autres personnes, s'il y en a, qui pourront être prescrites. Il fera un rapport au [Chief Executive of the States of Guernsey] du résultat de son analyse de la manière et dans la forme qui seront prescrites. Pourvu toutefois que si l'Analyste Officiel ignore le nom et l'adresse du vendeur, il enverra le certificat à l'acheteur pour être par lui envoyé au vendeur.

NOTES

In Article 10, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 3, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.²

The powers and functions vested in, and all rights and liabilities enjoyed by or incumbent on, the Suprvisieur de la Chaussée under or by virtue of this Law were transferred to and vested in the chief executive officer of the States Advisory and Finance Committee by the States Supervisor and Treasurer of the States (Transfer of Functions) Law, 1971, section 1, with effect from 1st April, 1972, subject to the savings in section 2 of the 1971 Law. The functions, rights and liabilities of the Advisory and Finance Committee and of its President arising under or by virtue of this Law were transferred to and

vested in, respectively, the Policy Council and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 1(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

In accordance with the provisions of the Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille, Article 4, with effect from 16th October, 1915, the certificates of the Official Analyst herein mentioned shall conform to the forms contained in the Schedule to the Fertilisers and Feeding Stuffs (General) Regulations 1906 of the United Kingdom Board of Agriculture and Fisheries.

Pénalités pour contravention à cette loi.

11. Toute personne qui, en vendant un engrais quelconque, ou une substance à l'usage de nourriture pour bétail ou volaille, commettra aucune des contraventions suivantes, savoir –

- (a) négligera sans excuse raisonnable de fournir, avant ou au moment de livrer l'engrais ou la nourriture pour bétail ou volaille qu'elle aura vendu, la facture exigée aux termes de la présente Loi, ou
- (b) fournira, ou fera ou laissera fournir une facture ou description de l'engrais ou de la nourriture pour bétail ou volaille qui sera fautive dans aucune particularité essentielle au préjudice de l'acheteur, ou
- (c) vendra à l'usage de la nourriture pour bétail ou volaille aucune substance contenant un ingrédient quelconque nuisible à bétail ou volaille, ou à laquelle aura été ajouté un ingrédient quelconque sans valeur comme nourriture, le tout sans déclarer le fait lors de la vente:

sera sans préjudice à sa responsabilité civile, passible en Police Correctionnelle pour une première contravention d'une amende qui n'excédera pas [level 2 on the uniform

scale], et pour toute contravention subséquente d'une amende n'excédant pas [level 3 on the uniform scale].

Pourvu toutefois qu'une personne ne sera pas convaincue d'une contravention sous (b) de cet article, si elle prouve à la satisfaction de la Cour, soit –

- (i) qu'elle n'avait aucune connaissance et qu'en faisant toutes diligences raisonnables elle ne pouvait s'assurer que la facture ou la description était fausse, ou
- (ii) qu'elle acheta la substance vendue avec une garantie par écrit ou une facture d'une personne résidant dans la juridiction de la Cour Royale, et que la garantie ou la facture renfermait la description fausse, et qu'il n'y avait aucun lieu de se méfier de la vérité de la description lorsqu'elle vendit la substance, et de plus qu'elle la vendit dans le même état qu'elle se trouvait lors de la livraison.

Dans toute poursuite pour une contravention du présent article, le prévenu ne pourra pas alléguer pour sa défense que l'acheteur, n'ayant acheté que dans le dessein de faire analyser la substance vendue, la vente ne lui a pas porté préjudice.

NOTES

In Article 11, the words and figures in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(5), Schedule, Part I, with effect from 1st July, 1989.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 1954, section 10(3) (as originally enacted), with effect from 17th January,

1955, the expression "Police Correctionnelle" in this Article shall be deemed to refer to the Magistrate's Court.³

Poursuites ne seront intentées après trois mois.

12. Une poursuite pour une contravention de fournir ou de faire ou laisser fournir une facture ou description qui était fautive dans aucune particularité essentielle, ne sera pas instituée en vertu des provisions de cette Loi –

- (a) après l'expiration de trois mois à partir de la date où la facture a été reçue par l'acheteur, ni
- (b) a moins que l'échantillon n'ait été pris, et qu'une analyse n'ait été faite par l'Analyste Officiel, et qu'un certificat de l'analyse n'ait été fourni conformément aux provisions de la présente Loi.

Pénalités pour altération frauduleuse d'aucune substance.

13. Celui qui frauduleusement –

- (a) altérera aucune substance dans le dessein qu'un échantillon qui en aura été pris aux fins de la présente Loi, ne représente pas correctement la dite substance, ou
- (b) altérera un échantillon quelconque pris aux fins des provisions de la présente Loi,

sera passible devant la Cour Royale siégeant en Corps à être condamné à une amende n'excédant [pas [level 3 on the uniform scale] ou à un terme d'em]prisonnement n'excédant pas six mois.

NOTES

In Article 13,

the words, punctuation and letters in square brackets are shown, incorrectly, as omitted in the printed version of this Article;

the words and figure in square brackets within the square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(5), Schedule, Part I, with effect from 1st July, 1989.

Pénalités contre ceux qui mettent empêchement à l'analyste officiel dans l'exécution de ses devoirs.

14. Sera passible en Police Correctionnelle d'une amende n'excédant pas [level 2 on the uniform scale] –

- (a) le propriétaire ou la personne qui pour le temps sera qui aura la charge ou la garde d'une substance quelconque vendue, exposée en vente, ou destinée à la vente, à l'usage d'engrais ou de nourriture pour bétail ou volaille, qui refusera de permettre à l'Analyste Officiel ou à un Assistant-Analyste Officiel de prendre un échantillon de la dite substance afin d'en faire une analyse,
- (b) l'acheteur de telle substance qui refusera lorsque requis à ce faire de livrer à l'Analyste Officiel ou à un Assistant-Analyste Officiel la facture ou une copie de la facture ou d'aucune partie d'icelle.

NOTES

In Article 14, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(5),

Schedule, Part I, with effect from 1st July, 1989.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 1954, section 10(3) (as originally enacted), with effect from 17th January, 1955, the expression "Police Court" in this Article shall be deemed to refer to the Magistrate's Court.⁴

Certificat de l'analyste en chef suffit comme preuve des faits.

15. Dans toutes causes, civiles ou criminelles, instituées en vertu de la présente Loi par rapport à aucune substance dont un échantillon aura été soumis à l'Analyste en Chef, il suffira de produire son certificat pour prouver les faits avérés par lui.

Article 16.

16. Dans toutes causes, civiles ou criminelles, instituées en vertu de la présente Loi par rapport à aucune substance dont un échantillon aura été soumis à l'Analyste Officiel, il suffira de produire son certificat pour prouver les faits avérés par lui, à moins que le défendeur ou le prévenu ne demande que le dit Analyste Officiel ou la personne qui aura fait l'analyse soit entendu comme témoin.

Pourvu toutefois que cet article ne s'appliquera pas –

- (a) lorsque l'échantillon a été pris autrement que de la manière prescrite, ou
- (b) lorsque l'échantillon n'a pas été divisé en trois parties et celles-ci enfermées, marquées et scellées de la manière prescrite par la présente Loi.

NOTE

In accordance with the provisions of the Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille, Article 3, with effect from 16th October, 1915, the manner for the

taking of samples shall be as prescribed in Schedule D to the 1915 Ordinance.

Pouvoir de la Cour d'ordonner que la partie de l'échantillon retenue par l'analyste officiel soit analysée.

17. Si dans les quatorze jours de l'institution d'une poursuite civile ou criminelle l'une des parties objecte au Certificat de l'Analyste Officiel, la Cour devra, sur la demande de la partie qui objectera et le paiement par elle de l'honoraire prescrit, ordonner que la partie de l'échantillon retenue par l'Analyste Officiel soit expédiée par lui à l'Analyste en Chef pour qu'il en fasse l'analyse, et qu'un certificat du résultat de telle analyse soit fourni à la Cour, et aussi à la partie qui a objecté.

Dans tous les cas la facture ou la copie de la facture relative à la substance dont un échantillon a été pris, et les pièces mentionnées dans l'Article 5 de la présente Loi, seront envoyées à l'Analyste en Chef ou à l'Analyste Officiel, selon le cas.

Les frais de ces analyses seront censés frais curiaux.

Article 18.

La présente Loi s'appliquera tant aux ventes en gros qu'aux ventes en détail.

Autorité à la Cour à passer ordonnances.

19. La Cour Royale est autorisée à passer telles Ordonnances qu'elle trouvera nécessaires pour donner effet à la présente Loi.

NOTE

In accordance with the provisions of the Reform (Guernsey) Law, 1948, Article 63, with effect from 17th January, 1949, the powers and functions of a legislative nature previously exercised by the Royal Court (save for the making, variation, modification and revocation of Rules of Procedure) were transferred to and vested in the States of Deliberation, and thenceforth any enactment conferring power on the Royal Court to exercise any such powers and functions by way of Ordinance shall be construed as having conferred

the like power on the States of Deliberation or on the States Policy & Resources Committee, as the case may be.

Amendes.

20. Seront les amendes infligées en vertu de cette Loi applicables moitié à Sa Majesté et moitié au délateur.

NOTE

The Law received Royal Sanction on 2nd June, 1915 and was registered on the Records of the Island of Guernsey and came into force on 3rd July, 1915.

REPEALED

TRANSLATION **

of

"Law for the Prevention of Fraud in the Sale of Fertilisers, and of Feeding Stuffs for Cattle and Poultry".

Approved by H.M. The King in Council the 2nd June, 1915.

PROJET DE LOI

ENTITLED

**Law for the Prevention of Fraud in the Sale of Fertilisers,
and of Feeding Stuffs for Cattle and Poultry**

ARRANGEMENT OF ARTICLES

DEFINITIONS

Definitions.

GENERAL ARTICLE

Nomination of an official analyst.

Nomination of assistant analysts.

Duties of the Royal Court.

1. Duty of vendor of fertiliser to supply purchaser with invoice stating name of article and other details.
2. Duty of vendor of feeding stuffs to supply purchaser with invoice stating name of article and other details.
3. Implied guarantee on part of vendor that substance is pure.
4. Article 4.
5. Guarantee by vendor.

** This English translation does not have the same force and effect as the French version of the Law, the French version, in original form, being the authoritative version of this Law.

6. Declaration concerning different ingredients.
7. Purchaser entitled to ask for analysis.
8. Duties of analyst.
9. Formalities to be observed when instituting proceedings.
10. Duties of Analyst.
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19. Power of Court to pass ordinances.
20. Fines.

REPEALED

PROJET DE LOI

ENTITLED

Law for the Prevention of Fraud in the Sale of Fertilisers, and of Feeding Stuffs for Cattle and Poultry

IN VIEW of the deliberation of the States of this Island at their Assembly of the 16th April, 1913, adopting with certain modifications the recommendations contained in the Report of their Committee as the basis of legislation for the prevention of fraud in the sale of fertilisers for the soil, and of feeding stuffs for cattle and poultry, and requesting the Royal Court to prepare a "Projet de Loi" to give effect to their deliberation:—

DEFINITIONS

Definitions.

For the purposes of this Law –

The term "**Chief Analyst**" means the Chief Agricultural Analyst of the Board of Agriculture and Fisheries in England.

The term "**Official Analyst**" means the Analyst appointed by [the States [Policy Council]], or his Deputy.

The term "**Assistant Analysts**" means the Assistants appointed by [the States [Policy Council]].

The expressions "**Purchaser**" and "**Vendor**" include their respective Agents and Employees.

The expression "**Cattle**" means horses, bulls, oxen, cows, calves, heifers, sheep, goats and swine.

The expression "**Fertiliser**" includes all kinds of articles sold for use as a fertiliser of the soil which have been subjected to some artificial process in this Island, or which have been imported.

The expressions "**Soluble**" and "**Insoluble**" mean respectively soluble and insoluble in water, or, if so specified in the invoice, in a solution of citric acid or other solvent of the prescribed strength, and the proportion per cent. of soluble phosphates and proportion per cent. of insoluble phosphates, mean respectively the proportion per cent. of tri-basic phosphate of lime which has been, and that which has not been, rendered soluble.

The expression "**Feeding Stuffs for cattle or poultry**" includes all kinds of articles sold for use as food either for cattle or poultry, and which have been subjected to some artificial process or which are composed of two or more ingredients.

NOTES

In this Article,

the words in square brackets in the definitions of the expressions "Official Analyst" and "Assistant Analysts" were substituted by the States Civil Service Board (Implementation) Law, 1964, section 1, Schedule, Part I, paragraph (b)(i), with effect from 28th May, 1964;

the words in square brackets within the square brackets in the definitions of the expressions "Official Analyst" and "Assistant Analysts" were 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.

The functions, rights and liabilities of the Civil Service Board and of its President arising under or by virtue of this Law were transferred to and

vested in, respectively, the Policy Council and its Minister 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.

GENERAL ARTICLE

Nomination of an official analyst.

[The Official Analyst and the Assistant Analysts shall be appointed by the States [Policy Council]]. [They] must possess the knowledge, skill, and experience necessary for the exercise of [their] profession as Analyst, and must hold some diploma. Without the permission of the States, [they] shall not be allowed to engage in any trade, manufacture, or business connected with the sale or importation into this Island of articles used for fertilising the soil, or as food for cattle or poultry, which articles fall under the provisions of this Law.

Nomination of assistant analysts.

...

Duties of the Royal Court.

The Royal Court shall regulate by Ordinance the proportion of citric acid mentioned in the Definitions of this Law, as well as the limits of error prescribed in this Law.

NOTES

In the General Article,

the words in square brackets in the first paragraph were substituted, and the second paragraph was repealed, by the States Civil Service Board (Implementation) Law, 1964, section 1, Schedule, Part I, paragraph (b)(ii), with effect from 28th May, 1964;

the words in square brackets within the square brackets in the first paragraph were 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;

the words "T/they" and "their" in square brackets in the first paragraph have been substituted as a consequence of the amendments made by the States Civil Service Board (Implementation) Law, 1964, section 1, Schedule, Part I, paragraph (b)(ii), with effect from 28th May, 1964.

The following Ordinance has been made under the General Article:

Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille⁵.

In accordance with the provisions of the Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille, with effect from 16th October, 1915, the proportion of citric acid mentioned herein is as prescribed in Schedule A to the 1915 Ordinance.

Duty of vendor of fertiliser to supply purchaser with invoice stating name of article and other details.

1. Every person who sells a fertiliser shall be bound to furnish to the purchaser before or at the time of the sale, or of the delivery, of such fertiliser, an invoice stating the name of the article and what are the respective proportions per cent., if any, of nitrogen, soluble phosphates, insoluble phosphates, and potash contained in the said article, and this invoice shall constitute a guarantee by the vendor that the actual proportions per cent. do not differ from those stated in the invoice beyond the limits of error prescribed by Ordinance of the Royal Court.

NOTE

In accordance with the provisions of the Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille, Article 2, with effect from 16th October, 1915 and for the purposes of this Article, the limits of error mentioned herein are as prescribed in Schedule B and Schedule C to the 1915 Ordinance.

Duty of vendor of feeding stuffs to supply purchaser with invoice stating name of article and other details.

2. Every person who sells any feeding stuffs for cattle or poultry shall be bound to give to the purchaser, before or at the time of the sale, or of the delivery thereof, an invoice stating –

- (a) the name of the article,
- (b) whether the article is composed of one ingredient only, or of one kind of seed only, or of more than one ingredient or than one kind of seed, and
- (c) in any case where such article has been subjected to an artificial process otherwise than by having been mixed, broken, ground, or chopped, what are the respective proportions cent., if any, of oil and albuminoids contained in the article.

The invoice shall constitute a guarantee by the vendor as to the facts so stated, but with respect to the proportions per cent. mentioned in the invoice the same shall constitute a guarantee in effect only that the proportions per cent. do not differ from those stated in the invoice beyond the limits of error prescribed by Ordinance of the Royal Court.

NOTE

In accordance with the provisions of the Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille, Article 2, with effect from 16th October, 1915 and for the purposes of this Article, the limits of error mentioned herein are as prescribed in Schedule B and Schedule C to the 1915 Ordinance.

Implied guarantee on part of vendor that substance is pure.

3. When an article is sold for use as food for cattle or poultry under a

name or description indicating that it is composed of a particular ingredient, or of two or more ingredients, and without indication that it is mixed or compounded with any other ingredient or seed, there shall be implied a guarantee by the vendor that it is pure, that is to say, is composed only of the ingredient or ingredients indicated, or of the seed indicated.

Article 4.

4. On the sale of any article for use as a fertiliser of the soil, or as food for cattle or poultry, there shall be implied a guarantee by the vendor that the article is suitable to be used as such. It shall not be necessary to furnish invoices for quantities of less than one hundred pounds by weight. In places where the above articles are sold or exposed for sale in quantities of less than one hundred pounds by weight, a declaration of the details required in the invoice must be exhibited in legible letters and figures in a conspicuous position.

Guarantee by vendor.

5. After the registration of this Law any statement made by the vendor of the proportions per cent. of the chemical or other ingredients contained in any article sold for use as a fertiliser of the soil, or of the nutritive or other ingredients contained in any article sold for use of food for cattle or poultry, shall constitute a guarantee by the vendor, if such statement is made in the invoice, or in any contract of sale, letter, memorandum, circular, or other advertisement.

Declaration concerning different ingredients.

6. Where an article sold for use as a fertiliser of the soil, or as food for cattle or poultry, shall consist of two or more ingredients which have been mixed at the request of the purchaser, it shall be sufficient compliance with the provisions of the above articles with respect to the proportions per cent. if the invoice contains a statement of the proportions per cent. with respect to the different ingredients before mixture, and a statement that they have been mixed at the request of the purchaser, and in what proportions.

Purchaser entitled to ask for analysis.

7. The purchaser of an article for use as a fertiliser of the soil, or as food for cattle or poultry, who has taken a sample thereof within 10 days after the delivery of the article, or after the receipt by him of the invoice if it should arrive after delivery of the article, shall have the right to request the Official Analyst to analyse the said article on payment of the required fee.

Duties of analyst.

8. The Official Analyst shall be bound at the request of the purchaser, and on payment by him of the required fee, and may without any such request, take or cause to be taken a sample of an article for use as a fertiliser of the soil, or as food for cattle or poultry, which has been sold, or is exposed or kept for sale. In the case of an article which has been sold the sample shall be taken within 10 days after the delivery of the article to the purchaser, or the receipt of the invoice by him if it should arrive after the delivery of the article, and the purchaser or the person by whose request the sample has been taken shall be bound to prove that the article had not been tampered with before the sample was taken.

Formalities to be observed when instituting proceedings.

9. Where a sample has been taken with a view to the institution of any civil or criminal proceedings, the person taking the sample shall divide the same in three parts; he shall cause each part to be fastened up, marked and sealed, and shall deliver or send by post two parts to the Official Analyst and one part to the vendor.

Duties of Analyst.

10. The Official Analyst to whom a sample is submitted as above for analysis under Article 8 or 9, –

- (a) if the sample has not been divided into three parts and the said parts fastened up, marked, and sealed as above,

shall send a copy of the certificate of his analysis to the person who submitted the sample for analysis, and

- (b) if the sample has been so divided into parts, fastened up, marked, and sealed,

shall analyse one of the parts of the sample delivered or sent to him and shall retain the other. He shall send a certificate of his analysis in the prescribed form and containing the prescribed particulars to the person who submitted the sample to him, and where that person is not the purchaser he shall send said certificate also to the purchaser; in every case he shall send the certificate to the vendor and to such other persons, if any, as may be prescribed. He shall report to the [Chief Executive of the States of Guernsey] in the prescribed manner the result of his analysis. Provided always that if the Official Analyst does not know the name and address of the vendor he shall send the certificate to the purchaser to be by him forwarded to the vendor.

NOTES

In Article 10, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 3, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.⁶

The powers and functions vested in, and all rights and liabilities enjoyed by or incumbent on, the Supervisor ("Superviseur de la Chaussée") under or by virtue of this Law were transferred to and vested in the chief executive officer of the States Advisory and Finance Committee by the States Supervisor and Treasurer of the States (Transfer of Functions) Law, 1971, section 1, with effect from 1st April, 1972, subject to the savings in section 2 of the 1971 Law. The functions, rights and liabilities of the Advisory and Finance Committee and of its President arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy Council and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 1(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

In accordance with the provisions of the Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille, Article 4, with effect from 16th October, 1915, the certificates of the Official Analyst herein mentioned shall conform to the forms contained in the Schedule to the Fertilisers and Feeding Stuffs (General) Regulations 1906 of the United Kingdom Board of Agriculture and Fisheries.

Penalties for offences to this law.

11. Any person who, in selling an article for use as a fertiliser of the soil, or as food for cattle or poultry, shall commit any of the following offences, namely –

- (a) shall fail without reasonable excuse to furnish, before or at the time of the delivery of fertiliser or of food for cattle or poultry sold, the invoice required by this law, or
- (b) shall furnish or shall cause or permit to be furnished any invoice or description of the fertiliser, or of the food for cattle or poultry, which shall be false in any material particular to the prejudice of the purchaser, or
- (c) shall send for use as food for cattle or poultry any article which contains any ingredient deleterious to cattle or poultry, or to which has been added any ingredient worthless for feeding purposes, without disclosing the fact at the time of the sale,

shall, without prejudice to any civil liability, be liable on conviction, for the first offence to a fine not exceeding [level 2 on the uniform scale], and for any subsequent offence to a fine not exceeding [level 3 on the uniform scale].

Provided always that a person shall not be convicted of an offence under

paragraph (b) of this article if he proves to the satisfaction of the Court either –

- (i) that he did not know, and could not with reasonable care have ascertained, that the invoice or description was false, or
- (ii) that he purchased the article sold with a written guarantee or invoice from a person residing within the jurisdiction of the Royal Court, and that the guarantee or invoice contained the false statement, and that he had no reason to doubt the truth of the statement when he sold the article, and further that he sold the article in the state in which it was when delivered to him.

In any proceeding for an offence under this article it shall be no defence for the accused to allege that the purchaser, having bought only for the purpose of analysing the article sold, was not prejudiced by the sale.

NOTE

In Article 11, the words and figures in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(5), Schedule, Part I, with effect from 1st July, 1989.

Proceedings not to be instituted after three months.

12. A prosecution for the offence of furnishing, or causing or permitting to be furnished, an invoice or description which was false in any material particular shall not be instituted under the provisions of this Law –

- (a) after the expiration of 3 months from the date when the invoice was received by the purchaser, nor

- (b) unless a sample has been taken, and an analysis has been made by the Official Analyst, and a certificate of analysis has been furnished in accordance with the provisions of this Law.

Penalties for fraudulent alteration of any substance.

13. Any person who fraudulently –

- (a) tampers with any article with the view that a sample of it taken under this Law shall not correctly represent the said article, or
- (b) tampers with any sample taken under the provisions of this Law,

shall be liable, before the Full Court, to a fine not exceeding [level 3 on the uniform scale], or to imprisonment for a term not exceeding 6 months.

NOTE

In Article 13, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(5), Schedule, Part I, with effect from 1st July, 1989.

Penalties for obstructing the official analyst in the execution of his duties.

14. (a) The owner, or the person who for the time being has the charge or custody of any article sold, exposed for sale, or intended to be sold for use as a fertiliser, or as food for cattle or poultry, and who refuses to allow the Official Analyst, or an Official Assistant Analyst, to take a sample of the said article for the purpose of

analysis, and

- (b) the purchaser of any such article who refuses to give, when required so to do, to the Official Analyst, or to an Official Assistant Analyst, the invoice or a copy of the invoice or of any part thereof,

shall be liable, on conviction, to a fine not exceeding [level 2 on the uniform scale].

NOTE

In Article 14, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(5), Schedule, Part I, with effect from 1st July, 1989.

Certificate of Chief Analyst sufficient to prove facts.

15. In all civil or criminal proceedings instituted under the present Law with respect to any article, a sample whereof shall have been submitted to the Chief Analyst, it shall be sufficient to produce his certificate to prove the facts established by him.

Article 16.

16. In all civil or criminal proceedings instituted under this Law with respect to any article, a sample whereof shall have been submitted to the Official Analyst, it shall be sufficient to produce his certificate to prove the facts established by him, unless the defendant or the accused requires that the Official Analyst or the person who has made the analysis, be called as a witness; Provided always that this article shall not apply –

- (a) where the sample has been taken otherwise in the prescribed manner, or

- (b) where the sample has not been divided into three parts and the parts fastened up, marked, and sealed in the prescribed manner in this Law.

NOTE

In accordance with the provisions of the Ordonnance relative à la Prévention de la Fraude dans la Vente d'Engrais, et de Nourriture pour Bétail et Volaille, Article 3, with effect from 16th October, 1915, the manner for the taking of samples shall be as prescribed in Schedule D to the 1915 Ordinance.

Power of Court to order that part of sample taken by analyst be analysed.

17. If within 14 days of the institution of a civil or criminal proceeding one of the parties objects to the certificate of the Official Analyst, the Court shall, on the request of the party objecting, and on payment of the prescribed fee, order that the part of the sample retained by the Official Analyst be sent by him to the Chief Analyst to be analysed by him, and that a certificate of the result of such analysis be furnished to the Court, and also to the party objecting.

In every case the invoice, or the copy of the invoice relating to the article from which a sample has been taken, and the documents mentioned in Article 5 of this Law, shall be sent to the Chief Analyst or to the Official Analyst, as the case may be.

The costs of these analyses shall be considered as legal costs.

Article 18.

18. This Law shall apply to wholesale as well as to retail sales.

Power of Court to pass ordinances.

19. The Royal Court is authorized to pass such Ordinances as it shall think necessary to give effect to this Law.

NOTE

In accordance with the provisions of the Reform (Guernsey) Law, 1948, Article 63, with effect from 17th January, 1949, the powers and functions of a legislative nature previously exercised by the Royal Court (save for the making, variation, modification and revocation of Rules of Procedure) were transferred to and vested in the States of Deliberation, and thenceforth any enactment conferring power on the Royal Court to exercise any such powers and functions by way of Ordinance shall be construed as having conferred the like power on the States of Deliberation or on the States Policy & Resources Committee, as the case may be.

Fines.

20. The fines inflicted by virtue of this Law shall be applicable one half to His Majesty and one half to the informer.

NOTE

The Law received Royal Sanction on 2nd June, 1915 and was registered on the Records of the Island of Guernsey and came into force in the Island of Guernsey on 3rd July, 1915.

¹ Recueil d'Ordonnances Tome VI, p. 9. The Ordinance was made on 16th October, 1915; and renewed as permanent on 18th January, 1932.

² These words were previously substituted in accordance with the provisions of the States Supervisor and Treasurer of the States (Transfer of Functions) Law, 1971, section 4, with effect from 1st April, 1972.

³ Previously, equivalent deeming provision was made in accordance with the provisions of the Loi ayant rapport à l'Institution d'un Magistrat en Police Correctionnelle et pour le Recouvrement de Menues Dettes, 1925, Article 11(4), with effect from 28th March, 1925.

⁴ Previously, equivalent deeming provision was made in accordance with the provisions of the Loi ayant rapport à l'Institution d'un Magistrat en Police Correctionnelle et pour le Recouvrement de Menues Dettes, 1925, Article 11(4), with effect from 28th March, 1925.

⁵ Recueil d'Ordonnances Tome VI, p. 9. The Ordinance was made on 16th

October, 1915; and renewed as permanent on 18th January, 1932.

6 These words were previously substituted in accordance with the provisions of the States Supervisor and Treasurer of the States (Transfer of Functions) Law, 1971, section 4, with effect from 1st April, 1972.

REPEALED