

**ORDINANCE
OF THE STATES OF ALDERNEY**

ENTITLED

**The European Communities (Implementation of Food
Supplements Directive) (Alderney) Ordinance, 2014 ***

[CONSOLIDATED TEXT]

NOTE

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* Alderney Ordinance No. II of 2014; as amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the European Communities (Food and Feed Controls) (Alderney) Ordinance, 2019 (Alderney Ordinance No. II of 2019).

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SCHEDULE 1 Particulars and requirements for marking or labelling of food supplements.

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(Made on 15th January, 2014.)

The European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 15th January, 2014, and in exercise of the powers conferred on them by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^a, hereby order:

Purpose of this Ordinance.

1. The purpose of this Ordinance is to implement in respect of the Island certain provisions in the Food Supplements Directive.

Application.

2. (1) Subject to subsections (2) and (3), this Ordinance applies to food supplements sold as foodstuffs and presented as such.

(2) Nothing in this Ordinance applies to –

(a) the sale of a medicinal product, or

(b) ...

(3) In subsection (2) –

[...]

"medicinal product" has the meaning given by section 133(1) of the

^a Ordres en Conseil Vol. XXXV(1), p. 65.

Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008^b.

NOTE

In section 2, first, paragraph (b) of subsection (2) and, second, the words omitted in square brackets in subsection (3) were repealed by the European Communities (Food and Feed Controls) (Alderney) Ordinance, 2019, section 94, Schedule 10, with effect from 3rd October, 2019.

Requirement for prepackaging.

3. A person who sells any food supplement to the ultimate consumer is guilty of an offence unless the food supplement is prepacked.

Restriction on vitamins and minerals that may be used in the manufacture of food supplements.

4. (1) A person who sells any food supplement in the manufacture of which a vitamin or mineral has been used is guilty of an offence unless that vitamin or mineral –

(a) is listed in Annex I to the Food Supplements Directive,
and

(b) is in a form which –

(i) is listed in Annex II to the Food Supplements
Directive, and

(ii) meets the relevant purity criteria.

^b Order in Council No. V of 2009; as amended by Recueil d'Ordonnances Tome XXXIII, p. 540.

(2) The relevant purity criteria for the purposes of subsection (1)(b)(ii) are –

- (a) the purity criteria, if any, specified by a Community provision for the use of the substance in question in the manufacture of food for purposes other than those covered by the Food Supplements Directive, or
- (b) in the absence of such purity criteria, generally acceptable purity criteria for the substance in question recommended by international bodies.

Restriction on sale relating to name.

5. A person who sells a food supplement which is ready for delivery to the ultimate consumer or to a catering establishment is guilty of an offence unless the name under which the food supplement is sold is "food supplement".

Restriction on sale relating to mention of balanced and varied diet.

6. A person who sells any food supplement which is ready for delivery to the ultimate consumer or to a catering establishment is guilty of an offence if the labelling, presentation or advertising of that food supplement includes any mention, express or implied, that a balanced and varied diet cannot provide appropriate quantities of nutrients in general.

Requirement to mark or label prepacked food supplements.

7. (1) Subject to subsection (3), a person is guilty of an offence who sells any food supplement which –

- (a) is ready for delivery to the ultimate consumer, or
- (b) is ready for delivery to a catering establishment and is

prepacked,

unless the particulars specified in Schedule 1 appear in accordance with the requirements of that schedule –

- (i) on the packaging,
 - (ii) on a label attached to the packaging, or
 - (iii) on a label which is clearly visible through the packaging.
- (2) Subsection (3) applies where –
- (a) the sale is otherwise than to the ultimate consumer,
 - (b) it can be guaranteed that commercial documents relating to the food supplement –
 - (i) accompany the food supplement to which they relate, or
 - (ii) were sent before, or at the same time as, delivery of the food supplement, and
 - (c) the particulars required by article 3 of the 1995 Order in relation to food are marked or labelled on the outermost packaging in which that food supplement is sold.

(3) Where this subsection applies, the particulars specified in Schedule 1 may alternatively appear, in accordance with the requirements of that

schedule, only on the commercial documents referred to in subsection (2)(b).

Requirement to mark or label non-prepacked food supplements.

8. (1) Subject to subsection (2), a person is guilty of an offence who sells any food supplement which is ready for delivery to a catering establishment and is not prepacked, unless the particulars specified in Schedule 1 appear in accordance with the requirements of that schedule –

- (a) on a label attached to the food supplement, or
- (b) on a ticket or notice which is readily discernible by the intending purchaser at the place where he chooses the food supplement.

(2) Where it can be guaranteed that commercial documents relating to the food supplement –

- (a) accompany the food supplement to which they relate, or
- (b) were sent before, or at the same time as, delivery of the food supplement,

the particulars specified in Schedule 1 may alternatively appear, in accordance with the requirements of that schedule, only on those commercial documents.

Penalties and proceedings.

9. (1) A person guilty of an offence under this Ordinance is liable on summary conviction or conviction on indictment to a fine not exceeding level 4 on the uniform scale.

(2) Where a body corporate is guilty of an offence under this

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

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

Application of provisions of 1970 Law.

10. ...

NOTE

Section 10 was repealed by the European Communities (Food and Feed Controls) (Alderney) Ordinance, 2019, section 94, Schedule 10, with effect from 3rd October, 2019.

Enforcement.

11. The [Committee] is responsible for administering and enforcing this Ordinance.

NOTE

In section 11, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Transitional provisions.

12. Before the second anniversary of the commencement date, nothing in

this Ordinance applies to the sale of a food supplement to the extent that –

- (a) the food supplement is sold only to a person located within the Bailiwick of Guernsey or Bailiwick of Jersey, and
- (b) the final destination of the food supplement is a place within the Bailiwick of Guernsey or Bailiwick of Jersey.

Extended meaning of "sale", etc.

13. (1) In this Ordinance, "sell" includes –

- (a) possess for sale, and
- (b) offer, expose, or advertise for sale.

(2) For the purposes of this Ordinance –

- (a) the supply of a food supplement, otherwise than on sale, in the course of a business, and
- (b) any other thing which is done with respect to a food supplement and is specified in an order made by the [Committee],

is deemed to be a sale of the food supplement, and references to purchasers and purchasing are to be construed accordingly.

(3) This Ordinance applies –

- (a) in relation to any food supplement which is offered as a prize or reward or given away in connection with any entertainment to which the public are admitted, whether on payment of money or not, as if the food supplement were, or had been, exposed for sale by each person concerned in the organisation of the entertainment,
- (b) in relation to any food supplement which, for the purpose of advertisement or in furtherance of any trade or business, is offered as a prize or reward or given away, as if the food supplement were, or had been, exposed for sale by the person offering or giving away the food supplement, and
- (c) in relation to any food supplement which is exposed or deposited in any premises for the purpose of being so offered or given away as mentioned in paragraph (a) or (b), as if the food supplement were, or had been, exposed for sale by the occupier of the premises,

and in this subsection "**entertainment**" includes any social gathering, amusement, exhibition, performance, game, sport or trial of skill.

NOTE

In section 13, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Interpretation.

- 14.** (1) In this Ordinance, unless the context requires otherwise –

[...]

"the 1995 Order" means the Food and Drugs (Labelling of Food) Order, 1995^d,

"advertisement" includes any notice, circular, label, wrapper, invoice or other document, and any public announcement made orally or by any means of producing or transmitting light or sound, and **"advertise"** is to be construed accordingly,

"catering establishment" means a restaurant, canteen, club, public house, school, hospital or other establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the ultimate consumer and is ready for consumption without further preparation,

"commencement date" means the date specified in section 17 for this Ordinance to come into force,

"Community provision" has the meaning given by section 3(1) of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994,

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

"Directive 90/496" means Council Directive 90/496/EEC on nutrition labelling for foodstuffs as amended by Commission Directive 2008/100/EC amending Council Directive 90/496/EEC on nutrition labelling for foodstuffs

^d G.S.I. No. 2 of 1995.

as regards recommended daily allowances, energy conversion factors and definitions^e,

"dose form" means a form such as capsules, pastilles, tablets, pills and other similar forms, sachets of powder, ampoules of liquids, drop dispensing bottles, and other similar forms of liquids or powders designed to be taken in measured small unit quantities,

"enactment" means any Law, Ordinance or subordinate legislation,

"food supplement" means a foodstuff –

- (a) the purpose of which is to supplement the normal diet,
- (b) which is a concentrated source of nutrients or other substances with a nutritional or physiological effect, alone or in combination, and
- (c) which is sold in dose form,

"Food Supplements Directive" means Directive 2002/46/EC of the European Parliament and of the Council of 10th June 2002 on the approximation of the laws of the Member States relating to food supplements^f,

"Island" means the Island of Alderney, including the territorial waters adjacent to it,

^e OJ L 276, 6.10.90, p. 40.

^f OJ L 183, 12.7.2002, p. 51.

"person" includes any body or authority,

"preparation" includes manufacture and any form of processing or treatment, and **"prepared"** is to be construed accordingly,

"Regulation (EU) No 1169/2011" means Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004^g,

"sell" has the meaning given by section 14, and **"sale"** and **"sold"** are to be construed accordingly,

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect,

"ultimate consumer" means any person who purchases otherwise than –

- (a) for the purpose of resale,
- (b) for the purposes of a catering establishment, or

^g OJ L 304, 22.11.2011, p. 18.

- (c) for the purposes of a manufacturing business, and

"uniform scale" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Alderney) Law, 1989^h.

(2) A food supplement is to be regarded as prepacked for the purposes of this Ordinance if –

- (a) it is ready for sale to the ultimate consumer or to a catering establishment, and
- (b) it is put into packaging before being offered for sale in such a way that the food supplement cannot be altered without opening or changing the packaging.

(3) Unless the context requires otherwise, any other expression used in this Ordinance has the meaning given by the Food Supplements Directive.

(4) Any reference in this Ordinance to an enactment or a Community provision is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

(5) Without limiting the effect of subsection (4), on and from 13 December 2014, paragraph 2(e) of Schedule 1 is to be construed in the following manner –

- (a) a reference to a vitamin or mineral listed in the Annex to Directive 90/496 is to be construed as a reference to a vitamin or mineral listed in paragraph 1 of Part A of

^h Ordres en Conseil Vol. XXXI, p. 306.

Annex XIII to Regulation (EU) No 1169/2011, and

- (b) a reference to the relevant recommended daily allowance specified in the Annex to Directive 90/496 is to be construed as a reference to the nutrient reference values specified in paragraph 1 of Part A of Annex XIII to Regulation (EU) No 1169/2011.

NOTES

In section 14,

the words omitted in the first pair of square brackets in subsection (1) were repealed by the European Communities (Food and Feed Controls) (Alderney) Ordinance, 2019, section 94, Schedule 10, with effect from 3rd October, 2019;

the words, first, "Committee" and, second, "Committee for Health & Social Care" in square brackets in the definition of the expression "Committee" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 6 and section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016.

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

The Food and Drugs (Labelling of Food) Order, 1995 ("the 1995 Order") has since been revoked by the European Communities (Food and Feed Controls) (Guernsey) Ordinance, 2016, section 92, Schedule 11, with effect from 3rd October, 2019.

Extent.

16. This Ordinance has effect in the Island.

Citation.

17. This Ordinance may be cited as the European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014.

Commencement.

18. This Ordinance shall come into force on the 1st April, 2014.

SCHEDULE 1 Sections 7 and 8
PARTICULARS AND REQUIREMENTS FOR MARKING OR LABELLING OF
FOOD SUPPLEMENTS

1. Sections 7(1) and (3) and 8(1) and (2) refer to the following particulars –
 - (a) the name of the category of any vitamin or mineral or other substance with a nutritional or physiological effect which characterises the product or an indication of the nature of that vitamin or mineral or other substance,
 - (b) the portion of the product recommended for daily consumption,
 - (c) a warning not to exceed the stated recommended daily dose,
 - (d) a statement to the effect that food supplements should not be used as a substitute for a varied diet,
 - (e) a statement to the effect that the product should be stored out of the reach of young children, and
 - (f) the amount of any vitamin or mineral or other substance with a nutritional or physiological effect which is present in the product.

2. The particulars specified in paragraph 1(f) must –
 - (a) be given in numerical form,
 - (b) in the case of a vitamin or mineral listed in Annex I to the Food Supplements Directive, be given using the relevant unit specified in brackets after the name of that vitamin or mineral,

- (c) be the amount per portion of the product as recommended for daily consumption on the labelling of the product,
 - (d) be an average amount based on the manufacturer's analysis of the product, and
 - (e) in the case of a vitamin or mineral listed in the Annex to Directive 90/496, be expressed also as a percentage (which may also be given in graphical form) of the relevant recommended daily allowance specified in that Annex.
3. The particulars specified in paragraph 1 must be marked or labelled in relation to the food supplement in such a way that they are –
- (a) easy to understand,
 - (b) clearly legible,
 - (c) indelible,
 - (d) not hidden, obscured or interrupted by any other written or pictorial matter, and
 - (e) when a food supplement is sold to the ultimate consumer, located in a conspicuous place that is easily visible.

SCHEDULE 2

Section 10

PROVISIONS OF THE 1970 LAW GIVEN EFFECT SUBJECT TO
MODIFICATIONS

...

NOTE

Schedule 2 was repealed by the European Communities (Food and Feed Controls) (Alderney) Ordinance, 2019, section 94, Schedule 10, with effect from 3rd October, 2019.
