

## The European Communities (Food and Feed Controls) (Alderney) Ordinance, 2017

### Appendix

#### Summary of the proposed Ordinance

Part I of the Ordinance gives effect to designated Community provisions (EU Regulations) concerning food, feedstuffs and related matters as set out in Schedule 1.

Part II – Registration of Food Businesses and Feed Businesses - sets out provisions requiring all food businesses and feed businesses to be registered by the Committee for Health & Social Care ("**the Committee**"). The Committee is to maintain public registers of food businesses and feed businesses. Registered persons must keep records required to be kept by designated Community provisions and must produce those records for inspection (if required) and make any information returns prescribed by Regulations made by the Committee. The Committee is empowered to refuse registration, or to vary, suspend or revoke registration for any grounds it considers appropriate, including a number of specified grounds. It must be noted that the Committee must follow procedures specified in Part II of the Ordinance in order to take any of the afore-mentioned actions.

Part III – Approval of Food Businesses and Feed Businesses - requires an approval to be obtained for certain types of food businesses or feed businesses to be operated (over and above their registration). As with registrations, the Committee is to maintain public registers; approved operators must keep records required to be kept by designated Community provisions and must produce those records for inspection if required and make any information returns prescribed by Regulations made by the Committee. The Committee is also empowered to refuse approvals, or to vary, suspend or revoke an approval for any grounds it considers appropriate, including a number of specified grounds. The Committee must follow procedures specified in this Part in order to take any of these actions.

The types of operations requiring approvals are higher-risk than those simply requiring registration, so the requirements for approval under Community provisions would be more onerous and complex than for registration. Approvals would be granted only subject to conditions.

Part IV – Duties relating to Food, Feed and Related Operations - creates offences for the contravention of various designated Community provisions in relation to dealings with food and feed. Key duties imposed by Regulation 178/2002 include duties relating to importation, exportation, placing unsafe food or feed on the market, labelling, advertising, and presentation; compliance with food laws, identification, traceability, withdrawals and recalls (clauses 19 to 27). A number of other Community provisions also impose a wide range of duties, ranging from hygiene of foodstuffs, through hygiene of feed to temperature control requirements for food handling (clauses 28 to 38).

Part V – Administration and Enforcement - contains administrative and enforcement provisions, including the appointment of authorised officers, approved examiners and designated laboratories. Entry, search and inspection powers are provided for, as well as provisions dealing with obtaining and executing a search warrant. The Committee is empowered to give a compliance notice requiring food or feed to be withdrawn, alterations to be made, other measures to be taken, or specified activities to be carried out, prohibited or restricted (clause 52). The Committee is also empowered to take action directly (for example seize, detain or dispose of risk goods, or prohibit premises being used for any operation or activity) in certain cases (clauses 53 and 54).

This Part also authorises the Chairman of the Court, on application, to make orders concerning property seized by the Committee in the exercise of its enforcement powers, or food or feed withdrawn from the market (clause 55). The Court is also empowered to make an emergency prohibition order prohibiting any premises from being used for a specified operation or activity (clause 56).

Part VI – Appeals - sets out provisions concerning appeals to the Court against decisions of the Committee in relation to registration or approval decisions, and against disposal notices, compliance notices or emergency notices given by the Committee.

Part VII – Regulations - saves several provisions in the Food and Drugs (Guernsey) Law, 1970 that empower the Committee to make regulations concerning food and related matters. The Committee will also be empowered to make emergency control regulations if necessary.

Part VIII – Offences and Proceedings - sets out the offence of obstruction and deals with criminal liability of members, officer-holders and managers in the case of an offence committed by a body corporate or other entity with legal personality, or by an unincorporated body. Penalties for offences are set out in Schedule 9. This Part also sets out various exceptions and defences, and regulates the use of results of tests on samples of food, and the use of official certificates, as evidence in any proceedings for an offence.

Part IX – contains general provisions. Matters covered by these provisions include confidentiality, the apportionment by the Royal Court of any structural expenditure required by a compliance notice, emergency notice, order or regulation, service of documents, the extended meaning of "sale" and related expressions, presumptions relating to human consumption, and transitional and savings provisions for existing food and feed businesses.