

ORDINANCE
OF THE STATES OF DELIBERATION

ENTITLED

The Export of Tomatoes (Packing and Grading)
Ordinance, 1980 *

[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 XXI, p. 392; as amended by 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).

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(Made on the 28th February, 1980.)

The Export of Tomatoes (Packing and Grading) Ordinance, 1980

THE STATES, in pursuance of their Resolution of the twenty-eighth day of February, nineteen hundred and eighty, and on the representations of the States Committee for Horticulture, hereby order: –

PART I

Packing and grading of tomatoes

Packing of tomatoes.

1. (1) Tomatoes delivered to the Board for export shall be packed in a container –

- (a) which is of such type as may, from time to time, be approved by the Committee,
- (b) which is clean and in good condition,
- (c) which is fully lined in such manner, with such material and of such colour as may, from time to time, be approved by the Committee, and
- (d) which is covered with a cover of such type as may, from time to time, be approved by the Committee.

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(2) In the case of containers of tomatoes which have been packed by a store packer, there shall be marked in clear and legible characters on the outside of each end of, or on the outside of a label securely attached to, each such container the prescribed symbol appropriate to the grade of tomatoes therein, and the identification number issued to the owner thereof by the Board and, in addition, there shall be displayed on, placed in, or attached to, such containers in such manner and by such method as the Committee may, from time to time, require the code number issued to the producer of the tomatoes therein, by the Board.

(3) In the case of containers of tomatoes which have been packed otherwise than by a store packer, there shall be marked in clear and legible characters on the outside of each end of, or on the outside of a label securely attached to, each such container the prescribed symbol appropriate to the grade of tomatoes therein and the identification number issued to the owner thereof by the Board.

(4) There shall be marked on the exterior of the cover of containers of tomatoes commonly known as and hereinafter referred to as "**Dutch trays**" the name of the grade and the prescribed symbol appropriate to the grade of tomatoes therein.

(5) Containers of tomatoes shall be parcelled together in such numbers and in such manner as the Committee may, from time to time, require.

(6) Notwithstanding the preceding provisions of this section, tomatoes may, with the consent of the Board, be delivered in single uncovered containers and the Board shall, as soon as may be thereafter, cause containers so delivered to be covered in accordance with the provisions of paragraph (d) of subsection (1) of this section, to be parcelled together in accordance with the provisions of subsection (5) of this section and, in the case of Dutch trays, cause the

cover to be marked in accordance with the provisions of subsection (4) of this section.

(7) A person shall not place any material, other than such material as may, from time to time, be approved by the Committee under the provisions of this section, in a container of tomatoes delivered to the Board for export.

(8) The presence on the end of, or on a label attached to, a container of tomatoes of a prescribed symbol shall, for the purposes of this Ordinance, constitute a declaration that all the tomatoes in that container conform with the requirements of the grade of tomatoes to which that symbol relates and it shall be a contravention of this Ordinance if any of the tomatoes in that container do not so conform.

(9) Where any outdoor grown tomatoes are packed in a container there shall be marked on the exterior of that container or on the outside of a label securely attached thereto the words "OUTDOOR GROWN".

(10) There shall be marked by the Board in such manner and by such method as the Committee may, from time to time, determine on the exterior of, or on the exterior of the cover of, containers of tomatoes accepted by the Board for export a. mark, letter or symbol representing the date on which such tomatoes were delivered to the Board for export.

Tomatoes and weight of tomatoes therein.

2. (1) Subject to the succeeding provisions of this section, a person shall not deliver tomatoes or cause tomatoes to be delivered to the Board for export otherwise than packed in containers designed to contain either three or six kilograms of tomatoes.

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(2) The Committee may, from time to time, by order prohibit the delivery of tomatoes to the Board for export otherwise than in containers designed to contain three kilograms of tomatoes or otherwise than in containers designed to contain six kilograms of tomatoes.

(3) The weight of tomatoes in a container delivered in accordance with the provisions of this section shall –

- (a) in respect of a container designed to contain three kilograms, be not less than three thousand and thirty grams net,
- (b) in respect of a container designed to contain six kilograms, be not less than six thousand and sixty grams net.

Quality of tomatoes delivered for export.

3. A person shall not deliver tomatoes or cause tomatoes to be delivered to the Board for export unless at the time of delivery they are clean, firm, of merchantable quality, free from any defect which may affect keeping quality and have reached a state of maturity whereby it can reasonably be expected that not later than the expiration of the period of seventy-two hours next following the day of such delivery those tomatoes will have ripened satisfactorily but will not have exceeded such a state of ripeness prior to the expiration of the period of ninety-six hours next following the day of such delivery.

Quality of tomatoes when received by consignee.

4. (1) Where any tomatoes which are received by the consignee thereof prior to the expiration of the period of ninety-six hours next following the

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day on which those tomatoes were delivered to the Board for export are found, at the time of receipt by the consignee or at any time thereafter prior to the expiration of the said period of ninety-six hours, to have exceeded a satisfactory state of ripeness –

- (a) in the case where the container of the tomatoes concerned was packed by a store packer, the person whose code number issued to him by the Board appears on or in the container,
- (b) in the case where the container of the tomatoes concerned was packed otherwise than by a store packer, the person whose identification number issued to him by the Board appears on the container,

shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 4 on the uniform scale].

(2) In any proceedings against any person for an offence under the last preceding subsection it shall be a defence for the person charged to prove that the tomatoes concerned exceeded a satisfactory state of ripeness prior to the expiration of the period of ninety-six hours next following the day on which he delivered the tomatoes or caused the tomatoes to be delivered to the Board for export due to the act or default of another person, an accident or some other cause beyond his control after the day on which he delivered the tomatoes or caused the tomatoes to be delivered to the Board for export.

(3) In any proceedings against any person for an offence under subsection (1) of this section it shall not be a defence for the person charged to prove that an inspector did not take any action in respect of the tomatoes concerned

in pursuance of the provisions of paragraph (a) or paragraph (b) of subsection (4) of section six of this Ordinance.

NOTE

In section 4, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Grading of tomatoes.

5. (1) All tomatoes delivered to the Board for export shall be graded in accordance with the provisions of this section.

(2) Subject to the provisions of subsections (3) to (6) both inclusive of this section, the grades of tomatoes shall be those set out in the first column of the First Schedule to this Ordinance and the tomatoes in those grades shall be within the size or weight ranges, as the case may be, specified in the third and fourth columns of that Schedule in relation to those grades respectively.

(3) Tomatoes in the PINK, PINK AND WHITE, PINK AND WHITE CROSS and WHITE grades shall be free from disease and blemishes including those known to prevent full red coloration on maturity, smooth skinned and round and substantially free from air pockets and in each container the tomatoes shall be reasonably uniform as to ripeness and colour.

(4) Tomatoes in the BLUE grade shall be free from disease, reasonably free from blemishes, distortion, discoloration and damage, substantially free from air pockets and in each container the tomatoes shall be reasonably uniform as to ripeness and colour.

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(5) Tomatoes in the DOMESTIC grade may be blemished and discoloured up to one-third of the area of the tomato but shall be fit for human consumption.

(6) Tomatoes in the SMALLS grade shall be free from disease, blemishes, distortion, discoloration and damage.

(7) The symbols set out in the second column of the First Schedule to this Ordinance shall, for the purposes of this Ordinance, be the prescribed symbols in relation to the grades of tomatoes set out in the first column of that Schedule opposite to those symbols respectively.

Powers and duties of Inspector.

6. (1) An inspector, on the production by him, if required, of a certificate of his appointment signed by the President of the Committee may at all times at any place appointed by the Committee for that purpose examine all tomatoes and the containers thereof which have been delivered or which are to be delivered to the Board for export and the Board or the occupier of any such place so appointed, as the case may be, shall offer such inspector reasonable facilities for such inspection.

(2) An inspector, at such times and places as aforesaid, may open or cause to be opened and may examine, weigh and count the contents of any container in which tomatoes so delivered or to be so delivered are packed and may order the removal of any load or consignment of tomatoes or of any part thereof from its place or position to any other place or position at or near any place appointed as aforesaid, at which such load or consignment is and may order the unloading or separation of any such load or consignment.

(3) An inspector, duly authorised in writing in that behalf by the

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President of the Committee, may cut open any tomatoes in the PINK, PINK AND WHITE, PINK AND WHITE CROSS, WHITE or BLUE grades delivered to the Board for export which he has reasonable cause to believe are not substantially free from air pockets.

(4) If on examining any container of tomatoes or the contents thereof delivered to the Board for export it shall appear to an inspector that any of the provisions of this Ordinance have been contravened, the inspector may, in his discretion, take action in one or other of the following manners, that is to say –

- (a) he may forbid the exportation of such container and its contents,
- (b) he may order that the load or consignment or any part thereof of which such container forms part be returned to the owner thereof and may require that the load or consignment or part thereof, if redelivered for export, be presented to him for inspection,

and he shall, as soon as may be thereafter, report the matter in writing to the Committee.

(5) An inspector may, as respects any tomatoes and the containers thereof examined by him under the foregoing provisions of this section, seize any such tomatoes and the containers thereof as he may deem necessary for the purposes of any prosecution under the provisions of this Ordinance.

(6) Where an inspector takes any action under subsections (4) or (5) of this section he shall forthwith inform the Board and the owner of the action taken.

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(7) In any case where under the provisions of this section the exportation of a container of tomatoes and the contents thereof has been forbidden by an inspector, or the return of a load or consignment or any part thereof of which such container forms part has been ordered by the inspector, and the container and the contents thereof, or the load or consignment or any part thereof, has not been collected by, or on behalf of, the owner by five o'clock in the afternoon on the second working day next following the day on which such exportation was forbidden or return was ordered, the inspector may, with the approval of the President of the Committee, confiscate and destroy or otherwise dispose of the container and the contents thereof, or the load or consignment or part thereof.

(8) The proceeds of disposal of any container and the contents thereof, or any load or consignment or part thereof disposed of for value after confiscation under the provisions of the last preceding subsection, shall be placed to the credit of the General Revenue of the States and if there be no such proceeds, or if such proceeds are less than the charges or expenses incurred by or on behalf of the inspector in respect of the detention, removal, storage or destruction or other disposal of the container and the contents thereof, or of the load or consignment or part thereof, the charges and expenses or the difference between the charges and the expenses and the proceeds, as the case may be, shall be payable by and recoverable as a civil debt from the owner.

PART II

Delivery of tomatoes to the Board under licence

Licence to deliver tomatoes to the Board otherwise than in accordance with Part I of this Ordinance.

7. (1) Notwithstanding any of the provisions of Part I of this

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Ordinance a person may, under and in accordance with a licence granted by the Committee in that behalf, deliver tomatoes or cause tomatoes to be delivered to the Board otherwise than in accordance with any of the provisions of Part I of this Ordinance.

- (2) The Committee may attach –
 - (a) any conditions to the grant of a licence under subsection (1) of this section,
 - (b) any further conditions to a licence granted under that subsection,

and may at any time vary or revoke any such conditions.

(3) Every person holding a licence granted under subsection (1) of this section shall comply with every condition attached for the time being to such licence.

(4) The Committee may at any time suspend or revoke a licence granted under subsection (1) of this section.

PART III

General

Saving.

8. Nothing in this Ordinance shall apply in relation to any tomatoes or the container thereof which are the subject of any experiment conducted by the Board in pursuance of paragraph (c) of subsection (1) of section two of the Tomato

Marketing (Guernsey) Law, 1952, as amended^a.

Persons deemed responsible for contraventions.

9. Any person whose name or whose identification number issued to him by the Board appears upon a container, the cover thereof or a label attached thereto, as the case may be, in respect of which or in respect of the contents of which, there is a contravention of this Ordinance, other than a contravention of subsection (10) of section one or of section four thereof, shall be deemed for the purposes of a prosecution under this Ordinance to be responsible for such contravention.

Penalties.

10. Except where otherwise specifically provided, any person who –

- (a) contravenes or attempts to contravene any of the provisions of this Ordinance or fails to comply with any condition attached to a licence under the provisions of section seven of this Ordinance, or
- (b) impedes or obstructs or attempts to impede or obstruct an inspector in the exercise of his duties under this Ordinance, or
- (c) refuses or neglects to obey a lawful order given by an inspector in the execution of his duties under this Ordinance,

shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level

^a Ordres en Conseil Vol. XV, p. 341.

4 on the uniform scale].

NOTE

In section 10, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Offences by bodies corporate.

11. Where an offence under this Ordinance which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other similar officer of the body corporate, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Interpretation.

12. In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them; that is to say –

"the Board" means the Guernsey Tomato Marketing Board incorporated under the provisions of the Tomato Marketing (Guernsey) Law, 1952, as amended,

"code number" means the number issued to a person by the Board for the purposes of identifying that person as the producer of the tomatoes in a container on which, in which, or attached to which, the number is displayed in accordance with the provisions of subsection (2) of section one of this Ordinance,

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"the Committee" means the States [Commerce and Employment Department],

"export" means export by way of trade,

"inspector" means a person appointed by the States [Policy Council] to execute and perform the powers and duties of an inspector under the provisions of this Ordinance,

"marked" means marked with a legible and waterproof mark,

"owner" means the person to whom the Board is accountable for the proceeds of the sale of tomatoes delivered to the Board for export,

"producer" means the person to whom a store packer is accountable for the proceeds of the sale of tomatoes delivered to the Board for export,

"round" means that the circumference of any section taken at right angles to a line running from stem to eye is approximately circular,

"store packer" means a person, other than the Board, carrying on the trade or business of packing and grading tomatoes,

"tomatoes" means fresh tomatoes grown in and intended for export from Guernsey.

NOTES

In section 12,

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the words in square brackets in the definition of the expression "the Committee" were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 10, with effect from 6th May, 2004;

the words in square brackets in the definition of the expression "inspector" 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 Committee for Horticulture 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 10, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

The functions, rights and liabilities of the Civil Service Board and of its President arising under or by virtue of this Ordinance 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.

Repeals.

13. The Ordinances set out in the left hand column of the Second Schedule to this Ordinance are hereby repealed to the extent set out in the right hand column of the said Schedule.

Citation.

14. This Ordinance may be cited as the Export of Tomatoes (Packing and Grading) Ordinance, 1980.

Commencement.

15. This Ordinance shall come into force on such date as the States Legislation Committee may by order appoint.

NOTE

The Ordinance was brought into force on 7th April, 1980 by the Export of Tomatoes (Packing and Grading) Ordinance, 1980 (Commencement) Order, 1980, article 1.

FIRST SCHEDULE

Section five

Grading of tomatoes and prescribed symbols

Grade	Prescribed symbol	Minimum Diameter Millimetres	Maximum Diameter Millimetres
Pink		57	67
Pink and White		47	57
Pink and White Cross		40	47
White		36	40
			Maximum Weight Grams
Blue		40	230
			Maximum Diameter Millimetres
Domestic		40	None
Smalls		33	36

SECOND SCHEDULE

Section thirteen*Repeals*

Ordinances repealed	Extent of repeal
The Export of Tomatoes (Packing and Grading) Ordinance, 1961 ^b .	The whole Ordinance.
The Export of Tomatoes (Packing and Grading) (Amendment) Ordinance, 1962 ^c .	The whole Ordinance.
The States Civil Service Board (Implementation) Ordinance, 1964 ^d .	The entries in the left and right hand columns of Part I of the Schedule relating to item (m).
The Export of Tomatoes (Packing and Grading) (Amendment) Ordinance, 1965 ^e .	The whole Ordinance.
The Export of Tomatoes (Packing and Grading) (Amendment) Ordinance, 1968 ^f .	So far as it remains unrepealed.
The Export of Tomatoes (Packing and Grading) (Amendment) (No. 2) Ordinance, 1968 ^g .	The whole Ordinance.

^b Recueil d'Ordonnances Tome XIII, p. 28.

^c Recueil d'Ordonnances Tome XIII, p. 83.

^d Recueil d'Ordonnances Tome XIV, p. 4.

^e Recueil d'Ordonnances Tome XIV, p. 121.

^f Recueil d'Ordonnances Tome XV, p. 326.

^g Recueil d'Ordonnances Tome XV, p. 411.

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The Export of Tomatoes (Packing and Grading) (Amendment) Ordinance, 1974 ^h .	The whole Ordinance.
The Export of Tomatoes (Packing and Grading) (Amendment) Ordinance, 1975 ⁱ .	So far as it remains unrepealed.
The Export of Tomatoes (Packing and Grading) (Amendment) Ordinance, 1979 ^j .	The whole Ordinance.

^h Recueil d'Ordonnances Tome XIX, p. 261.

ⁱ Recueil d'Ordonnances Tome XX, p. 237.

^j No. VII of 1979.