

GUERNSEY STATUTORY INSTRUMENT

1995 No. 2

The Food and Drugs (Labelling of Food) Order, 1995

Made 24th February 1995

Laid before the States ...

Coming into operation 1st. October 1995

THE STATES BOARD OF HEALTH, in exercise of the powers conferred on it by sections 7 and 47 of the Food and Drugs (Guernsey) Law, 1970, as amended (a), and of all other powers enabling it in that behalf, hereby orders:-

Interpretation

1. (1) In this Order, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:-

"aromatised wine" means vermouth or any other wine flavoured with aromatic extracts;

"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 for immediate consumption;

"confectionery product" means any item of chocolate confectionery or sugar confectionery;

"edible ice" includes ice-cream, water ice and fruit ice, whether alone or in combination, and any similar food;

"fancy confectionery product" means any confectionery product in the form of a figure, animal, cigarette or egg or in any other fancy form.

"flour confectionery" means any cooked food which is ready for consumption without further preparation (other than reheating), of which a characterising ingredient is ground cereal, including shortbread, sponges, crumpets, muffins, macaroons, ratafias, pastry and pastry cases, and also includes meringues, petits fours and uncooked pastry and pastry cases, but does not include bread, pizzas, biscuits, crispbread, extruded flat bread or any food containing a filling which has as an ingredient any cheese, meat, offal, fish, shellfish, vegetable protein material or microbial protein material;

(a) Ordres en Conseil, Vol. XXII, p. 412; Vol. XXV, p. 378; Vol. XXIX, p. 329.

"labelling", in relation to a food, includes any words, particulars, trade mark, brand name, pictorial matter or symbol relating to the food and appearing on the packaging of the food or on any document, notice, label, ring or collar accompanying the food;

"prepacked", in relation to a food, means put into packaging (including a confining band) before being offered for sale in such a way that the food, whether wholly or only partly enclosed, cannot be altered without opening or changing the packaging and is ready for sale to the ultimate consumer or to a catering establishment, and includes a food which is wholly enclosed in packaging before being offered for sale and which is intended to be cooked without opening the packaging and which is ready for sale to the ultimate consumer or to a catering establishment, but does not include individually wrapped sweets or chocolates which are not enclosed in any further packaging and which are not intended for sale as individual items;

"prepared meal" means any collection of two or more different foods which is suitable for consumption as a complete meal and which is ready for consumption without any further preparation;

"seasonal selection pack" means a pack consisting of confectionery products, or a mixture of confectionery products and chocolate products, which are wholly or partly enclosed in outer packaging decorated with seasonal designs;

"sell" includes offer or expose for sale and have in possession for sale, and "sale" and "sold" shall be construed accordingly;

"sparkling wine" includes aerated sparkling wine, semi-sparkling wine and aerated semi-sparkling wine;

"specific properties" means, in relation to a food, the natural characteristics of the food to which it refers;

"ultimate consumer" means any person who buys otherwise than -

- (a) for the purpose of resale,
- (b) for the purposes of a catering establishment, or
- (c) for the purposes of a manufacturing business;

(2) This Order does not apply to any food which is not intended for sale for human consumption.

2. For the purposes of this Order, the supply of food otherwise than by sale, at, in or from any place where food is supplied in the course of a business shall be deemed to be sale of that food.

General labelling requirement

3. All food to which this Order applies shall be marked or labelled with the appropriate durability indication, that is to say -

(a) in the case of a food other than one specified in sub-paragraph (b) of this section, an indication of the minimum durability;

(b) in the case of a food which, from the microbiological point of view, is highly perishable, a "use by" date.

Form of indication of minimum durability

4. (1) Subject to the following subsections of this section, the minimum durability of a food shall be indicated by -

(a) the words "best before" followed by the date up to and including which the food can reasonably be expected to retain its specific properties if properly stored, and

(b) any storage conditions which need to be observed if the food is to retain its specific properties until that date.

(2) The date in the indication of minimum durability shall be expressed in terms of a day, month and year, in that order, except that -

(a) in the case of a food which can reasonably be expected to retain its specific properties for three months or less, it may be expressed in terms of a day and month only,

(b) in the case of a food which can reasonably be expected to retain its specific properties for more than three months but not more than eighteen months it may be expressed in terms of a month and year only, if the words "best before" are replaced by the words "best before end", and

(c) in the case of food which can reasonably be expected to retain its specific properties for more than eighteen months it may be expressed

either in terms of a month and year only or in terms of a year only, if (in either case) the words "best before" are replaced by the words "best before end".

(3) The date up to and including which a food can reasonably be expected to retain its specific properties if properly stored may appear on the labelling of a food separately from the words "best before" or "best before end", as the case may be, provided that those words are followed by a reference to the place where the date appears.

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Form of indication of "use by" date

5. (1) Where the "use by" date is required in respect of a food it shall be indicated by -

- (a) the words "use by" followed by the date up to and including which the food, if properly stored, is recommended for use; and
- (b) any storage conditions which need to be observed.

(2) The "use by" date shall be expressed in terms either of a day and a month (in that order) or of a day, a month and a year (in that order).

(3) The date up to and including which a food is required to bear a "use by" date is recommended for use may appear separately from the words "use by", provided that those words are followed by a reference to the place where the date appears.

Foods which need not bear an indication of minimum durability or a "use by" date

6. The following foods need not be marked or labelled with an indication of minimum durability or a "use by" date -

- (a) fresh fruit and vegetables (including potatoes but not including sprouting seeds, legume sprouts and similar products) which have not been peeled or cut into pieces;
- (b) any drink with an alcoholic strength by volume of 10 per cent or more;
- (c) wine, liqueur wine, sparkling wine, aromatized wine and any similar drink obtained from fruit other than grapes and any drink made from grape or grape musts;
- (d) any soft drink, fruit juice or fruit nectar or alcoholic drink, sold in a container containing more than 5 litres and intended for supply to catering establishments;
- (e) flour confectionery and bread which are normally consumed within 24 hours of their preparation;
- (f) vinegar;
- (g) cooking and table salt;
- (h) solid sugar and products consisting almost solely of flavoured or coloured sugars;
- (i) chewing gums or similar products;
- (j) edible ices in individual portions;

- (k) individually wrapped fancy confectionery products which are not enclosed in any further packaging and which are intended for sale as individual items;
- (l) food which is not prepacked;
- (m) food which is prepacked and is sold at a catering establishment for immediate consumption there;
- (n) flour confectionery which is packed either in a crimp case only or in wholly transparent packaging which bears no mark, label or advertisement other than the price;

Intelligibility

- 7 (1) The particulars with which a food is required to be marked or labelled shall be easy to understand, clearly legible and indelible and, when food is sold to the ultimate consumer, the said particulars shall be marked in a conspicuous place in such a way as to be clearly visible.
- (2) Such particulars shall not in any way be hidden, obscured or interrupted by any other written or pictorial matter.
- (3) Subsections (1) and (2) of this section shall not be taken to require any particulars to appear on the outer packaging of a seasonal selection pack, provided that each item contained in the pack is individually prepacked and is marked or labelled in accordance with this Order.

Field of vision

8. Where a food is required to be marked with an indication of minimum durability or, as the case may be, of a "use by" date, that indication shall appear in the labelling of the food in the same field of vision as the name of the food.

Offences and Penalties

9. Any person who -
- (a) sells any food which is not marked or labelled in accordance with the provisions of this Order, or
 - (b) sells any food after the date shown in a "use by" date relating to it, or
 - (c) where any food has been marked or labelled in accordance with the provisions of this Order, alters the marking or labelling prior to the sale of that food

shall be guilty of an offence and liable upon conviction to a fine not exceeding level 3 on the uniform scale or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

Defences

10. In any proceedings for an offence against this Order in connection with the sale of any food which is not marked or labelled in accordance with the provisions of this Order, it shall be a defence for the defendant to prove that before offering the food for sale he would have taken all reasonable steps to ensure that the food was marked or labelled in accordance with the provisions of this Order.

Extent

11. This Order shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

Citation

12. This Order may be cited as The Food and Drugs (Labelling of Food) Order, 1995.

Commencement

13. This Order shall come into force on the 1st day of October, nineteen hundred and ninety-five.

Dated this 24th day of ~~January~~^{February}, nineteen hundred and ninety-five.
SM



S. M. PLANT
President of the States Board of Health
for and on behalf of the Board



EXPLANATORY NOTE

(THIS NOTE DOES NOT FORM PART OF THE ORDER)

The purpose of the Order is to introduce a "use by" date to help to ensure that highly perishable food is used safely and to introduce "best before" and "best before end" dates to be used for other foods to help to ensure that they are used at their best.

Certain foods do not have to carry a datemark. Some, such as fresh fruit, vegetables and some cakes, are normally bought for use within a very short period and it is clear when their quality is deteriorating. Food that is not prepacked is not required to carry a datemark. Others, such as alcoholic drinks, sugar, salt and vinegar last for such a long time that a datemark is unnecessary.



This Order makes it illegal to sell any food after its "use by" date and for anyone, other than the manufacturer, to change a datemark after it has been set.