



Jersey

## FOOD SAFETY (EAT SAFE RATING) (JERSEY) ORDER 2017

### Arrangement

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## FOOD SAFETY (EAT SAFE RATING) (JERSEY) ORDER 2017

*Made**30th October 2017**Coming into force**in accordance with Article 10*

**THE MINISTER FOR THE ENVIRONMENT**, in pursuance of Articles 17 and 58 of the Food Safety (Jersey) Law 1966<sup>1</sup>, orders as follows –

### 1 Interpretation

In this Article –

“appeal” means an appeal against the allocation of a rating under Article 5;

“certificate” means a certificate recording that the food business named in the certificate has been allocated the rating indicated in the certificate on the date there indicated;

“Eat Safe rating” and “rating” have the meaning assigned by Article 2(1);

“Eat safe sticker” means a sticker displaying the Eat Safe rating allocated to a food business;

“food hygiene requirements” means the requirements in respect of food hygiene that apply to food businesses under the Law and the Food Hygiene (General Provisions) (Jersey) Order 1967<sup>2</sup>;

“Law” means the Food Safety (Jersey) Law 1966<sup>3</sup>;

“notification” means a notification under Article 2(2);

“operator” means the person in charge of a food business;

“remote-ordering food business” means a food business that enables a person to order and receive food without visiting the food premises, whether or not food may also be picked up from, or consumed on, the premises;

“re-rating” has the meaning assigned by Article 4;

“valid Eat Safe sticker” means an Eat Safe sticker that reflects the Eat Safe rating of the food business in respect of which it is issued that has not ceased to be valid under Article 3.

**2 Allocation and notification of Eat Safe rating**

- (1) Paragraph (2) applies where an authorized officer has inspected food premises under Article 41 of the Law and allocated an Eat Safe rating to the food business to which those premises relate based on the food hygiene requirements and any further criteria published by the Minister as applicable to the allocation of Eat Safe ratings.
- (2) Within 14 days of that inspection the Minister must send to the operator of the food business –
  - (a) a written notification of the Eat Safe rating allocated to that business;
  - (b) if the rating is a lower rating than that most recently allocated or if this is the first time the food business has been assessed while the current operator is in charge of it, written reasons for the rating;
  - (c) an Eat Safe sticker and certificate, if this is the first time the food business has been assessed while the current operator is in charge of it or the allocated Eat Safe rating has changed since the last inspection;
  - (d) the right of the operator to request a re-rating and his or her right to appeal; and
  - (e) such additional information as the Minister considers appropriate.
- (3) Eat Safe stickers and certificates remain the property of the Minister.

**3 Validity of Eat Safe rating**

An Eat Safe rating (the “existing rating”) ceases to be valid in the following cases –

- (a) when the operator of the food business to which the existing rating applied receives notification of a new Eat Safe rating and, if that new rating is different from the existing rating –
  - (i) the period of 21 days for an appeal has expired, or
  - (ii) if an appeal has been made, it has been determined with the result being the allocation of a rating different from the existing rating and the operator of the food business has been notified of the result of the appeal; or
- (b) when there has been a transfer of ownership of the food business or it has ceased to trade.

**4 Request for re-rating**

- (1) Where the operator of a food business considers that sufficient improvements have been made to the food premises relating to that business or the practices of the business to justify a change in the Eat Safe rating allocated to that business he or she may write to the Minister requesting a further inspection of the premises by an authorized officer and a re-rating of the business.
- (2) However, no request under this Article may be entertained –

- (a) unless not less than 3 months have passed since the last inspection;
  - (b) while an appeal is pending; or
  - (c) if the operator has failed to supply details of the improvements made, including any evidence in support.
- (3) Where the Minister receives a request for re-rating in accordance with this Article, the Minister must within 1 month of receiving that request –
  - (a) instruct an authorized officer to inspect the food premises within 3 months of that receipt and re-rate them; or
  - (b) notify the operator that his or her request for re-rating is refused and the reasons for that decision.
- (4) Where so instructed by the Minister under paragraph (3)(a), an authorized officer must carry out a further inspection of the food premises, allocate an Eat Safe rating and notify the operator of the food business to which the premises relate in accordance with Article 2.
- (5) For clarity, nothing in this Article affects the validity of an Eat Safe rating unless a different Eat Safe rating is allocated to the businesses concerned and the operator has received a notification.

## **5 Appeals**

- (1) The operator of a food business may appeal against an Eat Safe rating within 21 days of receipt of the notification in the manner and form specified by the Minister.
- (2) The appeal may be made on either or both of the following grounds –
  - (a) that the rating does not properly reflect the food hygiene standards of the food premises at the time of the inspection;
  - (b) that the rating criteria were not applied correctly.
- (3) Following receipt of the appeal the Minister may cause a further inspection of the food premises by a different authorized officer.
- (4) The Minister must determine the appeal by deciding the appropriate Eat Safe rating to be allocated to the food business and within 14 days give to the operator who has made the appeal written reasons for his or her decision.
- (5) If the Minister decides on appeal to allocate a different Eat Safe rating to the food business, the Minister must within 14 days of that decision send to the operator –
  - (a) written notification of the revised Eat Safe rating;
  - (b) a new Eat Safe sticker and certificate;
  - (c) the right of the operator to request a re-rating under Article 4; and
  - (d) such additional information as the Minister considers appropriate.
- (6) Without limiting any other rights a person may have to bring proceedings in any court, the Minister's decision on the appeal is final.

**6 Requirement to display Eat Safe sticker**

- (1) Where Article 2(2) applies the operator must display the Eat Safe sticker sent to the operator under that paragraph in accordance with this Article.
- (2) However, the requirement set out in paragraph (1) does not apply until –
  - (a) the period of 21 days for an appeal against the new Eat Safe rating has expired; or
  - (b) if an appeal has been made, it has been determined and the operator of the food business has been notified of the result of the appeal.
- (3) The operator must ensure that a valid Eat Safe sticker relating to the food business is displayed at or near all entrances of the food premises to which it relates and to which the public are intended to have access, or if the public do not have access to those premises, in a conspicuous place at the premises where it can be readily seen and easily read by any potential customer of the business when it is open for business.
- (4) If the operator is required to display a valid Eat Safe sticker under this Article at or near an entrance where other food businesses are required to display such a sticker, the operator must identify the food business to which the sticker he or she is required to display relates.
- (5) If the food business operates from a van or other place that is mobile or temporary, the operator must display a valid Eat Safe sticker on that van or other place where it can be easily seen by any potential customer of the business.
- (6) The Eat Safe sticker ceases to be valid when the Eat Safe rating allocated to the food business ceases to be valid and such a sticker must be removed and returned to the Minister unless an authorized officer directs otherwise.
- (7) For clarity, the display of a certificate is optional.
- (8) The Minister must supply such Eat Safe stickers as an operator needs in order to comply with this Article, and where an operator has requested the supply of further Eat Safe stickers to meet the requirements, the operator is treated as having complied with this Article, to the extent that those stickers would enable him to comply with it, until the stickers are received.

**7 Requests for information about Eat Safe rating**

- (1) The operator must ensure that every employee in relation to the food business who is likely to come into contact with a member of the public in the course of that employment is aware of the Eat Safe rating allocated to that business.
- (2) The operator and any employee mentioned in paragraph (1) who is asked by any person, whether in person or by any other means of communication, what is the Eat Safe rating of the food business, must comply with that request, and if that request is made orally the reply must be given orally at the time of the request.

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**8 Promotion of Eat Safe rating**

- (1) Paragraph (2) applies where –
  - (a) a food business has a website; or
  - (b) a customer of a remote-ordering food business is able to order food from that business via its promotional material, whether in print form or online, without the need to visit its website,and the operator of the business has not elected to comply with paragraph (3).
- (2) Where this paragraph applies the operator of the food business must include on its website or, in the circumstances mentioned in paragraph (1)(b), on its promotional material, a statement inviting the reader –
  - (a) to visit the official States of Jersey website that will enable him or her to find out the Eat Safe rating for that business, including the address of that website; or
  - (b) to phone the business to ask for the Eat Safe rating, supplying a telephone number for the business.
- (3) If the operator of a food business elects to display the Eat Safe rating allocated to that business on any of its promotional material, whether in print form or online, the operator must –
  - (a) display the rating that is valid;
  - (b) ensure that the rating appears in a conspicuous place on the promotional material so that it is easily seen by readers;
  - (c) if the promotional material relates to more than one food business or premises, display the rating so that it is clear to which business or premises it relates; and
  - (d) comply with any other requirement specified for the purposes of the Eat Safe scheme and published by the Minister.
- (4) Where a third party makes available to the public any promotional material relating to a remote-ordering food business, whether in print form or online, the third party must comply with paragraph (1) as if the third party was the operator of the business.

**9 Offences**

A person who, without reasonable excuse –

- (a) fails to display a valid Eat Safe sticker in accordance with Article 6;
- (b) displays an Eat Safe sticker or something that is capable of being recognized by a member of the public as being an Eat Safe sticker but which is not a valid Eat Safe sticker;
- (c) displays an Eat Safe sticker that has been tampered with in such a way as to make it misleading to the public;
- (d) except as authorized by or on behalf of the Minister, intentionally alters, defaces, destroys, tampers with or fails to retain an Eat Safe sticker or

gives an Eat Safe sticker away to any person other than an authorized officer;

- (e) being an operator, fails to comply with Article 7(2) or gives false or misleading information in response to a request under that Article, whether personally or where the failing to comply or giving of false information is done by an employee;
- (f) fails to comply with Article 8,

is guilty of an offence and liable to a fine of level 2 on the standard scale.

#### **10 Citation and commencement**

- (1) This Order may be cited as the Food Safety (Eat Safe Rating) (Jersey) Order 2017 and subject to paragraph (2) comes into force on 1st December 2017.
- (2) Article 8 and Article 9(f) come into force on 1st June 2018.

**DEPUTY S.G. LUCE OF ST. MARTIN**

*Minister for the Environment*

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- <sup>1</sup> *chapter 20.225*
  - <sup>2</sup> *chapter 20.225.22*
  - <sup>3</sup> *chapter 20.225*