

STATES OF JERSEY



DRAFT FOOD (JERSEY) LAW 202- (P.105/2022):COMMENTS

**Presented to the States on 2nd December 2022
by the Environment, Housing and Infrastructure Scrutiny Panel
Earliest date for debate: 13th December 2022**

STATES GREFFE

COMMENTS

Background

The Draft Food (Jersey) Law 202- [[P.105/2022](#)] (hereafter the “draft Law”) was lodged “au Greffe” on 1st November 2022 by the Minister for the Environment. If adopted, the draft Law will regulate food for the purposes of protecting human health and consumers’ interests in Jersey.

The Environment, Housing and Infrastructure Scrutiny Panel (hereafter “the Panel”) was briefed on the draft Law by Government officials on 28th September 2022. The Panel was advised that the purpose of the draft Law is to replace the current outdated Food Safety (Jersey) Law 1966 which would enable a more modern approach with the use of intelligence-led and risk-based assessments with regards to food safety auditing. This would include the employment of food safety auditors that are not government auditors but are instead accredited food safety auditors from external organisations.

It was explained that the objective of the move towards intelligence-led, risk-based assessments is to carry out inspections more efficiently. Those food businesses which carry out best practice, are already compliant with the law and achieving the highest rating may not be required to be audited as frequently as those who are not performing as well. This would enable more time to be afforded to those businesses which need the assistance to get up to the level they need to be at. The Panel was advised that there was currently already a backlog of inspections due to the Covid-19 pandemic and staff resources having previously been redeployed to contact tracing teams.

The Panel was further advised that the draft Law includes more proportionate ways that notices could be issued moving forward. The aim of which would be to assist businesses when minor notices are issued so they are able to remain functional and open for business, whilst the required improvements are made. This was deemed a necessary proportionate measure within the draft Law, as the current outdated legislation was seen to be either too strict or too lenient and there was currently no middle ground for businesses that may have only minor changes to make. The example provided was of a fridge that was broken and needed to be fixed but didn’t necessitate that the food business be closed whilst this was addressed. The Panel was advised that the aim is to keep businesses open, and that prosecution would always be a last resort.

Free-trade agreements

The Panel was informed that, following Brexit, the importance of free-trade agreements and the food standards that came with these agreements became of the upmost importance. Since the 1st of January 2021, the transition period with the European Union (EU) ended, and Jersey now operates a full, external border, as determined by the Island’s obligations under the United Kingdom (UK)-Crown Dependencies (CD) customs arrangement. This means that controls are placed on the movement of goods between Jersey and the EU.

The Panel was informed that the Draft Food (Jersey) Law 202- began as a review of the food hygiene laws as Jersey currently operates under the current Food Safety (Jersey) Law 1966 law, which is considered no longer fit for purpose for the reasons which have been outlined in the report to the proposition. However, whilst reviewing the hygiene laws Brexit occurred and instigated the need for new regulatory laws to respond to

changes brought about by the UK's exit from the European Union. The Panel was advised that the legislation has not changed significantly in principle. The main additions are around importing/exporting requirements and updated consumer protection with allergen provision and labelling requirements (stemming from UK labelling and allergen requirements).

It was explained to the Panel that Jersey would need to follow the UK and/or the EU regulations with regards to labelling as, due to the free-trade agreement between the UK and Jersey, Jersey cannot demand that importers label differently those products being sold into Jersey. There would, however, be the possibility of adding additional labelling, such as 'low welfare' stickers, when those products arrived at Jersey customs. The Panel queried whether Jersey would be in a position to be able to ban the importation of certain products, e.g. chlorinated chicken. Government officers advised that Jersey would not be in a position to ban products but could find a way to better inform the consumer by requiring the product be clearly labelled. Using the example of chlorinated chicken, Jersey could not ban the chicken being imported into Jersey, however, additional labelling could be required to inform consumers so they can make an informed choice of whether to purchase the product or not. However, it was noted that additional labelling requirements comes with additional cost and resource need that would need to be considered further.

Public consultation

The Panel was advised that the Government of Jersey carried out a public consultation on the draft Law proposals in 2019 and that the Infrastructure, Housing and Environment Department is continuing to work closely with the food industry. The Panel was further advised that the general feedback received during the consultation was that the industry supported the proposed new legislation as it would ensure fairness across the industry and would also protect businesses' reputations.

On lodging of the draft Law, the Panel reached out to various representative bodies to invite their feedback on the proposed draft Law. The Panel received one submission from a food business [see Appendix]. No other feedback, positive or negative, was received by the Panel.

Enforcing the law - staffing and recruitment

The Panel notes from the report to the proposition that the Environmental and Consumer Protection Team will enforce the proposed legislation within its existing budget and headcount. During the briefing the Panel was advised that, as with most sectors across the Government of Jersey, the Regulation Directorate is facing challenges in terms of staffing and manpower. In an effort to recruit the candidates they need to fill the vacant roles, the Panel was advised that the Infrastructure, Housing and Environment Department was looking into long term solutions and had created apprenticeships to train up local candidates with the requisite skills and qualifications.

Southern supply route

The Panel was briefed that the southern supply route from France is currently being explored as something the Government of Jersey wishes to expand. Through this proposed legislation the aim was to ensure that Jersey can trade with the EU and would be able to assure the UK that products will not be re-exported to the UK if the products

do not meet UK standards. It was explained that Jersey is in a complicated, but also privileged position, in that it can decide to meet higher EU standards but can also accept UK standards. The Panel was informed that officers are working closely with French authorities to understand their requirements and legislation in a collaborative manner.

Conclusion

Subject to the concerns highlighted above in respect of Jersey's inability to ban the importation of certain lower-welfare products, such as chlorinated chicken, the Panel is generally supportive of the proposition. The Panel recommends that labelling requirements are investigated further regarding the importation of lower welfare products; and requests that the Minister for the Environment responds to the Panel prior to the States' debate week commencing 12th December 2022 to advise whether this will be investigated and what, if any, assurances can be provided in this regard.

The Panel would further request whether the Minister could clarify in his response whether the points raised in the written submission received by the Panel [see Appendix 1] would be considered under subordinate draft regulations (Article 20 – Labelling and description of food).

Finally, the Panel notes there is provision under Article 5 of the draft Law to enable the Minister to publish a code of practice to provide practical guidance in respect of the legislation. The Panel would be grateful if the Minister could advise in his response what plans there are, if any, for a code of practice and/or guidance to be provided to support industry, including the anticipated timeframe for any such guidance being produced.

Appendix 1 – Written Submission received on 21st November 2022 from Michelle Rossini dela Cruz (Skinnisnax via Jersey Business / Jersey Retail Association)

Good Morning,

I have had the opportunity of reading the Draft Food Law Proposal 2022, which was forward to myself by Jersey Business.

There are a couple of recommendations, I would like to make.

1. There is little or no mention of foreign body detection or eating hazards to children. Allergies, diet and risk awareness is also key. Whilst food additives, E numbers, nitrites and nitrates, caffeine and caffeine for flavouring and sweeteners should be identified with allergens on packaging: choking hazards to children should also be identified. i.e. olives, nuts etc.,
2. The packaging should clearly indicate how the product should be stored once opened. i.e. store in a cool, dry container, once opened. Identification of longevity of the product once opened should also be stated. i.e. consume within 2 days once opened.
3. Nuts. This is clearly identified as an allergen but care should be taken to identify where the product is produced. A statement on the packaging should clearly identify if the product is produced in a facility where pine nuts, tree nuts and ground nuts maybe present. This is essential to establishing whether cross contamination is present. Similarly with dairy and other allergens (if relevant) etc., Consideration should be made to fried products and oils used.
4. I note that third party consultations, does not mention the medical profession.

Should you require further clarification or assistance, please do not hesitate to contact me.

Kind Regards
Michelle