

**FOOD (GENERAL) REGULATION 1997**  
under the  
**FOOD ACT 1989**

**UPDATED 1 JUNE 1999**

**INCLUDES AMENDMENTS (SINCE GAZETTAL OF 29.8.1997) BY:**  
Gazette No 63 of 28.5.1999, p 3608

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[STATE ARMS]

New South Wales

## **Food (General) Regulation 1997**

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## Food (General) Regulation 1997

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Food (General) Regulation 1997*.

#### 2 Commencement

This Regulation commences on 1 September 1997.

#### 3 Definitions

(1) In this Regulation:

*fish* includes a crustacean and a bivalve mollusc (including an oyster with or without the shell).

*Food Standards Code* has the same meaning as in the *Food Standards Code (Incorporation) Regulation 1995*.

*frozen food* means food that has been prepared by freezing and that is intended to be sold in a frozen state.

*Kangaroo Meat Code* means the code referred to in clause 66.

*the Act* means the *Food Act 1989*.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

#### 4 Application of Regulation

This Regulation applies to and in respect of food for sale, and does not apply to or in respect of food that is not for sale.

#### 5 Effect of provisions that prohibit conduct

A provision of this Regulation that prohibits a person from doing anything operates also to prohibit the person from causing or permitting that thing to be done, and a person who causes or permits such a thing to be done is guilty of an offence against that provision in the same way as if the person had done that thing.

#### 6 Repeal

(1) The *Food (General) Regulation 1992* is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the *Food (General) Regulation 1992*, had effect under that Regulation continues to have effect under this Regulation.

#### 7 Notes

The explanatory note and table of contents do not form part of this Regulation.

### Part 2 Food premises and vehicles

#### Division 1 Construction

##### 8 Premises and vehicles in which food is handled to comply with this Division

A person must not handle food in any premises or vehicle if the premises do not, or the vehicle does not, comply with the requirements of this Division.

Maximum penalty: 25 penalty units.

##### 9 General construction of premises

Any premises in which food is handled must be constructed:

- (a) so that food, equipment, appliances, fittings and packaging materials on the premises are protected from likely contamination, and
- (b) so as to permit the premises to be easily cleaned.

##### 10 Construction of walls and ceilings of premises

The walls and ceilings of any premises in which food is handled must be properly constructed of a rigid smooth-faced impervious material and must be kept in good repair.

##### 11 Construction of floors of premises

- (1) The floors of any premises in which food is handled must be properly constructed of a rigid material and must be kept in good repair.
- (2) Any floor onto which liquids are discharged must be made of impervious material, must have coving (with a minimum radius of 25 millimetres) at the intersection of the walls and floor and must have surfaces that are graded to floor trapped waste outlets connected to a drainage system.

## **12 Lighting of premises**

- (1) Any premises in which food is handled must be provided with adequate natural or artificial lighting.
- (2) Lighting is adequate if it complies with the Australian/New Zealand Standard AS/NZS 1680.2.4:1997 (*Interior Lighting Part 2.4: Industrial tasks and processes*) published jointly by Standards Australia and Standards New Zealand, as in force from time to time.

## **13 Construction of vehicles**

- (1) Any vehicle in which food (other than pre-packed food, whole fresh fruit or whole fresh vegetables) is prepared, preserved, packed, decorated or served or sold:
  - (a) must have its driving section separated by a door from, and sealed off from, the part of the vehicle in which the food is prepared, preserved, packed, decorated or served or sold, and
  - (b) must have any of its fixtures, fittings and appliances that come into contact with food constructed of suitable impervious material that is able to be easily cleaned, and
  - (c) must be provided with a holding tank that can hold all waste water from the vehicle or must be connected to an appropriate waste disposal system.
- (2) The part of the vehicle in which food is prepared, preserved, packed, decorated or served or sold:
  - (a) must be fitted, equipped and maintained so as to protect the food from being contaminated by persons, dust, vermin, animals, fumes likely to be taken up by the food (either directly or indirectly), foul odours and other likely sources of contamination, and
  - (b) must be dustproof while the vehicle is moving, and
  - (c) must have interior surfaces that are properly constructed of a rigid smooth-faced impervious material.

## **14 Wash basins**

- (1) Any premises or vehicle in which food is handled must be provided with a wash basin in or convenient to:
  - (a) each lavatory situated in the premises or vehicle, and
  - (b) every part of the premises or vehicle in which hands are likely to be a source of contamination of food.
- (2) A wash basin provided in accordance with this clause:
  - (a) must be provided with an adequate supply of potable water at a temperature of at least 40°C mixed from a hot and cold water supply, and
  - (b) must be supplied with soap or a suitable detergent and an adequate supply of single use towels or other suitable hand drying facilities, located adjacent to the wash basin, and
  - (c) must be connected to:
    - (i) a holding tank that can hold all waste water from the premises or vehicle, or
    - (ii) some other appropriate waste disposal system, and
  - (d) must be kept in a clean and sanitary condition and in good repair, and
  - (e) must not be used for any purpose other than washing hands.
- (3) This clause does not apply to a vehicle in which the food handled is kangaroo meat, if the vehicle is licensed as a class 4 meat van under the *Meat Industry (Licensing) Regulation 1996* and complies with the *Kangaroo Meat Code*.

## **15 Washing facilities for eating and drinking utensils**

- (1) Any premises or vehicle in which food is prepared for customers:

- (a) for consumption on the same premises or vehicle, or
  - (b) for consumption on some other premises or vehicle (being the premises or vehicle on which it is sold or otherwise provided),
- must be provided with a dish washing machine, a glass washing machine (if appropriate), a double bowl sink or a tub containing 2 compartments.
- (2) A double bowl sink or 2 compartment tub:
- (a) must have one bowl or compartment supplied with potable water at a temperature of at least 45°C and sufficient soap or detergent to wash utensils, and
  - (b) must have the other bowl or compartment supplied with potable water at a temperature of at least 77°C for use for rinsing utensils.
- (3) A thermometer, accurate to 1°C, is to be provided adjacent to the sink or tub.
- (4) A dish washing machine:
- (a) must be connected to a water supply that provides potable water to the machine at a minimum temperature of 60°C, and
  - (b) must be designed and equipped to automatically provide and maintain the following conditions during each cycle of operation:
    - (i) the temperature of the water (measured at the outlet of the wash spray assembly) is to be at least 55°C,
    - (ii) the minimum machine setting for the wash cycle time is to be at least 60 seconds,
    - (iii) the temperature of the water in the rinse tank is to be at least 82°C,
    - (iv) the rinse cycle time is to be at least 10 seconds,
    - (v) the temperature of rinse water (measured at the outlet of the rinse spray assembly) is to be at least 77°C, and
  - (c) must be fitted with controls that prevent the machine from being operated unless:
    - (i) the temperature of the water in the wash tank is at least 60°C, and
    - (ii) the temperature of the water in the rinse tank is at least 82°C, and
  - (d) must be designed and equipped to use sufficient appropriate soap or detergent in the wash tank to clean eating utensils and drinking utensils adequately, and
  - (e) must be able to wash eating utensils and drinking utensils completely in one operation, and
  - (f) must be fitted with:
    - (i) separate thermometers (visible to the operator and accurate to within 1°C) to indicate the temperature of the water in the wash tank and rinse tank, or
    - (ii) separate pilot lights (visible to the operator and accurate to within 1°C) to indicate that the water in the wash tank and rinse tank is at the temperatures required by paragraph (c).
- (5) The provisions of subclause (4) (a), (b), (c) and (d) do not apply to a dish washing machine that cleans by chemical sanitising.
- (6) A glass washing machine:
- (a) must be connected to a water supply that provides potable water to the machine at a minimum temperature of 60°C, and
  - (b) must be designed and equipped to automatically provide and maintain the following conditions during each cycle of operation:
    - (i) the temperature of the water in the rinse tank is to be at least 82°C,
    - (ii) the rinse cycle time is to be at least 10 seconds,

- (iii) the temperature of the water measured at the outlet of the rinse spray assembly is to be at least 77°C, and
- (c) must be fitted with controls that prevent the machine from being operated unless the temperature of the water in the rinse tank is at least 82°C, and
- (d) must be designed and equipped to use sufficient appropriate soap or detergent in the wash cycle to clean glasses adequately, and
- (e) must be able to wash glasses completely in one operation, and
- (f) must be fitted with:
  - (i) a thermometer (visible to the operator and accurate to within 1°C) to indicate the temperature of the water in the rinse tank, or
  - (ii) a pilot light (visible to the operator and accurate to within 1°C) to indicate that the water in the rinse tank is at the temperature required by paragraph (c).

(7) This clause does not apply to premises or a vehicle if disposable eating or drinking utensils only are provided to customers for consumption of the food prepared in the premises or vehicle.

#### **16 Other fittings, fixtures and appliances**

Fixtures, fittings or appliances in any premises or vehicle must be able to be easily cleaned and must be constructed so as not to be likely to harbour vermin.

### **Division 2 Use**

#### **17 Certain premises not to be used to handle food or to sell food**

(1) A person must not handle food or sell food:

- (a) in a room which contains a bed or bedding or is used as a sleeping apartment, or
- (b) in premises in which an animal (other than a fish) or bird is kept or allowed to be, or
- (c) in premises in which work that would or may contaminate or injuriously affect the wholesomeness, quality or purity of food is being or has been carried out, or
- (d) in premises in which there is a gully trap or untrapped opening connected directly to a drain or sewer, or
- (e) in a lavatory or changeroom, or
- (f) in a room that opens onto a room containing a lavatory or changeroom, or
- (g) in premises in which second-hand clothing, footwear or printed material is received.

Maximum penalty: 25 penalty units.

(2) Subclause (1) (g) does not apply to a place where second-hand clothing is received:

- (a) if the clothing is received in a part of the place that is separate from the part in which food is handled or sold, or
- (b) if the clothing is not handled by any person who handles or sells food, or
- (c) if food is packaged in sealed packages that do not come in contact with the clothing.

#### **18 Animals and birds not to be kept on premises**

A person must not take an animal (other than a fish) or bird into, or allow an animal (other than a fish) or bird to enter or be in:

- (a) any premises that are used for the purpose of handling food, or
- (b) any part of a vehicle that is used for the purpose of storing or conveying food.

Maximum penalty: 25 penalty units.

#### **19 Premises used to handle food for domestic use or consumption**

A person must not handle food in premises used to handle food for domestic consumption unless:

- (a) the food for domestic consumption and the premises, and



- (b) the fittings, fixtures and appliances used in the premises in connection with handling the food for domestic consumption, comply with the Act and this Regulation.  
Maximum penalty: 25 penalty units.

## **20 Use of vehicles**

- A person must not use any vehicle that is used for the purpose of storing or conveying food for any purpose that may contaminate or injuriously affect the wholesomeness, quality or purity of the food.  
Maximum penalty: 25 penalty units.

## **Division 3 Particular premises**

### **21 Premises used for bottling wines and spirits**

- (1) A person must not use for any other purpose any premises that are used for the purpose of bottling wine, spirits, wine products or liqueurs.  
Maximum penalty: 25 penalty units.
- (2) This clause does not prevent a part of premises from being used for another purpose if the part of the premises being used for the purpose of bottling wine, spirits, wine products or liqueurs is completely enclosed within and separate from the rest of the premises.

## **Part 3 Food appliances**

### **22 Appliances generally**

- A person who handles food must not use an appliance unless it is clean and is able to be easily cleaned and kept clean.  
Maximum penalty: 25 penalty units.

### **23 Use of broken utensils**

- A person must not use any chipped, broken or cracked eating or drinking utensil for the purpose of storing or delivering food.  
Maximum penalty: 25 penalty units.

### **24 Use of certain metals**

- (1) A person must not sell for use as a food container any article (other than ceramic ware, earthenware or pottery) if, when treated:
- with a 2 per cent aqueous citric acid test solution, and
  - for a period of 24 hours, and
  - at a temperature of at least 20°C but not more than 25°C,
- any edge or surface of the article that is likely to come into contact with food reacts in such a way that, at the end of the period, the test solution contains a metal specified in the Table to this clause in a concentration greater than that specified in relation to that metal.  
Maximum penalty: 25 penalty units.
- (2) In carrying out the test, only the edges and surfaces of the article that are likely to come into contact with food are to be treated with the test solution.
- (3) A person must not sell for use as a food container or appliance any ceramic ware, earthenware or pottery that does not comply with British Standard BS 6748:1986 (*Limits of metal release from ceramic ware, glassware, glass ceramic ware and vitreous enamel ware*) published by the British Standards Institution, as in force from time to time.  
Maximum penalty: 25 penalty units.

## **Table**

### **Metal**

### **Concentration**

antimony .....0.15 milligrams per litre.....

cadmium .....	0.05 milligrams per litre.....
copper .....	5.00 milligrams per litre.....
lead	0.20 milligrams per litre
zinc	50.00 milligrams per litre

## **25 Use of certain other materials**

A person must not use any paper, rag, bagging or other absorbent material (for packing or for any other purpose) in the interior of any appliance used in the preparation of food.

Maximum penalty: 25 penalty units.

## **Part 4 Food hygiene**

### **26 Personal cleanliness**

- (1) A person must not handle food unless the person is clean and is wearing clean clothing.

Maximum penalty: 25 penalty units.

- (2) A person who handles food must thoroughly clean his or her hands, by washing them with soap or detergent and potable water or by means of some other suitable cleaning process:

- (a) immediately before commencing or recommencing work, and
- (b) immediately after visiting a lavatory, and
- (c) immediately after handling a handkerchief or nasal tissue.

Maximum penalty: 25 penalty units.

### **27 Personal habits**

- (1) A person must not:

- (a) spit, or
- (b) use, smoke or chew tobacco or any other similar substance, while handling food.

Maximum penalty: 25 penalty units.

- (2) A person must not:

- (a) urinate, defecate or spit, or
- (b) use, smoke or chew tobacco or any other similar substance, in a place used for the purpose of handling food.

Maximum penalty: 25 penalty units.

- (3) Subclause (2) (b) does not prohibit a person from using, smoking or chewing tobacco in a place used for the purpose of handling food if the food kept in that place is enclosed in a hermetically sealed container.

- (4) A person must not sit, walk, stand or lie on a food contact surface used for the purpose of handling food.

Maximum penalty: 25 penalty units.

### **28 Physical contact with food**

A person who handles food:

- (a) must not have any unnecessary human contact with the food, and
- (b) must not handle unwrapped confectionery or any sticky substance with his or her fingers, but must use a scoop or other suitable implement to do so, and
- (c) must not handle with his or her fingers:
  - (i) unwrapped bacon, ham, cheese, manufactured meat or cooked meats, or
  - (ii) sandwich, bread roll or hamburger roll fillings, or

- (iii) any other food (other than whole fruit or whole vegetables, or bread or bread rolls when preparing sandwiches, hamburgers or the like) that is ordinarily consumed in the same state as that in which it is sold,  
but must use a fork or other suitable implement to do so, and
- (d) must not apply his or her fingers to his or her mouth, eye, ear, nose or scalp while handling the food, and
- (e) must not use his or her breath to open a bag or wrapper, and
- (f) must not wipe his or her hands on his or her clothing or by any means other than a clean towel, and
- (g) must not place, so that it can come into contact with the food, any ticket, label or other article which is unclean or liable to contaminate the food or which has been in contact with the person's mouth, and
- (h) must not hold a utensil or other appliance used for eating, drinking or serving the food by any means other than a surface which does not ordinarily come into contact with the food, and
- (i) must not place a utensil or other appliance used for eating, drinking or serving food in a pocket of the person's clothing.

Maximum penalty: 25 penalty units.

## **29 Contact with mouth**

- (1) A person who prepares food must not apply to his or her mouth any appliance used in the preparation of the food.

Maximum penalty: 25 penalty units.

- (2) A person must not apply to his or her mouth a pencil or any other similar article and then use the pencil or article to mark food.

Maximum penalty: 25 penalty units.

- (3) A person must not use saliva for the purpose of moistening food before marking the food.

Maximum penalty: 25 penalty units.

- (4) A person who bottles or otherwise packs liquid foods must not apply to his or her mouth any tube, hose or other appliance used in the bottling or packing of the liquids.

Maximum penalty: 25 penalty units.

## **30 Bandages**

- A person who is wearing an unclean bandage or a medicated or absorbent bandage must not handle food unless the bandage is completely covered with a waterproof covering.

Maximum penalty: 25 penalty units.

## **31 Persons suffering from certain conditions**

- (1) A person who is suffering from:

- (a) an illness which may be transmitted to other persons through food (including, but not limited to, viral or bacterial gastroenteritis, campylobacter infection, cholera, hepatitis A, salmonella infection, typhoid fever or paratyphoid fever), or

- (b) boils, abscesses or other lesions containing pus,

must not prepare, pack, decorate or serve food or handle a package containing food or a receptacle, utensil, appliance, article or other thing used to prepare, pack, decorate or serve food.

Maximum penalty: 25 penalty units.

- (2) This clause does not apply to an activity carried out by a person if the Director-General has certified in writing that the person may carry out that activity and the person complies with any conditions contained in the certificate.

**32 Contamination generally**

- (1) A person must not manufacture, handle or display food in such a manner as to cause the food to be contaminated or liable to become contaminated.

Maximum penalty: 25 penalty units.

- (2) A person who uses any premises or vehicle for the purpose of manufacturing or handling food must cause the premises or vehicle, the food, any appliances used in the preparation of the food and any utensils supplied for eating or drinking the food:

- (a) to be kept clean and free from vermin and other likely sources of contamination, and
- (b) to be protected from contamination by persons, dust, vermin, animals, fumes likely to be taken up by the food (either directly or indirectly) and other likely sources of contamination, and
- (c) to be kept free from foul odours.

Maximum penalty: 25 penalty units.

**33 Cleaning of articles, fittings and appliances**

- (1) A person who uses any premises or vehicle to handle food must cause all utensils and other articles, and all fittings and appliances, in the premises or vehicle to be cleaned:

- (a) with soap or detergent and potable water at a temperature of at least 45°C, or
- (b) by means of some other suitable cleaning process.

Maximum penalty: 25 penalty units.

- (2) This clause does not apply to utensils that are required to be cleaned in accordance with clause 34.

**34 Cleaning of eating and drinking utensils**

- (1) The person in charge of any premises or vehicle in which food is sold for consumption on the premises or vehicle must ensure that all eating and drinking utensils are cleaned in accordance with this clause.

Maximum penalty: 25 penalty units.

- (2) Utensils must (whether or not they are to be used again by the same person) be cleaned after each use and before they are used again.

- (3) The utensils must be cleaned:

- (a) by washing them in a double bowl sink or 2 compartment tub (with soap or detergent) in potable water at a temperature of at least 45°C and by rinsing them (for at least 30 seconds) in potable water at a temperature of at least 77°C, or
- (b) by using a dish washing machine which chemically sanitises the utensils using rinse water containing at least 50 milligrams per kilogram of sodium hypochlorite throughout the rinse cycle at a rinse cycle temperature of at least 50°C, or
- (c) by using a dish washing machine that complies with clause 15 (4) and to which an appropriate amount of detergent or another suitable cleaning agent has been added, or
- (d) in the case of glasses only, by using a glass washing machine that complies with clause 15 (6) and to which an appropriate amount of detergent or another suitable cleaning agent has been added.

- (4) Nothing in this clause:

- (a) requires a drinking utensil used to serve a hot beverage to a person to be cleaned if it has been retained by the person since the last occasion on which it was used, or
- (b) requires a utensil used to serve self-service food to be cleaned after each use and before service of the food is completed.

- (5) This clause does not apply to premises or a vehicle if disposable eating and drinking utensils only are provided to customers for consumption of the food prepared in the premises or vehicle.

**35 Boiler preservatives**

- (1) This clause applies to any boiler that is used to produce steam that is brought into contact with food while the food is being manufactured, prepared, preserved or packed.
- (2) A person must not, in any boiler to which this clause applies:
- (a) use any boiler preservative that contains arsenic or antimony or any compound of arsenic or antimony, or
  - (b) use any boiler water treatment agent in the form of, or containing, an acrylamide-sodium acrylate resin:
    - (i) having a concentration of more than 15 milligrams per kilogram of the water in the boiler at any particular time, or
    - (ii) having an acrylamide monomer content of more than 0.05 per cent, or
  - (c) use any boiler water treatment agent in the form of, or containing, sodium polyacrylate having a concentration of:
    - (i) more than 15 milligrams per kilogram of the water in the boiler at any particular time, or
    - (ii) in the case of steam prepared for sugar mill evaporators, more than 2.5 milligrams per kilogram of the water in the boiler at any particular time.

Maximum penalty: 25 penalty units.

**36 Sale of unclean food**

A person must not sell food that is not clean or sell or pack food in a package that is not clean.

Maximum penalty: 25 penalty units.

**37 Self-service food**

- (1) A person must not sell self-service food unless:
- (a) the food is protected from contamination by means of a suitable appliance, and
  - (b) the persons (including the public) dealing with the food are effectively supervised.

Maximum penalty: 25 penalty units.

- (2) A person must not sell self-service food unless there is conspicuously displayed on or adjacent to the self-service food appliance a sign bearing the words:

CUSTOMER—USE ONLY THE SERVING UTENSILS  
PROVIDED—IT IS AN OFFENCE TO HANDLE  
FOOD WITH YOUR FINGERS

in standard type with a letter height of at least 10 millimetres.

Maximum penalty: 25 penalty units.

- (3) A person must not sell self-service food unless there is conspicuously displayed in the premises a sign bearing the words:

NO SMOKING

in standard type with a letter height of at least 10 millimetres.

Maximum penalty: 25 penalty units.

- (4) Subclause (3) does not apply to premises at which the smoking or use of tobacco is not permitted anywhere in the premises.

- (5) A person must not sell self-service food unless each appliance containing the food is provided with a suitable utensil for the serving of the food.

Maximum penalty: 25 penalty units.

- (6) A person in charge of any premises at which self-service food is sold must ensure that:

- (a) any self-service food that becomes contaminated or exposed to likely contamination is immediately removed from sale and is not exposed for sale again, and
- (b) any utensil used for serving self-service food is not used again without first being cleaned in accordance with clause 34 if either the utensil or the food concerned becomes contaminated or exposed to likely contamination.

Maximum penalty: 25 penalty units.

(7) In this clause:

***self-service food*** means food exposed for sale, being food:

- (a) to which the public has access, and
- (b) that forms, or is intended to form, a meal or part of a meal, whether to be consumed on the premises in which it is exposed for sale or elsewhere.

### **38 Exposure of food for sale generally**

(1) A person must not expose for sale on any counter, bar or floor in any premises used for the handling of food or store on any such premises:

- (a) any opened oysters or cooked crustacean, or
- (b) any food (other than whole fruit or whole vegetables) that is ordinarily consumed in the same state as that in which it is sold,

unless it is enclosed or contained in a receptacle so constructed, or is so wrapped, as to protect the food from likely contamination.

Maximum penalty: 25 penalty units.

(2) This clause does not apply to self-service food within the meaning of clause 37.

### **39 Exposure of meat and fish for sale**

(1) A person:

- (a) must not expose for sale any butcher's meat, fish fillets or fish cutlets on any counter, bar or floor in any premises used for the handling of food, and
- (b) must not store in any such premises any butcher's meat, fish fillets or fish cutlets,

unless the meat or fish is so wrapped, or is enclosed or contained in a receptacle so constructed, as to protect the food from likely contamination.

Maximum penalty: 25 penalty units.

(2) In this clause:

***butcher's meat*** means fresh, chilled, frozen, salted or uncooked carcasses or parts of carcasses of cattle, calves, sheep, lambs, goats, deer or pigs, and includes sausages, sausage meat, edible offal, bones, fat and blood for human consumption, but does not include comminuted or minced bones or pre-packed meat.

### **40 Wrapping or packing of certain food**

(1) A person who uses any premises or vehicle for the purpose of handling food must protect the food from likely contamination by enclosing it or containing it in an appropriate package until it is delivered to a purchaser.

Maximum penalty: 25 penalty units.

(2) A person must not deliver any food to any customer, or wrap any food for delivery to any consumer, unless the food is completely wrapped in clean unprinted paper or other suitable material.

Maximum penalty: 25 penalty units.

(3) This clause does not apply to:

- (a) bread delivered to a customer at the customer's place of residence in a clean container covered with clean unprinted paper or clean washable material, or
- (b) food sold for immediate consumption on the premises in which it is sold, or
- (c) whole fruit and whole vegetables.

### **41 Handling and display of food consumed in the state in which it is sold**

(1) A person must not handle any food that is ordinarily consumed in the same state as that in which it is sold in such a manner as to render it liable to be contaminated by contact with, or drip from, raw food or from any other substance.

Maximum penalty: 25 penalty units.

(2) A person must not handle or display in any premises or vehicle any food that is ordinarily consumed in the same state as that in which it is sold unless the food is kept, stored or displayed in such a manner as to prevent the food:

- (a) from becoming contaminated, and
- (b) from coming into contact with uncooked meat or uncooked fish.

Maximum penalty: 25 penalty units.

### **42 Appliances used to process raw food**

A person who uses an appliance for processing or preparing raw food must not subsequently use the appliance for processing or preparing any food that is ordinarily consumed in the same state as that in which it is sold without first cleaning the appliance:

- (a) with soap or detergent and potable water at a temperature of at least 45°C, or
- (b) by means of some other suitable cleaning process.

Maximum penalty: 25 penalty units.

#### **43 Protection of food from animals and birds**

A person must not display or store food:

- (a) less than 75 centimetres above the floor level of any premises, or
- (b) less than 75 centimetres above the ground level of a street or other open space,

unless the food is protected so as to prevent pollution by animals and birds.

Maximum penalty: 25 penalty units.

#### **44 Protection of milk**

- (1) A person must not milk a cow, goat, sheep or other animal for the purpose of obtaining milk or cream unless, immediately before milking, the udder and teats of the animal are clean.

Maximum penalty: 25 penalty units.

- (2) A person who stores or conveys milk from cows, goats, sheep or other animals in glass or plastic containers that are not opaque must ensure that the containers are protected from the direct rays of the sun.

Maximum penalty: 25 penalty units.

#### **45 Protection of food from contamination by poison**

A person must not keep, spread or use any preparation containing a poison within the meaning of the *Poisons Act 1966* so as to expose any food to risk of contamination by the poison.

Maximum penalty: 25 penalty units.

#### **46 Use of washing machines**

A person must not use any appliance which is used for washing clothes:

- (a) for preparing food, or
- (b) for cleaning packages or appliances used or intended to be used for containing food.

Maximum penalty: 25 penalty units.

#### **47 Bread trays**

A person must not deposit or store on any footpath, or in any doorway, yard or other open space, any tray or other container used in connection with the delivery of:

- (a) pies, cakes, pastry or bread, or
- (b) any other food that is ordinarily consumed in the same state as that in which it is sold,

whether or not the tray or container contains any food.

Maximum penalty: 25 penalty units.

#### **48 Printed matter**

A person must not, in connection with the handling of food, use any paper containing writing or printed matter in such a manner that the food comes into contact with the writing or printed matter.

Maximum penalty: 25 penalty units.

## **Part 6 Packaging and labelling**

### **Division 1 Packaging**

#### **49 Packaging generally**

(1) A person must not package food in contravention of the provisions of this Division.

Maximum penalty: 25 penalty units.

(2) The provisions of this Division are prescribed for the purposes of section 12 of the Act and, accordingly, a person who sells food that is packed or enclosed in contravention of the requirements of this Division is guilty of an offence under that section.

#### **50 Packages and packing materials to be clean**

The package or material in which food is packed or enclosed:

- (a) must be clean and free from foreign matter, and
- (b) must not be chipped, broken or cracked, and
- (c) must be kept and stored in a manner that protects it from dust, vermin or other likely sources of contamination.

#### **51 Use of lead and zinc**

(1) The package or material in which moist food is packed or enclosed must not have any surface containing lead or zinc in contact with the food.

(2) This clause does not apply to glucose or honey packed in containers of at least 20 litres capacity.

#### **52 Use of tinfoil**

The package or material in which food is packed or enclosed must not be soldered inside.

#### **53 Use of certain other metals**

The package or material in which food is packed or enclosed must not have any surface in contact with the food if, when treated:

- (a) with a 2 per cent aqueous citric acid test solution, and
- (b) for a period of 24 hours, and
- (c) at a temperature of at least 20°C but not more than 25°C,

the surface reacts in such a way that, at the end of the period, the test solution contains a metal specified in the Table to this clause in a concentration greater than that specified in relation to that metal.

#### **Table**

<b>Metal</b>	<b>Concentration</b>
antimony .....	0.15 milligrams per litre.....
cadmium .....	0.05 milligrams per litre.....
copper .....	5.00 milligrams per litre.....
lead	0.20 milligrams per litre
zinc	50.00 milligrams per litre

#### **54 Use of certain other substances**

(1) The package or material in which food is packed or enclosed must not be of a kind that yields any poisonous or injurious substance to food coming into contact with it.

(2) In particular:

- (a) a rigid or semi-rigid package or container that consists, in whole or in part, of polyvinyl chloride must not contain more than 5 milligrams per kilogram of vinyl chloride monomer, and
- (b) a package or container that consists, in whole or in part, of a flexible film of polyvinyl chloride or polyvinylidene chloride must not contain more than:
  - (i) 1 milligram per kilogram of vinyl chloride monomer, or



- (ii) 0.4 milligrams per kilogram of vinylidene chloride monomer, and
  - (c) a package or container that consists, in whole or in part, of acrylonitrile butadiene styrene, polystyrene, polyvinyl chloride or styrene acrylonitrile must not contain more than:
    - (i) 10 milligrams per kilogram of acrylonitrile monomer, or
    - (ii) 0.2 per cent of tris (2,4-di-t-butyl-phenyl) phosphite, or
    - (iii) 0.12 per cent of the vinyl monomer concentration used of diallyl phthalate, or
    - (iv) 10 milligrams per kilogram of acrylonitrile monomer.
- 55 Bags used to carry harmful material**  
 The package or material in which food is packed or enclosed must not have been manufactured for the purpose of containing, or have at any time contained or been used to convey, bone-dust, superphosphate, manure, poison or any other harmful material.
- 56 Packaging of fish**  
 The package or material in which fish is packed or enclosed, being a package or material that has previously been used for that purpose, must have been thoroughly cleaned immediately after the fish were removed.
- 57 Second-hand seals prohibited**  
 The package or material in which food is packed or enclosed must not include any second-hand seal, wad, cork or cork ring.

## Division 2 Labelling

### 58 Animal food described as human food

- (1) A person must not label food so as to imply that it is fit for human consumption if the food is also labelled as being pet food or as otherwise being suitable as food for animals.  
 Maximum penalty: 25 penalty units.
- (2) This clause does not apply to food that is primarily labelled as food for human consumption and that otherwise complies with the other requirements prescribed by or under the Act for the labelling of food for human consumption.
- (3) In this clause:  
*primarily labelled* means that the matter in the label describing the article as food for human consumption appears in larger letters and more prominently than any other matter.

## Part 7 Conveyance of food

### 59 Vehicles used to store or convey food

- (1) A person must not store or convey food in a vehicle unless that part of the vehicle in which, or the receptacle in which, the food is stored or conveyed:
  - (a) is fully enclosed and provided with a close-fitting door or lid that is capable of being securely closed, and
  - (b) is sealed off from the driving section of the vehicle, and
  - (c) is otherwise designed and constructed so as to protect food stored or conveyed in the vehicle from dust, vermin and other likely sources of contamination, and
  - (d) is so designed and constructed that such of its fixtures, fittings and appliances as come into contact with the food are constructed of an impervious material that is able to be easily cleaned.
 Maximum penalty: 25 penalty units.
- (2) This clause does not apply to:
  - (a) raw grains or seeds intended for further processing, or

- (b) whole fruits or whole vegetables, or
- (c) food contained in a package that is so designed and constructed as to protect the food from dust, vermin, fumes, odours and other likely sources of contamination, or
- (d) kangaroo meat conveyed in a vehicle that is licensed as a class 4 meat van under the *Meat Industry (Licensing) Regulation 1996* and complies with the *Kangaroo Meat Code*.

#### **60 Vehicles to be securely closed**

- (1) A person must not convey food in a vehicle while the door or lid of the part of the vehicle in which the food is being conveyed, or of any receptacle containing the food, is open.

Maximum penalty: 25 penalty units.

- (2) A person must not leave open the door or lid of that part of a vehicle in which food is being conveyed, or of any receptacle containing food, while the vehicle is unattended.

Maximum penalty: 25 penalty units.

- (3) Subclause (2) does not apply to a vehicle used for the carrying of suspended carcasses of butcher's meat (within the meaning of Part 8).

### **Part 8 Meat and meat premises**

#### **61 Definitions**

In this Part:

**butcher's meat** means fresh, chilled, frozen, salted or uncooked carcasses or parts of carcasses of cattle, calves, sheep, lambs, goats, deer or pigs, and includes sausages, sausage meat, edible offal, bones, fat and blood for human consumption, but does not include comminuted or minced bones or pre-packed meat.

**butcher's shop** means premises in which butcher's meat is sold by retail, and includes any premises appurtenant to those premises and used in connection with them.

**meat preparation area** means premises used for the purpose of boning, curing, salting, mincing, pre-packing or carrying out any other similar process of preparation of butcher's meat for human consumption.

**pre-packed meat** means butcher's meat that is packed, before it is exposed, by being enclosed in a plastic or other packaging material.

**pre-packed meat shop** means premises in which pre-packed meat is sold by retail.

#### **62 Storage of pre-packed meat**

- (1) A person must not sell pre-packed meat otherwise than:

- (a) in a refrigerator that stores the meat at a temperature of not more than 5°C, and
- (b) in a compartment of the refrigerator that separates the meat from any other kind of food stored in the refrigerator.

Maximum penalty: 25 penalty units.

- (2) A person must not sell pre-packed meat by retail sale unless the meat has, at all times prior to sale, been stored in accordance with subclause (1).

Maximum penalty: 25 penalty units.

#### **63 Packaging of pre-packed meat**

A person must not sell pre-packed meat by retail sale unless the material in which it is packed is sealed by means of the application of heat, or by other effective means, so as to create a package:

- (a) that is airtight and waterproof, and
- (b) that is capable of preventing the meat from being contaminated as a result of coming into contact with any other material.

Maximum penalty: 25 penalty units.

#### **64 Returned meat**

A person who sells meat (including butcher's meat, pre-packed meat and manufactured meat) must not, in any premises or vehicle used to receive or sell the meat, receive or sell meat that has been returned after having been previously delivered to a shop, dwelling or private customer.

Maximum penalty: 25 penalty units.

**65 Possession of meat not used for human consumption**

(1) A person must not, in premises used to handle food for human consumption, keep or have possession of:

- (a) game meat, or
- (b) meat (other than game meat) that is derived from an animal not generally used as food for human consumption.

Maximum penalty: 25 penalty units.

(2) This clause does not apply to game meat if the game from which the meat is derived has been killed and handled, and the meat has been handled, prepared, processed, inspected, transported and stored, in accordance with Part 14 of Standard C1 of the *Food Standards Code*.

(3) In this clause, **game meat** has the same meaning as in Part 14 of Standard C1 of the *Food Standards Code*.

**66 Game meat for human consumption**

(1) The Director-General may, for the purposes of Part 14 of Standard C1 of the *Food Standards Code*, approve a code as a governmentally approved quality assurance program.

(2) A code approved under this clause, and any amendment to the code, must be published in the Gazette.

(3) A code approved under this clause, and any amendment to the code, does not have effect for the purposes of Part 14 of Standard C1 of the *Food Standards Code* until it is published in the Gazette.

(4) The *New South Wales Code of Practice for Kangaroo Meat for Human Consumption* approved by the Director-General and the Meat Industry Authority of New South Wales and published in the Gazette on 24 March 1993 is taken to have been approved under this clause.

(5) This clause does not limit the meaning of **governmentally approved quality assurance program** referred to in Part 14 of Standard C1 of the *Food Standards Code*.

**67 Meat for animals**

(1) A person must not, in premises used to handle food, sell or store any animal food that consists wholly or partly of meat unless the animal food is packed in a sealed package.

Maximum penalty: 25 penalty units.

(2) A person must not, in premises used to handle food, open any sealed package of animal food.

Maximum penalty: 25 penalty units.

**68 Goods permitted to be sold from butchers' shops**

A person must not, in a butcher's shop, sell or store any goods other than:

- (a) butcher's meat, pre-packed meat, lard, dripping, dressed rabbits, dressed poultry, smoked mutton, smoked beef, smoked bacon, smoked ham, other smoked meat, canned meat, pickled meat, salted meat, manufactured meat, processed meat products or cooked meat products, or
- (b) other suitably pre-packed foods sold in a separate portion of the shop, or
- (c) animal biscuits or animal cereals pre-packed in sealed containers and sold in a separate portion of the shop, or
- (d) other animal food in sealed packages sold in a separate portion of the shop.

Maximum penalty: 25 penalty units.

**69 Premises from which meat products may be sold**

(1) A person must not:

- (a) store butcher's meat (other than sausages or pork bones), or
- (b) sell butcher's meat (other than sausages or pork bones) by retail sale,

in premises other than a butcher's shop.

Maximum penalty: 25 penalty units.

(2) A person must not:

- (a) store pre-packed meat, or
  - (b) sell pre-packed meat by retail sale,
- in premises other than a butcher's shop or pre-packed meat shop.

Maximum penalty: 25 penalty units.

(3) A person must not:

- (a) store sausages or pork bones, or
  - (b) sell sausages or pork bones by retail sale,
- in any premises other than a butcher's shop, pre-packed meat shop, smallgoods shop, delicatessen shop or similar premises.

Maximum penalty: 25 penalty units.

(4) A person must not sell from a vehicle by retail sale butcher's meat or pre-packed meat that is in the vehicle or has been transported by the vehicle.

Maximum penalty: 25 penalty units.

#### **70 Clothes to be worn for meat deliveries**

A person must not deliver butcher's meat to a butcher's shop unless, when delivering the meat, the person is wearing:

- (a) shoulder capes that are made of washable material, and
- (b) a cap that is made of washable material and that completely covers the person's hair, and
- (c) clean overalls (other than one-piece overalls) that are made of washable material and that completely cover the person's clothes.

Maximum penalty: 25 penalty units.

#### **71 Construction of butchers' shops**

(1) A person must not use any premises as a butcher's shop, or as a meat preparation area, unless:

- (a) the internal walls of the premises have a height of at least 2.75 metres, and
- (b) the premises include an adequate and efficient cooling room to store butcher's meat and pre-packed meat, and
- (c) each doorway into or out of the premises is kept closed (when not in actual use) by means of properly constructed and fitted fly-proof self-closing doors, and
- (d) each other opening into or out of the premises is fitted with fixed fly-proof gauze.

Maximum penalty: 25 penalty units.

(2) The provisions of subclause (1) (c) and (d) do not apply to premises that are kept free from flies by other means.

#### **72 Prohibited uses of butchers' shops**

A person must not use a butcher's shop, pre-packed meat shop or a meat preparation area:

- (a) for domestic purposes, or
- (b) for the purpose of preparing, packaging or storing food (other than animal biscuits or animal cereals pre-packed in sealed containers) as animal food, or
- (c) for the purpose of preparing, packaging or storing any butcher's meat or pre-packed meat that is diseased or that is derived from an animal that has died otherwise than by slaughter.

Maximum penalty: 25 penalty units.

#### **73 Keeping of meat wastes in butchers' shops**

A person must not keep any bones or meat wastes of any kind in a butcher's shop, pre-packed meat shop or meat preparation area otherwise than in a vessel:

- (a) that is made of metal or other suitable material and is provided with a close fitting cover, and

- (b) that is emptied and cleaned not later than 8 hours after any bones or meat wastes are placed in it.

Maximum penalty: 25 penalty units.

## **Part 9 Sampling and analysis**

### **74 Payment for samples**

For the purposes of section 32 of the Act, if the current market value of a sample of food exceeds \$10, the amount payable for the sample concerned is \$10.

### **75 Fee for analysis**

For the purposes of section 38 of the Act, the fee to be prepaid by any person who requires an officer to purchase a sample of food is \$50.

### **76 Analyst's certificate**

(1) For the purposes of section 39 of the Act, the prescribed form of certificate to be given by an analyst of the result of an analysis of food is Form 1.

(2) For the purposes of section 42 (1) of the Act, the fee for a copy of that certificate is \$20.

### **77 Qualifications for analysts**

(1) For the purposes of section 81 (1) of the Act, the prescribed qualification for appointment as an analyst to conduct a specific category of analysis is either of the following:

- (a) a degree or diploma in science, being a degree or diploma:
  - (i) approved by the Director-General for the purposes of this clause, and
  - (ii) the major subject of which (that is, chemistry or microbiology) is relevant to the specific category of analysis concerned,
- (b) a qualification that the Director-General is satisfied is equivalent to such a degree or diploma.

(2) Before appointing a person as an analyst for the purposes of the Act, the Director-General may require the person to satisfy the Director-General that the person has:

- (a) at least 2 years' practical experience after graduation, being experience that is relevant to the specific category of analysis that the person is to undertake, and
- (b) access to the use of a suitably equipped laboratory for the performance of that category of analysis.

## **Part 10 Miscellaneous**

### **78 Frozen food**

(1) A person who exposes frozen food for sale in a frozen food retail cabinet must ensure that the food is located within the load limit marked on the cabinet.

Maximum penalty: 25 penalty units.

(2) A person must not sell food that, after being frozen and subsequently thawing or melting, has been refrozen.

Maximum penalty: 25 penalty units.

### **79 Waste alcoholic drinks**

(1) A person must not sell waste alcoholic drinks.

Maximum penalty: 25 penalty units.

(2) The occupier of premises in which alcoholic drinks are sold must ensure that any waste alcoholic drinks kept on the premises (and any receptacles kept on the premises into which waste alcoholic drinks are placed, allowed to run or discharge) contain:

- (a) the colouring matter Methyl Violet in sufficient quantities to give the drinks a distinct violet colour, or
- (b) an emulsifying oil in sufficient quantities to give the drinks a distinct milky appearance.

Maximum penalty: 25 penalty units.

- (3) A person must not place a receptacle capable of holding waste alcoholic drinks on any drip tray used in premises on which alcoholic drinks are sold.

Maximum penalty: 25 penalty units.

- (4) In this clause:

*waste alcoholic drinks* means beer, beer products, wine, wine products, spirit, spirit products, liqueur, liqueur products, cider or other alcoholic drinks derived from:

- (a) the purging of supply lines, or
- (b) a spill, drip or overflow from a tap, vessel or other receptacle, or
- (c) the unconsumed portion of a drink supplied to a customer,

and includes the contents of any drip tray used in premises on which alcoholic drinks are sold.

## 80 Storage of certain perishable foods

- (1) This clause applies to food which consists of or includes ingredients (such as milk or milk products, eggs, meat, fish, cooked rice or opened shell-fish) that are in a condition that is conducive to the rapid and progressive growth of infectious or toxigenic micro-organisms, but does not apply to:

- (a) frozen food, confectionery, raw eggs in the shell or raw meat (other than poultry), or
- (b) food contained in a hermetically sealed can, jar or other container that has been processed by heat to prevent spoilage.

- (2) A person who sells food, or who handles or supplies food, must cause the food to be stored in accordance with this clause unless the food is actually being prepared or served on a plate or other eating utensil.

Maximum penalty: 25 penalty units.

- (3) Food that is to be kept hot must be stored, in an appliance, at a temperature of at least 60°C not later than 1 hour after it is prepared or was last kept cold.

- (4) Food that is not to be kept hot must be cooled as soon as practicable and kept, in an appliance, at a temperature of not more than 5°C not later than 4 hours after it is prepared or was last kept hot.

- (5) An appliance used to store food is to be provided with a numerically scaled indicating thermometer or recording thermometer (accurate to 1°C) or an alarm system for continuous monitoring of the temperature of the appliance.

- (6) A person must not sell food if the temperature of the food:

- (a) is below 60°C (in the case of food that is to be kept hot), or
- (b) is above 5°C (in the case of food that is not to be kept hot).

Maximum penalty (subclause (6)): 25 penalty units.

- (7) Subclauses (2)–(6) do not apply to the storage of food for the purposes of a private catered function in which the food is prepared and served in the form of a self-service buffet or smorgasbord.

- (8) A person who, because of subclause (7), causes food to be stored otherwise than in accordance with subclauses (3)–(6):

- (a) must not allow the food to be so stored for more than 90 minutes, and
- (b) must ensure that all food remaining at the end of the period for which it is so stored is destroyed or disposed of otherwise than by way of human consumption.

Maximum penalty: 25 penalty units.

## 81 Milk

- (1) A person who milks goats, sheep or other animals (other than cows) to obtain milk:

- (a) must, not later than 1 hour after the milk is obtained, cause the milk to be cooled to a temperature not exceeding 5°C, and
- (b) must cause the milk to be filtered to remove any extraneous matter.

Maximum penalty: 25 penalty units.

- (2)A person who milks cows to obtain milk must cause the milk to be cooled, immediately after milking, in accordance with the cooling rates and holding temperatures specified in Clause 1.6 of Australian Standard AS 1187—1996 (*Farm milk cooling and storage systems*) published by Standards Australia, as in force from time to time.

Maximum penalty: 25 penalty units.

**82 (Repealed)**

**83 Potable water to be used to dip oysters and shell-fish**

A person who handles oysters or other shell-fish must not use water that is not potable water to open the oysters or other shell-fish or to dip them in.

Maximum penalty: 25 penalty units.

**84 Ice**

- (1)A person must not sell for human consumption ice that has been used to keep food cool or that has been in contact with any other food.

- (2)A person must not carry or deliver ice:

- (a) in or on the person's bare hand, or
- (b) so that the ice is in contact with the person.

Maximum penalty: 25 penalty units.

**85 Previously served food**

A person must not sell food that has been previously served to another person.

Maximum penalty: 25 penalty units.

**86 Unwrapped bread**

- (1)A person who sells bread must not, in any premises or vehicle used to receive or sell bread, receive or sell any unwrapped bread that has been returned after having been previously delivered to a shop, dwelling or private customer.

Maximum penalty: 25 penalty units.

- (2)In this clause:

*unwrapped bread* means bread that is not packaged at the premises at which it is manufactured.

**87 Opening of packages**

A person must not, in premises used to store food, open any package of food that is or is to be exposed for sale in that package.

Maximum penalty: 25 penalty units.

**88 Recalled food**

A person who receives or has possession of food that is subject to an order for its recall:

- (a) must put or keep the food in a suitable receptacle or segregated area and clearly identify it as returned or recalled food, or
- (b) must destroy or otherwise dispose of the food.

Maximum penalty: 25 penalty units.

**89 Irradiation of food**

- (1)A person must not:

- (a) expose food to ionising radiation, or
- (b) manufacture, produce, pack or deliver, or give away for human consumption, food which has been intentionally exposed to ionising radiation,

unless the Director-General has approved, in writing, the irradiation of the food and the person complies with any applicable conditions of the approval.

Maximum penalty: 25 penalty units.

- (2)A person must not manufacture, produce, pack or deliver, or give away for human consumption, food which has been accidentally exposed to ionising radiation.

Maximum penalty: 25 penalty units.

- (3)A person who manufactures, produces, packs or delivers food must notify the Director-General, as soon as practicable after becoming aware that the food has been accidentally exposed to ionising radiation, that the food has been so exposed.

**ionising radiation** means electromagnetic or particulate radiation capable of producing ions directly or indirectly in passage through matter, but does not include electromagnetic radiation of a wavelength greater than 100 nanometres.

## Schedule 1Forms

## Form 1

(Clause 76)

## FOOD ACT 1989

## ANALYST'S CERTIFICATE

I,....., an analyst duly appointed under the *Food Act 1989*, certify that the sample has been analysed, that the seal securing the sample was intact (*delete if not applicable*) and that the result of the analysis is as follows:

[Here insert the result of analysis\* and any remarks.]

Signed on the                      day of                      19   .

Analyst's signature

Address

\* NOTE: If a method of analysis is prescribed, the analyst is to state that the method has been followed.

## Notes

The following abbreviations are used in the tables of amending instruments and amendments:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
ClI	clauses	pp	pages	Secs	sections
Div	Division	Reg	Regulation	Subdiv	Subdivision
Divs	Divisions	Regs	Regulations	Subdivs	Subdivisions
GG	Government Gazette	Rep	repealed	Subst	substituted
Ins	inserted	Sch	Schedule		

## Table of amending instruments

Food (General) Regulation 1997 published in Gazette No 95 of 29.8.1997, p 6739 and amended in Gazette No 63 of 28.5.1999, p 3608.



**Table of amendments**

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Rep 28.5.1999.