

FOOD REGULATION 2001
under the
FOOD ACT 1989

UPDATED 19 OCTOBER 2001

INCLUDES AMENDMENTS (SINCE GAZETTAL OF 16.5.2001) BY:

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[STATE ARMS]

New South Wales

Food Regulation 2001

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Food Regulation 2001

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Food Regulation 2001*.

2 Definitions

In this Regulation:

Food Safety Standards means the standards contained in Chapter 3 of the Food Standards Code.

Food Standards Code means the Code published under that name in the Commonwealth of Australia Gazette on 27 August 1987 together with any amendments of the standards in that Code:

- (a) approved by the National Food Standards Council before the commencement of the *Australia New Zealand Food Authority Act 1991* of the Commonwealth and published in the Commonwealth of Australia Gazette as forming part of that Code, or
- (b) made under the *Australia New Zealand Food Authority Act 1991* of the Commonwealth.

the Act means the *Food Act 1989*.

3 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Part 2 Incorporation of Food Standards Code

4 Incorporation of Food Standards Code

(1)The Food Standards Code, as in force from time to time, is incorporated in this Regulation and applies as a law of New South Wales, subject to the modifications set out in subclauses (1A) and (2).

(1A)A reference in the Food Standards Code:

- (a) to the ***relevant authority*** is to be read as a reference to the ***Director-General***, and
- (b) to ***the Act*** is to be read as a reference to ***the Food Act 1989***.

(2)Standard 3.2.2 of the Food Standards Code is modified by inserting after clause 4 (4) the following subclause:

(5)Subclause (1) does not apply to a food business in relation to food handling operations for fundraising events, that is, events:

- (a) that raise funds solely for community or charitable causes and not for personal financial gain, and
- (b) at which all the food sold is not potentially hazardous or is to be consumed immediately after thorough cooking.

(3)The standards set out in the Food Standards Code as adopted by subclause (1) are prescribed for the purposes of the Act.

Part 3 Food Safety Standards

5 Definitions

(1)Expressions used in this Part have the same meaning as in Standard 3.1.1 of the Food Standards Code.

(2)A reference in a provision of the Food Safety Standards (as incorporated by clause 4 of this Regulation):

- (a) to the ***appropriate enforcement agency*** is to be read as a reference to the ***Director-General***, and

(b) to *demonstrate* is to be read as a reference to *demonstrate to the satisfaction of the Director-General*.

6 Offence of not complying with Food Safety Standards

(1) The proprietor of a food business must comply with any requirement imposed on the proprietor of a food business by a provision of the Food Safety Standards (except Subdivision 1 of Division 4 of Standard 3.2.2).

Maximum penalty: 25 penalty units.

(2) A food handler must comply with any requirement imposed on a food handler by Subdivision 1 of Division 4 of Standard 3.2.2 of the Food Standards Code.

Maximum penalty: 25 penalty units.

Note. Clause 4 (2) of this Regulation modifies the application of Standard 3.2.2 of the Food Standards Code.

Part 3 Labelling requirements

6A Labelling requirements of Food Standards Code

A person must not sell food:

(a) to which is attached a label, or

(b) in the case of food that is packaged, that is in a package to which is attached a label,

that contains any word, representation or design that is prohibited by the Food Standards Code.

Maximum penalty: 25 penalty units.

Part 4 Sampling and analysis

7 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.

8 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.

9 Analyst's certificate

(1) For the purposes of section 39 (4) of the Act, the prescribed form of certificate to be given by an analyst of the result of an analysis of food is the form in Schedule 1.

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

10 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 5 Miscellaneous

11 Repeals

The following Regulations are repealed:

Food (General) Regulation 1997

Food (Incorporation of Food Standards Code) Regulation 2000

12 Savings and transitional provisions

Any act, matter or thing that, immediately before the repeal of a Regulation referred to in clause 11 had effect under that Regulation is taken to have effect under this Regulation.

Schedule 1 Form

(Clause 9)

Analyst's Certificate

(Food Act 1989, section 39)

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 20

(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 Regulation 2001 published in Gazette No 85 of 16.5.2001, p 2577 and amended as follows:
Food Amendment Regulation 2001 (GG No 158 of 19.10.2001, p 8629)

Table of amendments

Cl 4	Am 19.10.2001.
Part 3A (cl 6A)	Ins 19.10.2001.