



Food Amendment (Penalty Notices) Regulation 2004

under the

Food Act 2003

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Food Act 2003*.

IAN MICHAEL MACDONALD, M.L.C.,
Minister for Primary Industries

Explanatory note

The objects of this Regulation are:

- (a) to amend the *Food Regulation 2004* to prescribe certain offences under the *Food Act 2003* as offences for which penalty notices may be issued and to prescribe the penalty amounts for any such penalty notices, and
- (b) to make a consequential amendment to the *Food Production (Seafood Safety Scheme) Regulation 2001* and a law revision amendment to that Regulation consequent on the transfer of the Regulation from the *Food Production (Safety) Act 1998* (now repealed) to the *Food Act 2003*.

This Regulation is made under the *Food Act 2003*, including sections 102, 120 and 139 (the general regulation-making power).

2004 No 795

Clause 1 Food Amendment (Penalty Notices) Regulation 2004

Food Amendment (Penalty Notices) Regulation 2004

under the

Food Act 2003

1 Name of Regulation

This Regulation is the *Food Amendment (Penalty Notices) Regulation 2004*.

2 Amendment of Food Regulation 2004

The *Food Regulation 2004* is amended as set out in Schedule 1.

3 Amendment of Food Production (Seafood Safety Scheme) Regulation 2001

The *Food Production (Seafood Safety Scheme) Regulation 2001* is amended as set out in Schedule 2.

Schedule 1 Amendment of Food Regulation 2004

(Clause 2)

[1] Clause 9

Insert after clause 8:

9 Penalty notices

For the purposes of section 120 of the Act:

- (a) each offence arising under a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is:
 - (i) in the case of a penalty payable by an individual—the amount specified in relation to the offence in Column 2 of Schedule 1, and
 - (ii) in the case of a penalty payable by a corporation—the amount specified in relation to the offence in Column 3 of Schedule 1.

[2] Schedule 1

Insert after Part 4:

Schedule 1 Penalty notices

(Clause 9)

Column 1	Column 2	Column 3
Provision of the Act	Penalty for an individual	Penalty for a corporation
Section 16 (1)	\$660	\$1320
Section 16 (2)	\$660	\$1320
Section 17 (1)	\$550	\$1100
Section 17 (2)	\$550	\$1100
Section 18 (1)	\$660	\$1320
Section 18 (2)	\$660	\$1320
Section 18 (3)	\$660	\$1320
Section 19 (1)	\$660	\$1320

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Schedule 1 Amendment of Food Regulation 2004

Column 1	Column 2	Column 3
Provision of the Act	Penalty for an individual	Penalty for a corporation
Section 20 (1) (a)	\$660	\$1320
Section 20 (1) (b)	\$660	\$1320
Section 20 (2)	\$660	\$1320
Section 21 (1)	\$330	\$660
Section 21 (2)	\$330	\$660
Section 21 (3)	\$330	\$660
Section 21 (4)	\$330	\$660
Section 35 (a)	\$1320	\$2640
Section 35 (b)	\$1320	\$2640
Section 35 (c)	\$1320	\$2640
Section 41	\$660	\$1320
Section 42	\$660	\$1320
Section 43 (2)	\$660	
Section 43 (3) in respect of assaulting an authorised officer only	\$1320	
Section 64	\$660	\$1320
Section 77	\$110	\$220
Section 83	\$110	\$220
Section 89 (1)	\$110	\$220
Section 99 (2)	\$660	
Section 100 (1)	\$330	\$660
Section 104 (1)	\$330	\$660
Section 104 (2)	\$330	\$660
Section 104 (3)	\$330	\$660
Section 104 (4)	\$330	\$660
Section 104 (5)	\$330	\$660
Section 136 (1)	\$330	\$660

Food Amendment (Penalty Notices) Regulation 2004

Amendment of Food Production (Seafood Safety Scheme) Regulation 2001 Schedule 2

**Schedule 2 Amendment of Food Production
(Seafood Safety Scheme) Regulation
2001**

(Clause 3)

[1] Clause 6 Meaning of “seafood business”

Omit clause 6 (2). Insert instead:

- (2) For the purposes of this Regulation, a *seafood business*:
 - (a) does not include the act of taking or catching marine fin fish, crustacea or cephalopod but includes any handling of such seafood immediately after it is taken or caught, whether the handling occurs on board a vessel or otherwise, and
 - (b) does not include the retail sale of seafood.

[2] Schedule 4 Penalty notices

Omit the matter relating to section 104 (1), (2) and (3) of the Act from Columns 1 and 2 of the Table to the Schedule.