



New South Wales

Food Amendment (Nutritional Information) Regulation 2011

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*.

KATRINA HODGKINSON, MP
Minister for Primary Industries

Explanatory note

The object of this Regulation is to amend the *Food Regulation 2010*:

- (a) to provide exemptions from the requirements of the *Food Act 2003* in relation to the display of nutritional information for standard food items sold on a trial basis, and
- (b) to exempt supermarkets from those requirements until 1 February 2013, and
- (c) to permanently exempt supermarkets from those requirements in relation to standard food items on which are displayed nutrition information panels in accordance with the *Australia New Zealand Food Standards Code* of the Commonwealth, and
- (d) to vary the requirements relating to the manner of displaying nutritional information by supermarkets, and
- (e) to enable the Food Authority to waive or reduce the fee for approval as an analyst for the purposes of that Act in a particular case or class of cases, and
- (f) to clarify the operation of the meat food safety scheme in relation to retail premises, and
- (g) to update certain references to a prescribed document and Departments and for other law revision purposes.

This Regulation is made under the *Food Act 2003*, including sections 102, 106Q and 139 (the general regulation-making power).

2011 No 628

Clause 1 Food Amendment (Nutritional Information) Regulation 2011

Food Amendment (Nutritional Information) Regulation 2011

under the

Food Act 2003

1 Name of Regulation

This Regulation is the *Food Amendment (Nutritional Information) Regulation 2011*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Food Regulation 2010

[1] Clause 4A AUS-MEAT manual

Omit “(Second Edition, Version 2, 12 July 2010)”.

Insert instead “(Edition 3—2011 Version 1 amended 19 May 2011)”.

[2] Clause 8 Fee for application for approval as analyst

Insert at the end of clause 8:

- (2) The Food Authority may reduce or waive payment of the fee in a particular case or class of cases.

[3] Clause 11 Charges for inspection of non-licensed food business

Omit “Department of Environment, Climate Change and Water” from clause 11 (5) (b).

Insert instead “Department of Premier and Cabinet”.

[4] Clause 16P

Omit the clause. Insert instead:

16P Definitions

- (1) In this Part:

convenience store does not include a supermarket.

nutrition information panel means a nutrition information panel that complies with the requirements for nutrition information panels in Division 2 of Standard 1.2.8 of the *Food Standards Code*.

supermarket means premises in which more than 1,000 square metres of floor area is used for the retail sale of grocery items which include at least all of the following items:

- (a) bread,
- (b) breakfast cereal,
- (c) butter,
- (d) eggs,
- (e) flour,
- (f) fresh fruit and vegetables,
- (g) fresh milk,
- (h) meat,
- (i) rice,

2011 No 628

Food Amendment (Nutritional Information) Regulation 2011

Schedule 1 Amendment of Food Regulation 2010

- (j) sugar,
 - (k) packaged food other than food referred to in the preceding paragraphs.
- (2) In this Part, expressions defined for the purposes of Division 4 of Part 8 of the Act have the same meanings as in that Division.

[5] Clause 16S

Omit the clause. Insert instead:

16S Kinds of nutritional information required to be displayed

- (1) For the purposes of section 106N of the Act, the following kinds of nutritional information are prescribed in relation to standard food outlets:
- (a) in relation to a standard food outlet that is not a supermarket, the average energy content of each standard food item for sale by the standard food outlet concerned expressed in kilojoules,
 - (b) in relation to a standard food outlet that is a supermarket, the average energy content of the whole or 100 g of each standard food item for sale by the standard food outlet concerned expressed in kilojoules,
 - (c) in relation to all standard food outlets, the following statement:
The average adult daily energy intake is 8,700 kJ.
- (2) The method of determining the nutritional information referred to in subclause (1) (a) or (b) is to calculate the average energy content of the whole of the standard food item concerned, or 100 g of the item, (as the case may be) in accordance with Standard 1.2.8 of the *Food Standards Code*.
- (3) If the average energy content is to be calculated for the whole of a standard food item, the average energy content is to be calculated in accordance with Standard 1.2.8 of the *Food Standards Code*, making necessary adjustments to ensure that the calculation is done in relation to the whole of the item rather than per 100 g.
- (4) The number of kilojoules calculated as referred to in subclause (2) may be rounded to the nearest 10 kJ.

[6] Clause 16T

Omit the clause. Insert instead:

16T Kind of nutritional information voluntarily displayed that must comply with requirements

- (1) For the purposes of section 106O of the Act, the kind of nutritional information that is prescribed is the energy content of any standard food item, or part or amount of a standard food item, for sale at the standard food outlet concerned.
- (2) The nutritional information is to be determined:
 - (a) in the case of a standard food item for sale at a standard food outlet that is not a supermarket, as the average energy content of the standard food item in kilojoules, and
 - (b) in the case of a standard food item for sale at a standard food outlet that is a supermarket, as the average energy content of the standard food item, or 100 g of the standard food item, in kilojoules, and
 - (c) in all cases, in accordance with Standard 1.2.8 of the *Food Standards Code*.
- (3) If the average energy content is to be calculated for the whole of a standard food item, the average energy content is to be calculated in accordance with Standard 1.2.8 of the *Food Standards Code*, making necessary adjustments to ensure that the calculation is done in relation to the whole of the item rather than per 100 g.
- (4) The number of kilojoules calculated as referred to in subclause (2) may be rounded to the nearest 10 kJ.

[7] Section 16V Manner of displaying nutritional information

Omit clause 16V (1). Insert instead:

- (1) For the purposes of sections 106N and 106O of the Act, the nutritional information referred to in clauses 16S (1) (a) and (b) and 16T (1) must:
 - (a) be clearly legible, and
 - (b) display the number of kilojoules in numerals and use the abbreviation “kJ”, and
 - (c) in the case of a standard food outlet that is not a supermarket, be in the same font, and at least the same font size, as the price displayed for the standard food item

2011 No 628

Food Amendment (Nutritional Information) Regulation 2011

Schedule 1 Amendment of Food Regulation 2010

concerned or, if no price is displayed, as the name displayed for the item, and

- (d) in the case of a standard food outlet that is a supermarket, be in the same font, and at least the same font size, as the price displayed for the standard food item concerned or the unit price displayed for the item (being the price per unit of measurement).

[8] Clause 16W Exemptions

Insert after clause 16W (2):

- (3) A food business is exempt from the operation of section 106N of the Act in relation to a standard food item for a period of not more than 60 consecutive days during which the item is sold by the food business on a trial basis, but only if:
 - (a) not more than 5 standard food outlets of the food business in New South Wales sell that item during that period or part of that period, and
 - (b) the item has not been sold at any time before that period by that food business in any of those standard food outlets.
- (4) A supermarket is exempt from the operation of sections 106N and 106O of the Act until 1 February 2013.
- (5) On and from 1 February 2013, a supermarket is exempt from the operation of sections 106N and 106O of the Act in relation to a standard food item if:
 - (a) the item is displayed for sale as an individual item and is in a package on which is conspicuously displayed a nutrition information panel for the item, or
 - (b) the item is displayed for sale as part of a combination of standard food items and all of the standard food items in the combination are in one or more packages on which are conspicuously displayed nutrition information panels for each item in the combination.

[9] Clause 58 Definitions

Insert “or any other retail premises” after “meat retail premises” in paragraph (d) of the definition of *animal food processing plant* in clause 58 (1).

[10] Clause 58 (1), definition of “meat processing plant”

Insert “or any other retail premises” after “meat retail premises” in paragraph (f).

-
- [11] **Clause 60 Application of meat food safety scheme to certain vehicles and food not intended for sale**
Omit clause 60 (1) and (2).
- [12] **Clauses 70, 72 (a), 73, 74 and 75**
Insert “(other than clauses 4.1–4.3 of that Standard)” after “CSIRO” wherever occurring.
- [13] **Clause 99 Establishment of Meat Industry Consultative Council**
Omit “Department of Industry and Investment” from clause 99 (2) (c).
Insert instead “Department of Trade and Investment, Regional Infrastructure and Services”.
- [14] **Clause 118 Modification of Food Standards Code**
Omit clause 118 (1). Insert instead:
(1) Standard 4.2.1 of the *Food Standards Code* is modified by omitting the definition of **growing on** from clause 15 and by inserting instead the following:
growing on means the process where juvenile bivalve molluscs are further grown for a sufficient period to enable their development prior to sale.
- [15] **Clause 168 Industry consultation**
Omit “Department of Industry and Investment” from clause 168 (2).
Insert instead “Department of Trade and Investment, Regional Infrastructure and Services”.