Food Regulation 2001

[2001-311]

New South Wales

Status Information

Currency of version

Historical version for 1 November 2002 to 12 November 2002 (accessed 21 December 2024 at 16:45)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
  Gazette No 201 of 1.11.2002, p 9312, Sch 1 [1], [3] and [4] (not commenced — to commence on 1.2.2003)

- **See also**
  Food Bill 2002

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the Interpretation Act 1987.

File last modified 4 November 2002

Food Regulation 2001

New South Wales

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New South Wales

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.

6AA   Notifications of food handling operations

(1) The Director-General may make an arrangement with a local council for the council to accept notifications under clause 4 of Standard 3.2.2 of the Food Standards Code on behalf of the Director-General and forward those notifications to the Director-General.

(2) A local council that performs the service of accepting and forwarding a notification under subclause (1) may in accordance with section 608 of the *Local Government Act 1993* charge a fee for that service not exceeding the following:

   (a) if the notification relates to 5 food premises or less—$50,

   (b) if the notification relates to more than 5 food premises—$10 per premises.

(3) A notification under clause 4 of Standard 3.2.2 of the Food Standards Code may be made:

   (a) in a written form—directly to the Director-General or to the Director-General through a local council (under an arrangement made in accordance with subclause (1)), or

   (b) in an electronic form by way of the Internet—directly to the Director-General.

(4) A notification that is made in a written form directly to the Director-General must be accompanied by a processing fee of:

   (a) if the notification relates to 5 food premises or less—$50, and

   (b) if the notification relates to more than 5 food premises—$10 per premises.

(5) A notification under clause 4 of Standard 3.2.2 of the Food Standards Code is not duly made unless it is accompanied by any fee that is required under this clause.

(6) Despite any other provision of this clause, the proprietor of a food business that is the subject of a licence under the *Food Production (Safety) Act 1998* is taken to have duly made all notifications required under clause 4 of Standard 3.2.2 of the Food Standards Code.

Part 3A 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.