

# Food Regulation 2004

[2004-59]



New South Wales

## Status Information

### Currency of version

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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.

### 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 1 April 2005

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New South Wales

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# Food Regulation 2004



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Food Regulation 2004*.

### 2 Commencement

This Regulation commences on 23 February 2004.

### 3 Definitions

In this Regulation:

**Director-General** means the Director-General of the Food Authority.

**the Act** means the *Food Act 2003*.

## Part 2 Provisions relating to Food Standards Code

### 4 Modification of Food Standards Code

(1) 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 2003*, and
- (c) to the appropriate enforcement agency is to be read as a reference to the Director-General, and
- (d) to demonstrate is to be read as a reference to demonstrate to the satisfaction of the Director-General.

(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.

## **5 Notifications of food handling operations**

- (1) Expressions used in this clause have the same meaning as in Standard 3.1.1 of the Food Standards Code.
- (2) 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.
- (3) A local council that performs the service of accepting and forwarding a notification under subclause (2) may 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.
- (4) 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 (2)), or
  - (b) in an electronic form by way of the Internet—directly to the Director-General.
- (5) 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.
- (6) 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.

## **Part 3 Administration**

### **6 Enforcement agencies**

- (1) For the purposes of the definition of **enforcement agency** in section 4 (1) of the Act, the following are prescribed:

- (a) (Repealed)
- (b) each local council,
- (c) in respect of the Kosciuszko National Park, the Director-General of the Department of Environment and Conservation,
- (d) in respect of Lord Howe Island, the Lord Howe Island Board constituted by the *Lord Howe Island Act 1953*.

(2) The Food Authority is prescribed as the appropriate enforcement agency for the purposes of sections 93, 95 and 100 of the Act.

## **7 Delegations**

For the purposes of section 109E (1) (d) of the Act, the following offices are prescribed:

- (a) (Repealed)
- (b) the general manager of a local council.

## **Part 4 Miscellaneous**

### **8 Payment for samples**

For the purposes of section 68 of the Act, if the current market value of a sample of food exceeds \$10, the amount payable for the sample concerned is \$10.

### **8A Fee for application for approval as analyst**

For the purposes of section 81 (3) (b) of the Act, the prescribed fee to accompany an application for an approval under Division 4 of Part 6 of the Act is \$50.

### **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.

### **10 Savings and transitional provisions**

- (1) A notification relating to a food business that was duly made for the purposes of

Standard 3.2.2 of the Food Standards Code before the commencement of section 100 of the Act is taken to be a written notice in the approved form for the purposes of that section.

(2) (Repealed)

## Schedule 1 Penalty notices

(Clause 9)

| <b>Column 1</b>  | <b>Column 2</b>                  | <b>Column 3</b>                  |
|--|----------------------------------|----------------------------------|
| <b>Provision of the Act</b>  | <b>Penalty for an individual</b> | <b>Penalty for a corporation</b> |
| 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                           |
| 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  |