

# Food Amendment Act 2010 No 108

[2010-108]



New South Wales

## Status Information

### Currency of version

Historical version for 30 November 2010 to 1 February 2011 (accessed 7 May 2024 at 21:56)

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

### Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

### Notes—

- **Note**

Amending Acts and amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987 No 15](#) once the amendments have taken effect.

### 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](#).

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# Food Amendment Act 2010 No 108



New South Wales

An Act to amend the *Food Act 2003* with respect to the display of nutritional information by certain food businesses; and for other purposes.

## 1 Name of Act

This Act is the *Food Amendment Act 2010*.

## 2 Commencement

- (1) This Act commences on the date of assent, except as provided by subsections (2) and (3).
- (2) Schedule 2 (other than Schedule 2 [2]) commences on 1 February 2011.
- (3) Schedule 2 [2] commences on 1 February 2012.

## Schedule 1 (Repealed)

## Schedule 2 Amendment of *Food Regulation 2010*

### [1] Part 2B

Insert after Part 2A:

## Part 2B Requirements for display of nutritional information

### 16P Definitions

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.

### 16Q Definition of “prepackaged food”

For the purposes of section 106L (4) of the Act, food is **prepackaged** if the food:

- (a) arrives at the premises from which it is sold in a container or wrapper in or by which the food is wholly encased, enclosed, contained or packaged (whether or not the food is also in an outer container or wrapper that encases, encloses,

contains or packages multiple units of the food), and

- (b) is not removed from its container or wrapper (other than any such outer container or wrapper) before its sale at those premises.

#### **16R Standard food outlets required to display nutritional information**

The following standard food outlets are prescribed as standard food outlets to which section 106N of the Act applies:

- (a) a standard food outlet of a food business that sells standard food items at 20 or more locations in New South Wales or at 50 or more locations in Australia,
- (b) a standard food outlet of a food business that is operating in a chain of food businesses that sell standard food items if together those businesses sell standard food items at 20 or more locations in New South Wales or at 50 or more locations in Australia.

#### **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:

- (a) the average energy content of each standard food item for sale by the standard food outlet concerned expressed in kilojoules,
- (b) 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) is to calculate the average energy content of each standard food item 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 food item rather than per 100g.
- (3) The number of kilojoules calculated as referred to in subclause (2) may be rounded to the nearest 10 kJ.

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

For the purposes of section 106O of the Act:

- (a) the kind of nutritional information that is prescribed is the energy content of any standard food item for sale at the standard food outlet concerned, and
- (b) that nutritional information is to be determined in kilojoules and in accordance with the method referred to in clause 16S (2) and (3).

## **16U Locations for display of nutritional information**

- (1) For the purposes of sections 106N and 106O of the Act, the locations where nutritional information referred to in clauses 16S (1) (a) and 16T (a) must be displayed in relation to a standard food item are:
  - (a) on each menu on which the name or price of the standard food item is displayed and on each price tag or label or identifying tag or label for the item, and
  - (b) if there are drive-through facilities, on the drive-through menu board that displays the name or price of the standard food item or on a separate adjacent board visible at or before the point of ordering, and
  - (c) adjacent to or in close proximity to the name or price of the standard food item so as to be clearly associated with the item.
- (2) The locations where nutritional information referred to in subclause (1) is displayed in relation to a standard food item are to be consistent with the locations where such nutritional information is displayed for all of the other standard food items that are displayed with that standard food item.
- (3) For the purposes of section 106N of the Act, the locations where the statement referred to in clause 16S (1) (b) must be displayed are:
  - (a) in one location on each menu on which the name or price of one or more standard food items is displayed and adjacent to or in close proximity to the standard food item or items so as to be clearly associated with the item or items, and
  - (b) if there are drive-through facilities, in one location on the drive-through menu board adjacent to or in close proximity to the standard food item or items so as to be clearly associated with the item or items, and
  - (c) in each area or display cabinet, or on each stand, where standard food items with price tags or labels or identifying tags or labels are displayed and adjacent to or in close proximity to the item or items so as to be clearly associated with the item or items and conspicuous to a person looking at the item or items.

## **16V Manner of displaying nutritional information**

- (1) For the purposes of sections 106N and 106O of the Act, the nutritional information referred to in clauses 16S (1) (a) and 16T (a) must:
  - (a) be clearly legible, and
  - (b) display the number of kilojoules in numerals and use the abbreviation “kJ”,

and

- (c) be in the same font, and at least the same font size, as the price displayed for the standard food item concerned or, if no price is displayed, as the name displayed for the item.
- (2) For the purposes of section 106N of the Act, the statement referred to in clause 16S (1) (b) must:
- (a) be clearly legible, and
  - (b) in a case where only one standard food item is displayed on a menu, be in the same font, and at least the same font size, as the name of the item displayed or, if no name is displayed, as the price displayed for the item, and
  - (c) in a case where a number of standard food items are listed or displayed on a menu, be in the same font, and at least the same font size, as the name of the standard food item with the largest font size listed or displayed or, if no names are listed or displayed, as the price of the standard food item with the largest font size listed or displayed, and
  - (d) in the case of a standard food item or items displayed with a price tag or label or identifying tag or label in any area, display cabinet or stand, be in at least the same font size as the largest font size on the tags or labels for the standard food item or items in the area, display cabinet or stand.

## **16W Exemptions**

- (1) The following food businesses are exempt from the operation of section 106N of the Act:
- (a) convenience stores,
  - (b) service stations selling petrol or other fuel for motor vehicles,
  - (c) food businesses that primarily provide food catering services,
  - (d) food businesses that only sell food that is intended to be consumed on the premises at which it is sold.
- (2) Food sold by retail at a health care facility is exempt from the operation of section 106N of the Act.

## **[2] Schedule 2 Penalty notices**

Insert in Columns 1, 2 and 3 of Part 1 of Schedule 2 in appropriate order of section number:

Section 106N (3)	\$880	\$1760
Section 106N (4)	\$330	\$660
Section 106O (2)	\$330	\$660