

# Food Regulation 2015

[2015-622]



New South Wales

## Status Information

### Currency of version

Historical version for 1 July 2019 to 7 December 2023 (accessed 25 February 2024 at 13:23)

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**  
[Food Amendment \(National Standard\) Regulation 2023 \(628\)](#) (not commenced — Sch 1[1] and [3] to commence on 8.12.2024; Sch 1[2] and [4] to commence on 8.12.2023)
- **Staged repeal status**  
This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2024

### 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 29 November 2023

# Food Regulation 2015



New South Wales

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# Food Regulation 2015



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Food Regulation 2015*.

### 2 Commencement

This Regulation commences on 30 October 2015 and is required to be published on the NSW legislation website.

**Note—**

This Regulation repeals and replaces the *Food Regulation 2010*, which would otherwise have been repealed on 1 September 2016 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation:

**approved** means approved by the Food Authority.

**dairy food safety scheme** means the provisions of this Regulation prescribed as a food safety scheme by clause 60.

**egg food safety scheme** means the provisions of this Regulation prescribed as a food safety scheme by clause 166.

**food handler** means a person who directly engages in the handling of food for a food business.

**licence** means a licence granted under Part 7.

**meat food safety scheme** means the provisions of this Regulation prescribed as a food safety scheme by clause 77.

**NSW Food Safety Schemes Manual** means the publication of that name published by the Food Authority, as in force from time to time.

**plant products food safety scheme** means the provisions of this Regulation

prescribed as a food safety scheme by clause 121.

**seafood safety scheme** means the provisions of this Regulation prescribed as a food safety scheme by clause 130.

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

**vulnerable persons food safety scheme** means the provisions of this Regulation prescribed as a food safety scheme by clause 158.

(2) Notes included in this Regulation do not form part of this Regulation.

## Part 2 Miscellaneous

### 4 Enforcement agencies

- (1) For the purposes of the definition of **enforcement agency** in section 4 (1) of the Act, the Lord Howe Island Board constituted by the *Lord Howe Island Act 1953* is prescribed, in respect of Lord Howe Island.
- (2) For the purposes of sections 93, 95 and 100 of the Act, the Food Authority is prescribed as the appropriate enforcement agency.
- (3) For the purpose of section 100 of the Act, if a local council is appointed as an enforcement agency under Division 2 of Part 9 of the Act, the local council is prescribed as the appropriate enforcement agency in respect of the area for which the council is appointed as an enforcement agency.
- (4) For the purposes of section 100 of the Act, the Chief Executive of the Office of Environment and Heritage is the appropriate enforcement agency, in respect of Kosciuszko National Park.
- (5) For the avoidance of doubt, if there is more than one appropriate enforcement agency prescribed for the purposes of section 100 of the Act, the proprietor of a food business may give notice under that section to any appropriate enforcement agency.

### 5 AUS-MEAT manual

The *AUS-MEAT Domestic Retail Beef Register* (Edition 3—2011 Version 1 amended 19 May 2011) published by AUS-MEAT Limited (ACN 082 528 881) is prescribed as a replacement document for the purposes of the definition of **AUS-MEAT manual** in section 23B (5) of the Act.

### 6 Food safety auditor reports

For the purposes of section 95 (2) (a) of the Act, the form set out in Part 1 of Schedule 1 is prescribed as the form for a report on the results of any audit or assessment carried out by a food safety auditor for the purposes of the Act.

## 7 Delegations

For the purposes of section 109E (1) (d) of the Act, the office of general manager of a local council is prescribed.

## 8 Offences

- (1) A breach of a provision of Parts 7-13 does not constitute an offence against this Regulation unless a penalty is provided in the provision.
- (2) Subclause (1) does not affect the operation of section 104 of the Act in relation to the provisions of this Regulation.

### Note—

Section 104 of the Act makes it an offence (among other things):

- (a) for a person to handle food in a manner that contravenes a provision of a food safety scheme, and
- (b) for a person who carries on a food business or activity for which a licence is required by the regulations to carry on that food business or activity without such a licence, and
- (c) for the holder of a licence granted under the regulations to contravene or fail to comply with a condition of a licence.

## 9 Penalty notice offences and penalties

- (1) For the purposes of section 120 of the Act:
  - (a) each offence created by a provision specified in Column 1 of Schedule 2 is an offence for which a penalty notice may be served, and
  - (b) the penalty prescribed for each such offence is:
    - (i) in the case of a penalty payable by an individual—the amount specified opposite the provision in Column 2 of the Schedule, and
    - (ii) in the case of a penalty payable by a corporation—the amount specified opposite the provision in Column 3 of the Schedule.
- (2) If the reference to a provision in Column 1 of Schedule 2 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

## 10 Repeal and savings

- (1) The *Food Regulation 2010* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Food Regulation 2010*, had effect under that Regulation continues to have effect under this Regulation.

## Part 3 Fees and charges

### 11 Improvement notice fee

For the purposes of section 66AA (1) of the Act, \$330 is the prescribed fee that a person may be required to pay when given an improvement notice.

### 12 Payment for sample

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

### 13 Fee for food safety auditor application

For the purposes of section 87 (3) (b) of the Act, the prescribed fee that is to accompany an application for approval as a food safety auditor is \$800.

### 14 Charges for inspections of non-licensed food business

- (1) The charge payable for the carrying out by an authorised officer of a relevant enforcement agency of any inspection of a food business under section 37 of the Act (other than an inspection in relation to a licence or an application for a licence) is \$284 per hour with a minimum charge of half an hour (excluding time spent in travelling).
- (2) The relevant enforcement agency may increase the amount referred to in subclause (1) annually in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics.
- (3) The charges payable under this clause are payable to the relevant enforcement agency whose authorised officer carried out the inspection under this clause.
- (4) The relevant enforcement agency may reduce or waive payment of a charge in a particular case or class of cases.
- (5) In this clause, **relevant enforcement agency** means any of the following:
  - (a) the Food Authority,
  - (b) in respect of the Kosciuszko National Park—the Chief Executive of the Office of Environment and Heritage,
  - (c) in respect of Lord Howe Island—the Lord Howe Island Board constituted by the [Lord Howe Island Act 1953](#),
  - (d) a local council, but only in respect of an area that is not within a local government area.

## **15 Annual administration charge**

- (1) An enforcement agency may impose an administration charge for a 12-month period on a person who carries on a food business that is not required to be licensed under the Act.
- (2) The charge is to be calculated in relation to each of the premises of the food business by reference to the number of full-time equivalent food handlers working at the premises indicated in the first column of the Table to this clause, as at the date the charge is imposed.
- (3) The amount of the charge must not exceed the maximum charge indicated in the second column of the Table to this clause.
- (4) A charge may only be imposed by an enforcement agency on a food business under this clause if the enforcement agency intends to carry out at least one inspection of the premises of the food business during the 12-month period to which the charge relates.
- (5) The enforcement agency is to issue each person who is liable to pay a charge under this clause with a notice in writing that specifies the following:
  - (a) the amount of the charge,
  - (b) the period for which the charge relates,
  - (c) the period within which the charge must be paid.
- (6) The person liable to pay a charge under this clause must pay the charge within the period specified in the notice.
- (7) If the enforcement agency does not carry out at least one inspection of the premises of the food business during the 12-month period to which the charge relates, the enforcement agency must refund the charge paid (if any) by the person who carries on the food business.
- (8) Any charge paid under this clause in respect of a food business that, after the charge has been paid and before the expiration of the period to which the charge relates, becomes licensed under the Act, is to be refunded as an amount proportionate to the remainder of the period to which the charge relates.
- (9) The enforcement agency may, on the application of the person liable to pay a charge under this clause, extend the time for payment of the charge or reduce or waive payment of the charge.
- (10) This clause does not apply to a food business that operates for the sole purpose of raising funds for a community or charitable cause.



**Table**

<b>Number of full-time equivalent food handlers working at premises</b>	<b>Maximum charge per premises</b>
Up to and including 5	\$390
More than 5 but not more than 50	\$800
More than 50	\$3,500

**16 Payment of penalties and fines into Food Authority Fund—determination of maximum amount**

- (1) For the purposes of the definition of **maximum amount** in section 117D (3) of the Act, the maximum amount for a financial year is to be determined in accordance with the following formula:

where:

**MA** is the maximum amount for a financial year.

**F** is 50% of all fines and monetary penalties paid to the Food Authority in that financial year in proceedings instituted by the Food Authority in respect of offences under the Act or this Regulation.

- (2) In this clause:

**fine** does not include any costs (including expenses or disbursements) payable by a person under an order made by a court in proceedings for an offence under the Act or this Regulation.

**proceedings instituted by the Food Authority** means any proceedings instituted:

- (a) by the Food Authority, or
- (b) under the direction of the Food Authority, or
- (c) on behalf of the Food Authority, or
- (d) for the benefit of the Food Authority,

but does not include the issuing of a penalty notice under the Act.

**17 Fee for application for change to register**

For the purposes of section 133F (3) (b) of the Act, the prescribed fee to accompany an application for a change to the Register kept under Part 10A of the Act is \$55.

## **Part 4 Food safety supervisors**

### **Division 1 Interpretation**

#### **18 Definitions**

Terms that are used in this Part and are defined in Division 3 of Part 8 of the Act have the same meanings as they have in that Division.

### **Division 2 Food safety supervisor certificates**

#### **19 Food Authority may also issue food safety supervisor certificates**

The Food Authority may issue a food safety supervisor certificate.

**Note—**

Section 106B (3) of the Act provides that a food safety supervisor certificate may be issued by an approved training organisation or another person or body prescribed by the regulations.

#### **20 Qualifications for issue of food safety supervisor certificate**

- (1) An approved training organisation may issue a food safety supervisor certificate to a person only if the organisation is satisfied that:
  - (a) the person to whom the certificate is to be issued has attained the required units of competency in accordance with subclause (3), and
  - (b) at least one of the required units of competency was attained from the organisation and was attained when the organisation was an approved training organisation.
- (2) The Food Authority may issue a food safety supervisor certificate to a person only if the Authority is satisfied that:
  - (a) the person to whom the certificate is to be issued has attained the required units of competency in accordance with subclause (3), and
  - (b) the certificate could not be issued by an approved training organisation, for example, because:
    - (i) none of the required units of competency were attained from a person or body that was an approved training organisation when the units were attained, or
    - (ii) the approved training organisation from which the person attained one or more of the required units of competency has ceased to exist or its approval has been suspended or revoked.
- (3) The required units of competency must have been attained:
  - (a) within the period of 5 years immediately preceding the application for the

certificate, and

(b) in a manner that has been determined by the Food Authority and published on its internet website.

(4) In this clause, **required units of competency** means the particular units of competency that are determined by the Food Authority as being required for the attainment of a certificate referred to in subclause (1) and that are identified on its internet website.

(5) If the Food Authority changes its determination under this clause as to the required units of competency or the manner in which required units of competency must be attained, the change does not affect required units of competency attained in accordance with a previous determination of the Food Authority that was in force under this clause when the units were attained.

## **21 Form of food safety supervisor certificate**

A food safety supervisor certificate must be issued in a form approved by the Food Authority and bear an identifying number assigned by the Authority.

## **22 Charges for issue of food safety supervisor certificates**

(1) A charge of \$30 is payable to the Food Authority by an approved training organisation for the issue of a food safety supervisor certificate by the organisation.

(2) The Food Authority or an approved training organisation may impose a fee or charge of not more than \$30 for the issue of a food safety supervisor certificate to a person.

## **Division 3 Approval of registered training organisations to issue food safety supervisor certificates**

### **23 Approval of registered training organisations to issue food safety supervisor certificates**

(1) A registered training organisation (within the meaning of the [National Vocational Education and Training Regulator Act 2011](#) of the Commonwealth) may make an application to the Food Authority, in the form approved by the Authority, for the approval of the organisation under section 106H of the Act.

(2) The application is to be accompanied by:

(a) such information as the Food Authority requires to determine the application, and

(b) an application fee of \$100, and

(c) an approval fee of \$1,200.

(3) The Food Authority may, after considering an application for approval:

- (a) grant the application, with or without conditions imposed by the Authority, or
  - (b) refuse to grant the application.
- (4) If the Food Authority grants an application for approval, it must issue the applicant with a written approval that sets out the conditions to which the approval is subject.
- (5) If the Food Authority refuses an application for approval, the Food Authority must:
- (a) give notice of the refusal in writing to the applicant setting out the reasons for the refusal, and
  - (b) refund any approval fee that was submitted with the application.
- (6) This clause applies to an application for renewal of an approval under section 106H of the Act in the same way as it applies to an application for an approval. However, no application fee is payable in relation to an application for renewal of an approval.

#### **24 Condition of approval**

- (1) In addition to any condition imposed on an approval by the Food Authority, an approval is subject to a condition that the registered training organisation complies with this clause.
- (2) The registered training organisation must ensure that a person does not conduct training and assessment on behalf of the organisation for the purposes of the issue of a food safety supervisor certificate unless the Food Authority has agreed in writing to the person carrying out such training and assessment.
- (3) The registered training organisation must:
- (a) provide the documents and information required by the Food Authority to enable the Authority to determine whether to agree to a person carrying out that training and assessment, and
  - (b) obtain the consent of each person who proposes to conduct training and assessment on the organisation's behalf to the provision of the information and documents referred to in paragraph (a) to the Food Authority.

#### **25 Training qualifications**

The Food Authority is not to agree to a person carrying out training and assessment on behalf of an approved training organisation for the purposes of the issue of a food safety supervisor certificate unless the Authority is satisfied that the person has met the requirements of the Standards for Registered Training Organisations made under the [National Vocational Education and Training Regulator Act 2011](#) of the Commonwealth.

## **26 Duration of approval**

- (1) Unless sooner cancelled, an approval remains in force for the period of 12 months from the date on which it was granted but may be renewed in accordance with this Division.
- (2) An approval does not have effect while it is suspended.

## **27 Variation, suspension and cancellation of approvals**

- (1) The Food Authority may:
  - (a) vary a condition imposed by the Authority on an approval or impose a condition on an approval, or
  - (b) suspend or cancel an approval.
- (2) The Food Authority may vary a condition of an approval or impose a condition on an approval, or suspend or cancel an approval, only after having given the holder of the approval written notice of its intention to do so, setting out its reasons.
- (3) The notice must include a statement that the holder of the approval concerned may make submissions to the Food Authority in relation to the proposed variation, imposition of condition, suspension or cancellation within 14 days after the date of the notice.
- (4) Subclauses (2) and (3) do not apply to the variation of a condition of an approval, or the cancellation of an approval, at the request of the holder of the approval.
- (5) A variation of the conditions of, imposition of conditions on or the suspension or cancellation of an approval:
  - (a) must be by notice in writing, and
  - (b) must be served on the holder of the approval, and
  - (c) takes effect on the day on which the notice is served or on a later day specified in the notice.

## **Division 4 Miscellaneous**

### **28 Definition of “prepackaged food”**

For the purposes of section 106A (c) 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.

## **29 Exemptions from Division 3 of Part 8 of the Act**

- (1) The following food businesses are exempt from the operation of Division 3 of Part 8 of the Act:
  - (a) food businesses that are licensed under the Act,
  - (b) coffee vendors if the only processing of potentially hazardous food for sale is the heating of milk.
- (2) The sale of food for the purpose of raising funds solely for community or charitable causes is exempt from the operation of Division 3 of Part 8 of the Act.
- (3) The following premises are exempt from the operation of Division 3 of Part 8 of the Act:
  - (a) a primary or secondary school if the food is sold principally to students and staff at that school,
  - (b) a boarding school if the food is sold principally to students and staff at that school,
  - (c) premises where an approved education and care service within the meaning of the *Children (Education and Care Services) National Law (NSW)*, or the *Children (Education and Care Services) Supplementary Provisions Act 2011*, is provided,
  - (d) correctional centres (within the meaning of the *Crimes (Administration of Sentences) Act 1999*),
  - (e) premises used by a food business where the processing of potentially hazardous food for sale involves one or more of the following activities only:
    - (i) the slicing of fermented meats or smallgoods, or both,
    - (ii) the slicing or portioning of cheese, or both,
    - (iii) the processing of raw seafood,
    - (iv) the slicing or portioning of fruit or vegetable, or both, that is ready-to-eat food,
  - (f) supermarkets if heated food is not sold.

## **Part 5 Requirements for display of nutritional information**

### **30 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,
- (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.

### **31 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.

### **32 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.

### **33 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 grams 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 grams 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 grams.
- (4) The number of kilojoules calculated as referred to in subclause (2) may be rounded to the nearest 10 kilojoules.

### **34 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 grams 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 grams.
- (4) The number of kilojoules calculated as referred to in subclause (2) may be rounded to the nearest 10 kilojoules.

### **35 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 33 (1) (a) and (b) and 34 (1) 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 33 (1) (c) 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.

### **36 Manner of displaying nutritional information**

- (1) For the purposes of sections 106N and 106O of the Act, the nutritional information referred to in clauses 33 (1) (a) and (b) and 34 (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 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).
- (2) For the purposes of section 106N of the Act, the statement referred to in clause 33 (1) (c) 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.

### **37 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.
- (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 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.

## **Part 6 Provisions relating to Food Standards Code**

### **38 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 Food Authority, 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 Food Authority, and

(d) to demonstrate is to be read as a reference to demonstrate to the satisfaction of the Food Authority.

(2) Clause 4 of Standard 3.2.2 of the *Food Standards Code* is modified by inserting after subclause (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.

**Note—**

Other modifications of the *Food Standards Code* that relate to a particular food safety scheme are contained in the relevant Part of this Regulation that contains provisions establishing that scheme.

### **39 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) A notification under clause 4 of Standard 3.2.2 of the *Food Standards Code* may be made in written form or electronic form by way of the internet.

## **Part 7 Food safety schemes—general provisions**

### **Division 1 Interpretation**

#### **40 Definitions**

In this Part:

**food business** means:

(a) a dairy business within the meaning of Part 8, or

(b) a meat business within the meaning of Part 9, or

(c) a plant products business within the meaning of Part 10, or

(d) a seafood business within the meaning of Part 11, or

(e) a vulnerable persons food business within the meaning of Part 12, or

(f) an egg business within the meaning of Part 13.

**licence fee**, in relation to a licence, means the fee determined for the licence in accordance with clause 50.

## **Division 2 Licensing of food businesses**

### **41 Food business to be licensed**

A person must not carry on a food business unless the person holds a licence authorising the carrying on of the food business.

### **42 Application for licence**

- (1) A person may apply to the Food Authority for a licence to carry on a food business.
- (2) An application for a licence must:
  - (a) be made in a form approved by the Food Authority, and
  - (b) be accompanied by an application fee of \$50 (unless the Food Authority waives the application fee), and
  - (c) comply with any other requirements of this Regulation relating to applications for licences in respect of the type of food business concerned, and
  - (d) be accompanied by the licence fee (other than a licence fee under Division 6 of Part 11) as calculated by the applicant in accordance with the information provided in the application form, and
  - (e) be accompanied by such information as the Food Authority requires to determine the application.
- (3) The Food Authority may require further information to be provided by the applicant if the Food Authority considers that the information is necessary to determine the application.
- (4) The Food Authority may waive payment of the application fee for a licence in a particular case or class of cases.

### **43 Issue of licences**

- (1) The Food Authority may, after considering an application for a licence:
  - (a) grant the application, with or without conditions, or
  - (b) refuse the application.
- (2) Without limiting the grounds on which the Food Authority may refuse to grant an application, the Food Authority may refuse to grant a licence if it considers:
  - (a) that there should be a food safety program for all or any of the food businesses

proposed to be licensed and there is no such food safety program, or

- (b) that the food safety program for all or any of the food businesses proposed to be licensed does not comply with the requirements of the *Food Standards Code* or this Regulation.
- (3) If the Food Authority decides to grant a licence but considers that the licence fee accompanying the application has been wrongly calculated by the applicant, the Food Authority must:
- (a) refund the amount of any overpayment by the applicant, or
  - (b) give notice in writing of any additional amount that is required to be paid including a statement that the Food Authority may refuse to issue the licence until that amount is paid.
- (4) If the Food Authority grants an application for a licence, it must issue the licence to the applicant in a form that sets out the following:
- (a) the activities authorised by the licence,
  - (b) the premises or vehicles on or in which such activities may be conducted,
  - (c) the conditions to which the licence is subject.

**Note—**

The Act defines **vehicle** to mean any means of transport, whether self-propelled or not, and whether used on land or sea or in the air.

- (5) If the Food Authority refuses an application for a licence, it must give notice of the refusal in writing to the applicant setting out the reasons for the refusal and informing the applicant of the applicant's rights of review under this Regulation.
- (6) If the Food Authority refuses an application for a licence, the Food Authority is to refund any licence fee or levy that was submitted by the applicant in connection with the application.

**44 Duration of licence**

- (1) A licence is in force for a period of 12 months commencing on the date on which the licence was issued or last renewed, unless the licence is sooner cancelled.
- (2) A licence does not have effect during any period of suspension.
- (3) Despite subclause (1), if an application for renewal of a licence is made in accordance with this Regulation but the application is not finally determined before the expiry of the licence, the licence continues in force until the application is finally determined, unless the licence is sooner cancelled.

#### **45 Additional conditions of licence**

In addition to any conditions of a licence imposed by the Food Authority under clause 43, it is a condition of a licence that the holder of the licence ensure that the provisions of the Act and this Regulation, and the relevant provisions of the *Food Standards Code*, are complied with in relation to the carrying on of any activity authorised by the licence and any premises or vehicle to which the licence relates.

#### **46 Variation of terms and conditions of licence**

- (1) The Food Authority may vary any term of a licence or any condition imposed by the Food Authority on a licence or may impose additional conditions on the licence.
- (2) The Food Authority may vary a term or condition of a licence, or impose an additional condition, only after having given the holder of the licence written notice of its intention to vary the term or condition or impose the additional condition, setting out its reasons.
- (3) The notice must include a statement that the holder of the licence concerned may make submissions to the Food Authority in relation to the proposed variation or imposition of the condition within 14 days after the date of the notice.
- (4) Subclauses (2) and (3) do not apply to the variation of a term or condition of a licence, or imposition of a condition, on the application of the holder of the licence.
- (5) A variation of a term or condition of a licence or the imposition of a condition:
  - (a) must be made by notice in writing, and
  - (b) must be served on the holder of the licence, and
  - (c) takes effect on the day on which the notice is served or on a later day specified in the notice.
- (6) The notice referred to in subclause (5) must set out the reasons for the variation or imposition of the condition and inform the holder of the licence of the rights of review under this Regulation.
- (7) The Food Authority may charge the holder of a licence who applies for a variation of the terms or conditions of the licence or imposition of a condition on the licence:
  - (a) an application fee of not more than \$50, and
  - (b) if the Food Authority considers that any inspection or audit is required to enable it to determine the application properly, a charge for the inspection or audit in accordance with clause 57.
- (8) If the Food Authority varies a term or condition of a licence or imposes an additional condition on the licence, it is to issue the holder of the licence with a replacement

licence that takes account of the variation or additional condition.

**Note—**

The holder of a licence will need to apply to the Food Authority for a variation under this clause of a term or condition of the licence if, for example, the holder proposes to change the activities authorised by the licence or the premises or vehicles on or in which such activities are conducted.

**47 Suspension or cancellation of licence**

- (1) The Food Authority may suspend or cancel a licence:
  - (a) if the Food Authority is satisfied that the suspension or cancellation is necessary to avert a potential threat to food safety, or
  - (b) if the Food Authority is satisfied that there has been a contravention of any provision of the Act or this Regulation in relation to the carrying on of the food business authorised by the licence, or
  - (c) if the Food Authority is satisfied that a condition to which the licence is subject has been contravened, or
  - (d) if the Food Authority is of the opinion that the food safety program for the food business is inadequate or is not being properly implemented, or
  - (e) if any amount due to the Food Authority under the Act by the holder of the licence is unpaid, or
  - (f) if the Food Authority is of the opinion that the holder of the licence, or a person involved in the carrying on of the food business authorised by the licence, does not have the necessary capacity, experience or qualifications to ensure the safety of food for human consumption, or
  - (g) at the request of the holder of the licence.
- (2) The Food Authority may suspend or cancel a licence only after having given the holder of the licence written notice of its intention to suspend or cancel the licence, setting out its reasons for doing so.
- (3) The notice must include a statement that the holder of the licence concerned may make submissions to the Food Authority in relation to the proposed suspension or cancellation within 14 days after the date of the notice.
- (4) Subclauses (2) and (3) do not apply to the suspension or cancellation of a licence at the request of the holder of the licence.
- (5) The suspension or cancellation of a licence:
  - (a) must be made by notice in writing, and



- (b) must be served on the holder of the licence, and
  - (c) takes effect on the day on which the notice is served or on a later day specified in the notice.
- (6) The notice referred to in subclause (5) must set out the reasons for the suspension or cancellation and inform the holder of the licence of the rights of review under this Regulation.
- (7) If a licence authorises the carrying on of more than one activity, the Food Authority may suspend the licence to the extent to which it authorises a particular activity or activities to be carried on.
- (8) If a licence authorises the carrying on of an activity at 2 or more premises or in or on 2 or more vehicles, the Food Authority may suspend the licence to the extent to which it authorises activities to be carried on at particular premises or in or on a particular vehicle.

#### **48 Licence not transferable**

A licence is not transferable.

#### **49 Renewal of licence**

- (1) The holder of a licence is taken to apply for renewal of the licence:
- (a) by paying the licence fee and, in the case of a licence that authorises the carrying on of a seafood business, the amount of any applicable levies under Divisions 6 and 7 of Part 11, as notified in writing to the holder by the Food Authority in accordance with clause 50, or
  - (b) if the holder has been given permission by the Food Authority under that clause to pay the relevant amount by instalments—by paying the appropriate instalment.
- (2) The Food Authority may:
- (a) renew a licence with or without conditions, or
  - (b) refuse to renew the licence.
- (3) Without limiting the grounds on which the Food Authority may refuse to renew a licence, the Food Authority may refuse to renew a licence on any ground on which the Food Authority could have suspended or cancelled the licence.
- (4) If the Food Authority renews a licence, it must issue a licence to the applicant in a form that sets out the following:
- (a) the activities authorised by the licence,

- (b) the premises or vehicles on or in which such activities may be conducted,
- (c) the conditions to which the licence is subject.

**Note—**

The Act defines **vehicle** to mean any means of transport, whether self-propelled or not, and whether used on land or sea or in the air.

- (5) If the Food Authority refuses to renew a licence, it must give notice of the refusal in writing to the applicant setting out the reasons for the refusal and informing the applicant of the applicant's rights of review under this Regulation.
- (6) If the Food Authority refuses to renew a licence, the Food Authority is to refund any licence fee or levy that was submitted by the applicant in connection with the renewal.

**50 Calculation and notification of licence fees and levies**

- (1) A licence fee for a licence that authorises the carrying on of:
  - (a) a dairy business is to be calculated in accordance with clause 75, or
  - (b) a meat business is to be calculated in accordance with clause 119, or
  - (c) a plant products business is to be is to be calculated in accordance with clause 128, or
  - (d) a seafood business is to be calculated in accordance with clause 152 and, where applicable, clause 153, or
  - (e) a vulnerable persons food business is to be calculated in accordance with clause 164, or
  - (f) an egg business is to be calculated in accordance with clause 183.
- (2) If a licence authorises the carrying on of more than one food business, the licence fee is to be calculated as the total of the licence fees for each of those food businesses that would be applicable under subclause (1).
- (3) The Food Authority is to issue to each holder of a licence who is liable to pay a licence fee or levy under this Regulation a notice in writing before the expiration of the licence:
  - (a) specifying the amount of the licence fee or levy and the period (being not less than 42 days after the issue of the notice) within which the licence fee or levy must be paid, and
  - (b) specifying (where relevant) the method of calculating the amount of the licence fee or levy to be paid by that holder.

- (4) The holder of a licence may, before the expiration of the licence, apply to the Food Authority for approval to pay the licence fee or levy for a particular year by instalments.
- (5) An approval under this clause must be notified in writing to the holder of the licence concerned and must specify the amount of each instalment and the date by which each instalment must be paid.
- (6) The holder of a licence who has been given approval by the Food Authority to pay the licence fee or levy by instalments must pay each instalment in accordance with the terms of the approval.
- (7) If there is a failure by the holder of a licence who has approval to pay the licence fee or levy by instalments to pay the amount of an instalment by the date required in the approval, the total unpaid balance of the licence fee or levy may be treated by the Food Authority as an overdue amount even if payment by instalments has commenced.
- (8) The Food Authority may reduce or waive payment of a licence fee or levy in a particular case or class of cases.
- (9) Without limiting subclause (8), if a licence is granted after the commencement of a year for which a licence fee or levy is payable, the Food Authority may reduce the licence fee or levy payable by the holder of the licence for that year by a proportionate amount.

#### **51 Applicants to present vehicles for inspection**

The Food Authority may require an applicant for the issue or renewal of a licence that authorises the operation of a vehicle to present the vehicle in respect of which the application is made for inspection by the Food Authority at such time and place as the Food Authority may determine.

#### **52 Vehicle labels**

- (1) The Food Authority is to issue to the holder of a licence that authorises the operation of a vehicle a licensing label in respect of the vehicle to which the licence relates.
- (2) The holder of a licence must ensure that any licensing label issued by the Food Authority in respect of a vehicle to which the licence relates is displayed in an approved position on the vehicle whenever the vehicle is being operated in the course of carrying on the food business authorised by the licence unless the expiry date shown on the label has passed.

Maximum penalty: 25 penalty units.

### **53 Display of licence**

- (1) The holder of a licence must ensure that, on every premises to which the licence relates, a copy of so much of the licence as is relevant to the premises is displayed.

Maximum penalty: 25 penalty units.

- (2) The holder of a licence must ensure that, on every vehicle to which the licence relates, a copy of so much of the licence as is relevant to the vehicle is carried.

Maximum penalty: 25 penalty units.

## **Division 3 Food safety programs**

### **54 Content of food safety program**

If a food safety program is required for a food business by the *Food Standards Code* or under this Regulation (including by a condition on a licence imposed under this Regulation), the food safety program must comply with any requirements of the *Food Standards Code* and any requirements of this Regulation or made under this Regulation.

## **Division 4 Inspections and audits**

### **55 Inspections and audits of food businesses**

- (1) The Food Authority may arrange for an authorised officer to carry out an inspection of the premises and equipment involved in a food business, and the activities carried on in the course of the food business, before or after granting a licence in respect of the food business.
- (2) The Food Authority may arrange for a food safety auditor to do any of the following, before or after granting a licence in respect of a food business:
  - (a) to carry out an audit of the food safety program, or proposed food safety program, for the food business,
  - (b) to carry out an assessment of the food business to ascertain its compliance with the requirements of the Food Safety Standards.
- (3) This clause is not intended to limit any powers of an authorised officer to carry out an inspection under Part 4 or 5 of the Act.

### **56 Approval for a food business to retain food safety auditor**

- (1) A food business must not, except with the approval of the Food Authority, arrange for a food safety auditor who is not a member of staff of the Food Authority to carry out an audit of the food safety program, or proposed food safety program, for the food business that is required under the Act or this Regulation.

- (2) An application for approval must be made in an approved form and must be accompanied by such documents and information as the Food Authority may require.
- (3) The Food Authority may grant an approval subject to such conditions as the Food Authority considers appropriate.
- (4) An approval may be granted so as to apply generally to the carrying out of audits on behalf of the applicant or so as to be limited to particular audits or types of audits.
- (5) An approval may be revoked by the Food Authority by notice in writing given to the food business.

### **57 Charges for inspections and audits**

- (1) The charge payable for the carrying out by the Food Authority of:
  - (a) any inspection for the purposes of the Act in relation to a licence or application for a licence, or
  - (b) any audit of any food safety program or proposed food safety program required by this Regulation,

is \$284 per hour with a minimum charge of half an hour (excluding time spent in travelling).

- (2) The Food Authority may increase the amount referred to in subclause (1) annually in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics.
- (3) The charges payable under this clause are payable to the Food Authority.
- (4) The Food Authority may reduce or waive payment of a charge in a particular case or class of cases.

## **Division 5 Review of decisions of Food Authority**

### **58 Administrative review of decisions by Civil and Administrative Tribunal**

A person may apply to the Civil and Administrative Tribunal for an administrative review under the [Administrative Decisions Review Act 1997](#) of the following decisions:

- (a) a decision to refuse to issue a licence to the person (other than a decision to refuse to issue the licence for non-payment of the whole or part of the licence fee),
- (b) a decision to issue a licence to the person subject to conditions imposed by the Food Authority,
- (c) a decision to vary the conditions of the person's licence or to impose a condition on the person's licence,

- (d) a decision to suspend or cancel the person's licence,
- (e) a decision as to the assessment of the applicable licence fee for a licence held or to be held by the person,
- (f) a decision as to the applicable levy to be paid by the person under this Regulation,
- (g) a decision to revoke an approval as a meat safety inspector given under clause 113.

## **Part 8 Dairy food safety scheme**

### **Division 1 Preliminary**

#### **59 Definitions**

In the dairy food safety scheme:

**dairy building** means a building used for or in connection with the milking of milking animals for the purpose of producing milk that is supplied or to be supplied for sale.

**dairy business**—see clause 62.

**dairy farm** means any land or premises used for or in connection with the keeping, grazing, feeding or milking of milking animals for the purpose of producing milk that is supplied or to be supplied for sale.

**dairy primary production** means the production of milk or colostrum for further processing for human consumption, including:

- (a) the keeping, grazing, feeding and milking of animals, and
- (b) the storage of milk on the premises at which the animals were milked.

**dairy primary production business** means a food business that involves dairy primary production.

**dairy processing** means the packaging, treating, cutting or manufacturing of dairy products, and the packing and storing of those products on the premises where they are packaged, treated, cut or manufactured, but does not include dairy primary production.

**dairy processing business** means a food business that involves dairy processing.

**dairy produce store** means any building or place at or in which any dairy product is stored, whether in a cold chamber or otherwise, but does not include a dairy farm, a dairy building on a dairy farm or any premises used solely for retail purposes.

**dairy product** means:

- (a) colostrum,

- (b) milk,
- (c) any food that contains at least 50 per cent (measured by weight) of either or both of the following:
  - (i) milk,
  - (ii) any substance produced from milk (but disregarding any weight of the substance not attributable to milk),
- (d) without limiting paragraph (c), any of the following that comply with the requirements of that paragraph:
  - (i) liquid milk products,
  - (ii) cream and thickened cream,
  - (iii) butter, butter concentrate, buttermilk, concentrated buttermilk, dairy blend, ghee and anhydrous milk fat (butter oil),
  - (iv) casein, caseinate and cheese,
  - (v) whey, whey cream and concentrated whey cream,
  - (vi) cultured milk and yoghurt,
  - (vii) ice-cream and ice-cream mix,
  - (viii) buttermilk powder, lactose powder, milk sugar, powdered milk, skim milk powder, whey powder, milk protein powder and other milk concentrates.

**dairy transport business** means a food business involving any of the following:

- (a) the collection and transport of milk from a dairy primary production business to a dairy processing business,
- (b) the transport of milk or dairy products between dairy processing businesses.

**milk** means the mammary secretions of a milking animal (other than colostrum) obtained from one or more milkings and intended for:

- (a) human consumption as a liquid, or
- (b) further processing.

**milking animal** means any animal that secretes milk from its mammaries.

**raw milk** means mammary secretions of a milking animal (other than colostrum) that have not been processed in accordance with clause 15 (1) of Standard 4.2.4 of the *Food Standards Code*.

**raw milk product** means any product made from raw milk that is not intended for human consumption.

**raw milk product business** means a business that involves the operation of either or both of the following:

- (a) a raw milk product manufacturing business,
- (b) a raw milk product collection, transport or delivery business.

**raw milk product collection, transport or delivery business** means a business that involves any or all of the following:

- (a) the collection, for transport, on any scale of raw milk products for sale,
- (b) the transport on any scale of raw milk products for sale,
- (c) the delivery on any scale of raw milk products for sale.

**raw milk product manufacturing business** means a business that involves the manufacturing on any scale of raw milk products for sale, including any of the following:

- (a) the keeping, grazing, feeding and milking of animals,
- (b) the storage of milk on the premises at which the animals were milked,
- (c) processing of milk otherwise than in accordance with the processing requirements under Standard 4.2.4 of the *Food Standards Code*,
- (d) making raw milk products.

**vehicle vendor** means a person who delivers milk by vehicle and who sells the milk so delivered.

## **60 Dairy food safety scheme**

The provisions of Part 7, this Part and Part 1 of Schedule 3 are prescribed as a food safety scheme under Part 8 of the Act.

## **61 Application of dairy food safety scheme to retail premises and food not intended for sale**

- (1) Unless a provision of the dairy food safety scheme or the *Food Standards Code* provides otherwise, that scheme does not apply to or in respect of the handling of food on retail premises.
- (2) Unless a provision of the dairy food safety scheme or the *Food Standards Code* provides otherwise, that scheme does not apply to or in respect of the handling of food in or from a vehicle from which the food is sold by retail, other than a vehicle used by a vehicle vendor.



- (3) Unless a provision of the dairy food safety scheme or the *Food Standards Code* provides otherwise, that scheme does not apply to or in respect of the handling of food that is not intended for sale.

## **62 Meaning of “dairy business”**

- (1) In the dairy food safety scheme, **dairy business** means:
- (a) a food business involving any of the following:
    - (i) the operation of a dairy primary production business,
    - (ii) the operation of a dairy transport business,
    - (iii) the operation of a dairy processing business,
    - (iv) the operation of a dairy produce store (other than a dairy produce store that is operated on the same premises as a dairy processing business),
    - (v) the collection and transport of milk from a dairy farm to a dairy produce store (other than a dairy produce store that is operated on the same premises as the dairy processing business) or to a vehicle vendor,
    - (vi) the collection and transport of goat’s milk from a dairy farm to a wholesaler or retailer,
    - (vii) the collection and transport of dairy products from a dairy produce store to the premises of a dairy processing business or another dairy produce store or to a vehicle vendor, wholesaler or retailer,
    - (viii) the delivery of milk by vehicle and the sale of milk so delivered, or
  - (b) a raw milk product business.
- (2) Subclause (1) (b) does not have effect until 3 months after the date of commencement of the [Food Amendment \(Raw Milk Products\) Regulation 2018](#).

## **63 Application of Food Standards Code to primary production of dairy products**

For the purposes of section 21 (5) of the Act, the following provisions of the *Food Standards Code* apply to a dairy business that is primary food production:

- (a) Standard 3.2.1,
- (b) clauses 1-11 of Standard 4.2.4,
- (c) in relation to the production of raw milk cheese—clauses 17-30 of Standard 4.2.4.

## **64 Modification of the Food Standards Code**

Standard 4.2.4 of the *Food Standards Code* is modified in the following manner:

- (a) by omitting the definition of **dairy processing** from clause 1 (2) and by inserting instead:

**dairy processing** means the packaging, treating, cutting or manufacturing of dairy products, and the packing and storing of those products on the premises where they are packaged, treated, cut or manufactured, but does not include dairy primary production.

- (b) by omitting the definition of **dairy products** from clause 1 (2) and by inserting instead:

**dairy product** means:

- (a) colostrum,
- (b) milk,
- (c) any food that contains at least 50 per cent (measured by weight) of either or both of the following:
  - (i) milk,
  - (ii) any substance produced from milk (but disregarding any weight of the substance not attributable to milk),
- (d) without limiting paragraph (c), any of the following that comply with the requirements of that paragraph:
  - (i) liquid milk products,
  - (ii) cream and thickened cream,
  - (iii) butter, butter concentrate, buttermilk, concentrated buttermilk, dairy blend, ghee and anhydrous milk fat (butter oil),
  - (iv) casein, caseinate and cheese,
  - (v) whey, whey cream and concentrated whey cream,
  - (vi) cultured milk and yoghurt,
  - (vii) ice-cream and ice-cream mix,
  - (viii) buttermilk powder, lactose powder, milk sugar, powdered milk, skim milk powder, whey powder, milk protein powder and other milk concentrates.

## **Division 2 Requirements in relation to dairy products**

### **65 Processing of dairy products**

- (1) A person must not sell (including sell by retail) a dairy product for human consumption unless:
  - (a) in relation to a dairy product other than raw milk cheese—the dairy product has been processed in accordance with the processing requirements specified in clauses 15 and 16 of Standard 4.2.4 of the *Food Standards Code*, or
  - (b) in relation to raw milk cheese—the person has complied with clauses 31–35 of Standard 4.2.4 of the *Food Standards Code*.
- (2) This clause does not apply:
  - (a) to a dairy primary production business in respect of the sale of milk or cream by the dairy primary production business to a dairy processing business, or
  - (b) to a dairy processing business in respect of the sale of a dairy product by the dairy processing business to another dairy processing business, or
  - (c) to goat's milk, but only if:
    - (i) the milk has been produced in compliance with a food safety program, and
    - (ii) in the case of milk that is unpasteurised—the milk bears a label that includes an advisory statement in accordance with clause 2 of Standard 1.2.3 of the *Food Standards Code*.

### **66 Milk for manufacture**

Milk and milk components used for the manufacture of dairy products for human consumption must be processed as required by Standard 4.2.4 of the *Food Standards Code*.

### **67 Pasteuriser requirements**

Equipment used for the pasteurisation of milk or milk components at the premises of a dairy processing business must comply with the requirements of the *Guidelines for Food Safety: Validation and Verification of Heat Treatment Equipment and Processes* as developed by the Australia New Zealand Dairy Authorities' Committee and as in force from time to time.

### **68 Milk to comply with certain requirements of Food Standards Code**

The holder of a licence authorising the operation of a dairy processing business must ensure that milk is not processed for human consumption and is not used in the manufacture of dairy products unless it complies with the requirements of the following

standards of the *Food Standards Code* with respect to metals, chemical residues, drug residues and contaminants:

- (a) Standard 1.4.1 (Contaminants and Natural Toxicants),
- (b) Standard 1.4.2 (Agvet chemicals),
- (c) Standard 2.5.1 (Milk).

**68A Sale, delivery and supply of raw milk products by any person**

A person must not sell, deliver or supply any raw milk product unless it has been treated, packaged and labelled in a manner that deters human consumption and such that the raw milk product could not reasonably be mistaken as suitable for human consumption.

**Division 3 Sampling, analysis and records**

**69 Sampling and testing of milk by certain dairy businesses**

- (1) The holder of a licence authorising the operation of a dairy transport business must ensure that the following requirements are complied with in relation to milk collected by the business for transport from a dairy primary production business to a dairy processing business:
  - (a) a record must be made of the temperature of the milk,
  - (b) a sample of milk must be taken that is a representative sample,
  - (c) the sample must be taken, stored and transported under temperature control.
- (2) The holder of a licence authorising the operation of a raw milk product collection, transport or delivery business must ensure that the following requirements are complied with in relation to raw milk collected for transport for sale, transported for sale or delivered for sale by the business:
  - (a) a record must be made of the temperature of the raw milk,
  - (b) a sample of raw milk must be taken that is a representative sample,
  - (c) the sample must be taken, stored and transported under temperature control.

**70 Certain dairy businesses to undertake analyses of certain dairy products**

- (1) The holder of a licence that authorises the operation of a dairy processing business must, at the holder's own expense, ensure that the following are analysed in accordance with this clause:
  - (a) samples of dairy products that are handled in the course of the dairy business and are required to be analysed by the NSW Food Safety Schemes Manual,

- (b) samples of water that has not been supplied through a reticulated water system and that is used in connection with the production and processing of dairy products in the course of the business.

Maximum penalty: 25 penalty units.

- (1A) The holder of a licence that authorises the operation of a raw milk product manufacturing business must, at the holder's own expense, ensure that the following are analysed in accordance with this clause:

- (a) samples of raw milk products that are handled in the course of the dairy business and are required to be analysed by the NSW Food Safety Schemes Manual,
- (b) samples of water that has not been supplied through a reticulated water system and that is used in connection with the production and processing of raw milk products in the course of the business.

Maximum penalty: 25 penalty units.

- (2) An analysis for the purposes of this clause is to be carried out at the frequency:

- (a) except as provided by paragraph (b), required by the NSW Food Safety Schemes Manual, or
- (b) required by a notice served on the holder of the licence under subclause (3).

- (3) The Food Authority may, by notice in writing given to the holder of a licence, do either or both of the following:

- (a) specify the frequency at which analyses are to be carried out for the purposes of this clause,
- (b) set out the standards required to be met in respect of the samples being analysed.

## **71 Reports of analyses**

- (1) The holder of a licence that authorises the operation of a dairy processing business or a raw milk product manufacturing business must ensure that every analysis carried out for the purposes of clause 70 is carried out in a laboratory approved by the National Association of Testing Authorities, Australia, or the Food Authority, for the particular type of analysis to be undertaken.

Maximum penalty: 25 penalty units.

- (2) The holder of a licence must, in accordance with subclause (3), notify the Food Authority of the details of any analysis carried out by or on behalf of the holder for the purposes of clause 70 if the results of the analysis indicate that:

- (a) the sample analysed failed to meet the standards set out in the NSW Food Safety Schemes Manual, or
- (b) where a notice was given to the holder under clause 70 (3) setting out the required standards—the sample analysed failed to meet those standards.

Maximum penalty: 25 penalty units.

(3) A notification under subclause (2) must:

- (a) be made orally within 24 hours after the holder becomes aware of the results of the analysis, and
- (b) be made in writing within 7 days after the holder becomes aware of the results of the analysis.

## **72 Records to be kept by certain dairy businesses**

The holder of a licence authorising the operation of a dairy processing business or a raw milk product manufacturing business must ensure that the results of each analysis of a sample of milk carried out for the purposes of clause 70 are kept so as to be available for inspection for at least 12 months after the analysis is carried out.

## **73 Records to be kept by dairy produce stores**

- (1) The holder of a licence that authorises the operation of a dairy produce store (other than a produce store that is operated on the same premises as a dairy processing business) must ensure that records are kept of the details of all dairy products received at and distributed from the store.
- (2) A record required by this clause must be kept at the dairy produce store for not less than 12 months or the accepted shelf-life of the product to which the record relates, whichever is longer.

## **Division 4 Miscellaneous**

### **74 Establishment of Dairy Industry Consultative Committee**

- (1) The Food Authority is to establish a committee to be called the Dairy Industry Consultative Committee which has the following functions:
  - (a) undertaking consultation with the Food Authority for the purposes of section 105 of the Act in relation to the dairy food safety scheme,
  - (b) the ongoing review of the operation of the dairy food safety scheme.
- (2) The Committee is to consist principally of persons from the dairy industry appointed by the Food Authority.

- (3) The Food Authority may also appoint as members of the Committee:
  - (a) such members of staff of the Food Authority as the Food Authority determines, and
  - (b) such other employees of the Department of Industry, Skills and Regional Development as the Food Authority determines, and
  - (c) such representatives of other bodies or organisations as the Food Authority determines.
- (4) The Food Authority is to appoint a Chairperson of the Committee from the members of the Committee.
- (5) The procedure for the calling and holding of meetings of the Committee is to be determined by the Food Authority.

#### **75 Licence fees for licences in respect of dairy businesses**

- (1) The holder of a licence that authorises the carrying on of one or more of the activities specified in Column 1 of the Table in Part 1 of Schedule 3 is to pay a licence fee each year to the Food Authority that is equal to the total of the fees applicable to the licence as calculated in accordance with that Table.
- (2) The Food Authority may increase the amount of any licence fee payable under this clause annually in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics.
- (3) In Part 1 of Schedule 3, **food handler** means a full-time equivalent food handler who is an employee of the relevant licensee.

### **Part 9 Meat food safety scheme**

#### **Division 1 Preliminary**

##### **76 Definitions**

- (1) In the meat food safety scheme:

**abattoir** means premises used for or in connection with the slaughtering of abattoir animals for human consumption, and includes:

- (a) buildings used in connection with the slaughtering, handling, drafting or keeping of abattoir animals for human consumption at any premises so used, and
- (b) holding yards and the like.

**abattoir animal** means any of the following animals that is not a game animal:

- (a) any animal of the bovine, bubaline, camelidae, caprinae, cervidae, ovine, porcine or soliped species,
- (b) rabbit,
- (c) crocodile,
- (d) any bird.

**abattoir meat** means meat that is from an abattoir animal and that is intended for human consumption.

**animal** means an abattoir animal, game animal or knackery animal.

**animal food** means food intended for consumption by animals.

**animal food field depot** means premises where any unflayed carcasses of game animals intended for use as animal food is stored but not packaged, processed, treated, boned or cut up.

**animal food field harvesting van** means any vehicle in which unflayed carcasses of game animals intended for use as animal food are conveyed from the point of harvest to an animal food field depot.

**animal food processing plant** means any premises where:

- (a) in the course of a business (being a business of preparing or selling animal food), meat or fish or any product of meat or fish is stored, packed, packaged, processed, treated, boned or cut up, or
  - (b) in the course of a business, processed animal food is produced,
- but does not include:
- (c) an abattoir, knackery, meat processing plant, game meat primary processing plant or animal food field depot, or
  - (d) meat retail premises or any other retail premises.

**animal food van** means any vehicle used for the conveyance of meat intended for use as animal food, but does not include an animal food field harvesting van.

**bird** includes ratite.

**game animal** means any vertebrate animal, including a mammal, bird or reptile (but not including a fish) that:

- (a) is not husbanded in the manner of a farmed animal, and
- (b) is of a species that may be legally harvested, and



(c) is slaughtered in a wild state.

**game meat** means meat that is from a game animal and that is intended for human consumption.

**game meat field depot** means premises where any unflayed carcasses of game animals intended for human consumption are stored but not packaged, processed, treated, boned or cut up.

**game meat field harvesting van** means a vehicle in which unflayed carcasses of game animals intended for human consumption are conveyed from the point of harvest to a game meat field depot.

**game meat primary processing plant** means any premises where, in the course of a business, unflayed carcasses of game animals are received from the field or a game meat field depot and are flayed, whether or not the carcasses are further treated, boned or cut up on those premises.

**hogget** means an ovine animal that has at least one permanent incisor tooth, but no more than 2 permanent incisor teeth, in wear.

**in wear**, in relation to a permanent incisor tooth of an ovine animal, means that the tooth can touch the pad of the upper jaw when the mouth of the animal is closed.

**knackery** means premises used for or in connection with the slaughtering of knackery animals for use as animal food, or for or in connection with the destruction of knackery animals for the making of animal by-products that are used in animal food, and includes:

- (a) buildings used in or in connection with the slaughtering, destruction, handling, drafting or keeping of any such animals at any premises so used, and
- (b) holding yards and the like.

**knackery animal** means horse, donkey, camel, kangaroo, buffalo, deer, bull, ox, steer, cow, heifer, calf, ram, ewe, wether, hogget, lamb, goat, kid, swine, rabbit or bird.

**lamb** means an ovine animal that:

- (a) is under 12 months of age, or
- (b) does not have any permanent incisor teeth in wear.

**licensed premises** means premises in respect of which a licence authorising the carrying on of a meat business is in force.

**meat** means the whole or any part of the carcass of an animal, but does not include

processed meat or processed animal food.

**meat business**—see clause 79.

**meat processing plant** means any premises where, in the course of a business:

- (a) abattoir meat is stored, packed, packaged, processed, treated, boned or cut up, or
- (b) processed meat is produced from abattoir meat or is further processed,
- (c) game meat from carcasses that have been flayed at other premises is stored, packed, packaged, processed, treated, boned or cut up, or
- (d) processed meat is produced from game meat from carcasses that have been flayed at other premises or is further processed,

but does not include:

- (e) an abattoir, or
- (f) meat retail premises or any other retail premises, or
- (g) a game meat field depot, or
- (h) a game meat primary processing plant.

**meat retail premises** means premises where meat is sold by retail and on which raw meat carcasses or parts of raw meat carcasses are processed in some way (such as boning, slicing or cutting) or on which processed meat is produced or further processed, not being premises:

- (a) where in any week during the preceding calendar year, more than one tonne of meat, one tonne of processed meat or one tonne of any combination of meat or processed meat was sold by wholesale, or
- (b) where all the meat sold is:
  - (i) in a form ready to be consumed (such as is sold at a restaurant or take-away food shop), or
  - (ii) in a form commonly referred to as cook and chill (that is, cooked packaged meat that requires reheating before consumption).

**meat safety inspector** means:

- (a) in relation to an abattoir, the meat safety inspector appointed for the abattoir in accordance with clause 113, or
- (b) in relation to a game meat primary processing plant, the meat safety inspector appointed for the processing plant in accordance with clause 113.

**meat van** means any vehicle used for the conveyance of abattoir meat or game meat, but does not include a game meat field harvesting van.

**poultry** means chickens, turkeys, ducks, squab (pigeons), geese, pheasants, quails, guinea fowls, muttonbirds or any other avian species (except ratites).

**poultry farm** means any land or premises where birds (being poultry for human consumption) are grown but only if more than 100 such birds are being grown at any time.

**processed animal food** means any product of a manufacturing process that contains meat that is intended for use as animal food.

**processed meat** means a meat product intended for human consumption that contains not less than 300 grams per kilogram of meat, where the meat has undergone a method of processing other than boning, slicing, dicing, mincing or freezing, and includes cured or dried meat flesh in whole cuts or pieces.

**rendering plant** means any premises where animal by-products are rendered or boiled down, but does not include an abattoir or a knackery.

**unflayed carcass** of an animal means the carcass of the animal with the skin or outer covering still attached.

- (2) A reference in the meat food safety scheme to premises or a vehicle used for a purpose includes a reference to premises or a vehicle intended to be used for the purpose.
- (3) For the purposes of the meat food safety scheme, a reference to Australian Standard AS 4841-2006, *Hygienic production of pet meat* in the following documents is to be read as a reference to the document titled *Standard for the Hygienic Production of Pet Meat: PISC Technical Report 88*, published by CSIRO and as in force from time to time:
  - (a) Australian Standard AS 4465-2006, *Construction of premises and hygienic production of poultry meat for human consumption*,
  - (b) Australian Standard AS 4464-2007, *Hygienic production of wild game meat for human consumption*.

## **77 Meat food safety scheme**

The provisions of Part 7, this Part, Part 2 of Schedule 3 and Schedules 4-6 are prescribed as a food safety scheme under Part 8 of the Act.

## **78 Application of meat food safety scheme to certain vehicles and food not intended for sale**

- (1) The meat food safety scheme does not apply to or in respect of the handling of food in

or from a vehicle from which the food is sold by retail.

- (2) The meat food safety scheme does not apply to or in respect of the handling of food that is not intended for sale.

### **79 Meaning of “meat business”**

In the meat food safety scheme, **meat business** means a business involving the operation of any of the following:

- (a) an abattoir,
- (b) a meat processing plant,
- (c) a game meat field depot,
- (d) a game meat primary processing plant,
- (e) a meat van,
- (f) a game meat field harvesting van,
- (g) a knackery,
- (h) a rendering plant,
- (i) an animal food processing plant,
- (j) an animal food field depot,
- (k) an animal food van,
- (l) an animal food field harvesting van,
- (m) meat retail premises,
- (n) a poultry farm.

### **80 Application of Food Standards Code to primary production of poultry**

For the purposes of section 21 (5) of the Act, the following provisions of the *Food Standards Code* apply to a food business (within the meaning of section 6 of the Act) that involves the handling of food (being poultry) for human consumption and is primary food production:

- (a) clause 4 of Standard 3.2.2, unless the food business is referred to in section 101 of the Act,
- (b) Standard 4.1.1,
- (c) clauses 1-10 of Standard 4.2.2 (as modified by this Part).

## 81 Modification of Food Standards Code

- (1) Standard 4.2.2 of the *Food Standards Code* is modified, but only in relation to the primary production of poultry, by inserting the following after clause 3 (3):
  - (4) In this clause, **poultry producer** means a poultry producer that engages in either of the following:
    - (a) the growing of more than 100 birds (being poultry for human consumption) at any time,
    - (b) the live transporting of more than 100 birds (being poultry for human consumption) in any week.
- (2) Standard 4.2.3 of the *Food Standards Code* is modified by:
  - (a) omitting the words “Table 1 or” from clause 4, and
  - (b) omitting Table 1 to clause 4.

## 82 Slaughtering of certain animals and processing of certain meat for human consumption prohibited

- (1) A person must not slaughter an animal for human consumption unless the animal is an abattoir animal or a game animal.  
Maximum penalty: 25 penalty units.
- (2) A person must not process meat for human consumption unless the meat is abattoir meat or game meat.  
Maximum penalty: 25 penalty units.
- (3) The holder of a licence that authorises the operation of a meat processing plant must, in producing processed meat, use only meat, or things containing meat:
  - (a) that is abattoir meat or game meat, and
  - (b) that has been passed by a meat safety inspector as being fit for human consumption.Maximum penalty: 25 penalty units.
- (4) In this clause:
  - (a) **animal** means any vertebrate animal (other than a fish) and is not limited by the definition of that term in clause 76, and
  - (b) **meat** means the whole or any part of the carcase of an animal.

## **Division 2 Standards for operation of meat businesses**

### **83 Standards for abattoirs**

- (1) The operation of an abattoir must comply with the following Standards:
  - (a) in relation to an abattoir at which the slaughtering of meat (other than poultry meat, rabbit meat, ratite meat or crocodile meat) is authorised by the relevant licence—the standards specified in Australian Standard AS 4696–2007, *Hygienic production and transportation of meat and meat products for human consumption*, as in force from time to time,
  - (b) in relation to an abattoir at which the slaughtering of poultry meat is authorised by the relevant licence—the standards specified in Australian Standard AS 4465–2006, *Construction of premises and hygienic production of poultry meat for human consumption*, as in force from time to time,
  - (c) in relation to an abattoir at which the slaughtering of rabbit meat is authorised by the relevant licence—the standards specified in Australian Standard AS 4466–1998, *Hygienic production of rabbit meat for human consumption*, as in force from time to time,
  - (d) in relation to an abattoir at which the slaughtering of ratite meat is authorised by the relevant licence—the standards specified in Australian Standard AS 5010–2001, *Hygienic production of ratite (emu/ostrich) meat for human consumption*, as in force from time to time,
  - (e) in relation to an abattoir at which the slaughtering of crocodile meat is authorised by the relevant licence—the standards specified in Australian Standard AS 4467–1998, *Hygienic production of crocodile meat for human consumption*, as in force from time to time,
  - (f) in relation to an abattoir at which the slaughtering of more than one type of meat referred to in the preceding paragraphs is authorised by the relevant licence—the standards specified in each of the relevant paragraphs.
- (2) In addition to complying with the requirements of subclause (1), the operation of an abattoir must comply with clause 17 of Part 6 of Australian Standard AS 4696–2007, *Hygienic production and transportation of meat and meat products for human consumption*, as in force from time to time, if poultry meat, rabbit meat, ratite meat or crocodile meat, or any combination of those, is passed at the abattoir as fit for use only as animal food.
- (3) For the purposes of this clause, the Standard referred to in subclause (2) is taken to extend to abattoir meat that is poultry, rabbit, ratite or crocodile meat and to meat products derived from such meat.

#### **84 Standards for meat processing plants**

The operation of a meat processing plant must comply with the following Standards:

- (a) in relation to a meat processing plant at which the processing of meat (other than poultry meat, rabbit meat, ratite meat or crocodile meat) is authorised by the relevant licence—the standards specified in Australian Standard AS 4696-2007, *Hygienic production and transportation of meat and meat products for human consumption*, as in force from time to time,
- (b) in relation to a meat processing plant at which the processing of poultry meat is authorised by the relevant licence—the standards specified in Australian Standard AS 4465-2006, *Construction of premises and hygienic production of poultry meat for human consumption*, as in force from time to time,
- (c) in relation to a meat processing plant at which the processing of rabbit meat is authorised by the relevant licence—the standards specified in Australian Standard AS 4466-1998, *Hygienic production of rabbit meat for human consumption*, as in force from time to time,
- (d) in relation to a meat processing plant at which the processing of ratite meat is authorised by the relevant licence—the standards specified in Australian Standard AS 5010-2001, *Hygienic production of ratite (emu/ostrich) meat for human consumption*, as in force from time to time,
- (e) in relation to a meat processing plant at which the processing of crocodile meat is authorised by the relevant licence—the standards specified in Australian Standard AS 4467-1998, *Hygienic production of crocodile meat for human consumption*, as in force from time to time,
- (f) in relation to a meat processing plant at which the processing of more than one type of meat referred to in the preceding paragraphs is authorised by the relevant licence—the standards specified in each of the relevant paragraphs.

#### **85 Standards for game meat field depots**

The operation of a game meat field depot must comply with the standards specified in Australian Standard AS 4464-2007, *Hygienic production of wild game meat for human consumption*, as in force from time to time.

#### **86 Standards for game meat primary processing plants**

The operation of a game meat primary processing plant must comply with the standards specified in Australian Standard AS 4464-2007, *Hygienic production of wild game meat for human consumption*, as in force from time to time.

### **87 Standards for meat vans**

- (1) The operation of a meat van must comply with Part 8 of Australian Standard AS 4696-2007, *Hygienic production and transportation of meat and meat products for human consumption*, as in force from time to time.
- (2) For the purposes of this clause, the Standard referred to in subclause (1) is taken to extend to the following:
  - (a) abattoir meat that is poultry, rabbit, ratite or crocodile meat and products derived from such meat,
  - (b) game meat and products derived from such meat.

### **88 Standards for game meat field harvesting vans**

The operation of a game meat field harvesting van must comply with Australian Standard AS 4464-2007, *Hygienic production of wild game meat for human consumption*, as in force from time to time.

### **89 Standards for knackereries**

The operation of a knackery must comply with the standards specified in the document titled *Standard for the Hygienic Production of Pet Meat: PISC Technical Report 88*, published by CSIRO (other than clauses 4.1-4.3 of that Standard) and as in force from time to time.

### **90 Standards for rendering plants**

The operation of a rendering plant must comply with the standards specified in Australian Standard AS 5008-2007, *Hygienic rendering of animal products*, as in force from time to time.

### **91 Standards for animal food processing plants**

The operation of an animal food processing plant must:

- (a) comply with the standards specified in *Standard for the Hygienic Production of Pet Meat: PISC Technical Report 88*, published by CSIRO (other than clauses 4.1-4.3 of that Standard) and as in force from time to time, in relation to the processing of raw meat intended for use as animal food, and
- (b) comply with Schedule 4 in relation to the processing of fish or any product of fish, or any product of a manufacturing process that contains meat, intended for use as animal food.

### **92 Standards for animal food field depots**

The operation of an animal food field depot must comply with the standards specified in



*Standard for the Hygienic Production of Pet Meat: PISC Technical Report 88*, published by CSIRO (other than clauses 4.1–4.3 of that Standard) and as in force from time to time.

### **93 Standards for animal food vans**

The operation of an animal food van must, in relation to the transportation of raw meat intended for use as animal food, comply with the standards specified in *Standard for the Hygienic Production of Pet Meat: PISC Technical Report 88*, published by CSIRO (other than clauses 4.1–4.3 of that Standard) and as in force from time to time.

### **94 Standards for animal food field harvesting vans**

The operation of an animal food field harvesting van must comply with the standards specified in *Standard for the Hygienic Production of Pet Meat: PISC Technical Report 88*, published by CSIRO (other than clauses 4.1–4.3 of that Standard) and as in force from time to time.

### **95 Standards for meat retail premises**

The operation of meat retail premises must comply with the standards specified in the publication titled *New South Wales Standard for Construction and Hygienic Operation of Retail Meat Premises* published by the Food Authority, as in force from time to time.

## **Division 3 Requirements relating to branding and inspection of abattoir meat**

### **96 Prescribed brands for abattoir meat**

For the purposes of this Division, the following are prescribed brands for abattoir meat:

- (a) in the case of meat other than lamb or hogget—a brand in accordance with the design specified in Part 1 of Schedule 5,
- (b) in the case of lamb meat—brands in accordance with both the designs specified in Parts 1 and 2 of Schedule 5,
- (c) in the case of hogget meat—brands in accordance with both the designs specified in Parts 1 and 3 of Schedule 5.

### **97 Removal of meat from abattoir**

- (1) The holder of a licence that authorises the operation of an abattoir must ensure that abattoir meat is not removed from the abattoir unless the carcase or part of the carcase from which it came has been branded with a prescribed brand by or under the authority of a meat safety inspector.
- (2) Subclause (1) does not apply to:
  - (a) meat that is passed as fit for use only as animal food, or condemned as unfit for

human consumption or for use as animal food, by a meat safety inspector, or

(b) the carcase of a bird or meat from the carcase of a bird.

### **98 Marking of carcasses**

(1) If a meat safety inspector passes a carcase or part of a carcase to which clause 97 (1) applies as fit for human consumption, the meat safety inspector must apply the appropriate prescribed brand, or cause it to be applied, to the carcase or part in accordance with clause 99.

Maximum penalty: 25 penalty units.

(2) If an abattoir animal is slaughtered in accordance with orders under the *Export Control Act 1982* of the Commonwealth and a meat safety inspector passes the carcase as fit for human consumption, the meat safety inspector must cause an official mark for the purposes of that Act to be applied to the carcase or covering, as the case may be, in accordance with orders made under that Act.

Maximum penalty: 25 penalty units.

(3) The provisions of this Division apart from subclause (2) do not apply in relation to meat from an animal referred to in that subclause.

(4) If a meat safety inspector condemns meat at an abattoir as unfit for human consumption and unfit for use as animal food, the meat safety inspector must ensure that the meat is handled in accordance with the standards specified in Australian Standard AS 4696–2007, *Hygienic production and transportation of meat and meat products for human consumption*, as in force from time to time.

Maximum penalty: 25 penalty units.

(5) For the purposes of this clause, the Standard referred to in subclause (4) is taken to extend to abattoir meat that is poultry, rabbit, ratite or crocodile meat and to meat products derived from such meat.

### **99 Positions and manner in which brands are to be applied**

(1) Subject to subclauses (2) and (3), a brand applied for the purposes of clause 98 must be applied at the following positions:

(a) in the case of a carcase of a bovine, deer, sheep or goat—on each quarter, or

(b) in the case of a carcase of a swine—on the shoulder, middle and hind leg on each side of the carcase,

(c) in the case of a carcase of a rabbit—on the rump,

(d) in the case of a carcase of a lamb or a carcase of a hogget—on the lateral aspect

of each side of the carcass from:

- (i) the stifle along the leg and chump, and
- (ii) parallel with the mid-line of the back over the loins and ribs to the top of the shoulder, and
- (iii) over the shoulder to the elbow,

(e) in any other case—on each quarter.

- (2) If the carcass has been broken into pieces, the brand must be applied to each of the pieces.
- (3) If the carcass has been broken into pieces and those pieces are packed in a covering or container, the brand must be applied to the covering or container and need not be applied to the pieces themselves.
- (4) A brand must be legible when applied and affixed in a reasonably permanent manner.
- (5) Despite the other provisions of this clause, if a meat safety inspector is of the opinion that a brand would not be sufficiently visible on meat or a covering of meat if applied in accordance with those provisions, the meat safety inspector must cause the brand to be applied in such manner as he or she thinks fit.
- (6) In this clause:

**bovine** includes bull, ox, steer, cow, heifer, calf and buffalo.

**goat** includes kid.

**sheep** includes ram, ewe and wether.

#### **100 Identification systems for lamb and hogget meat**

- (1) The holder of a licence that authorises the operation of an abattoir at which sheep are slaughtered must provide to the Food Authority details, in writing, of the identification system to be used for identifying whether meat is lamb meat or hogget meat.
- (2) The identification system must include the following:
  - (a) the method of identification to be used,
  - (b) the point at which the identification will be made,
  - (c) the means of applying the identification,
  - (d) the means of maintaining that identification until such time as a brand identifying the type of meat is applied in accordance with this Division.

- (3) The holder of a licence that authorises the operation of an abattoir must not commence using an identification system referred to in this clause until the Food Authority:
  - (a) is satisfied that the proposed system will be functional and will be adequately maintained, and
  - (b) approves the system.
- (4) The holder of a licence that authorises the operation of an abattoir must not alter the system of identification approved under this clause unless the alteration has been approved.
- (5) The holder of a licence that authorises the operation of an abattoir must make available to an authorised officer any records, animals, carcasses or meat that the officer may require to monitor the system.

## **Division 4 Requirements relating to branding and inspection of game meat**

### **101 Prescribed brands for game meat**

For the purposes of this Division, the prescribed brand for game meat is the brand set out in Schedule 6.

### **102 Removal of meat from game meat primary processing plant**

- (1) The holder of a licence that authorises the operation of a game meat primary processing plant must ensure that game meat is not removed from the game meat primary processing plant unless the carcass or part of the carcass from which it came has been branded at those premises with a prescribed brand by or under the authority of a meat safety inspector.
- (2) Subclause (1) does not apply to:
  - (a) meat that is passed as fit for use only as animal food, or condemned as unfit for human consumption or for use as animal food, by a meat safety inspector, or
  - (b) the carcass of a bird or meat from the carcass of a bird.

### **103 Marking of carcasses**

- (1) If a meat safety inspector passes a carcass or part of a carcass to which clause 102 (1) applies as fit for human consumption, the inspector must apply the appropriate prescribed brand, or cause it to be applied, to the carcass or part in accordance with clause 104.

Maximum penalty: 25 penalty units.

- (2) If a game animal is slaughtered in accordance with orders under the *Export Control Act 1982* of the Commonwealth and a meat safety inspector passes the carcase as fit for human consumption, the inspector must cause an official mark for the purposes of that Act to be applied to the carcase or covering, as the case may be, in accordance with orders made under that Act.

Maximum penalty: 25 penalty units.

- (3) The provisions of this Division other than subclause (2), do not apply in relation to meat from an animal referred to in that subclause.
- (4) If a meat safety inspector condemns meat at a game meat primary processing plant as unfit for human consumption and unfit for use as animal food, the meat safety inspector must ensure that the meat is handled in accordance with the standards specified in Australian Standard AS 4464-2007, *Hygienic production of wild game meat for human consumption*, as in force from time to time, before it is removed from the game meat primary processing plant.

Maximum penalty: 25 penalty units.

#### **104 Positions and manner in which brands are to be applied**

- (1) Subject to subclauses (2) and (3), a brand applied for the purposes of clause 103 must be applied at the following positions:
- (a) in the case of a carcase of a deer or goat—on each quarter,
  - (b) in the case of a carcase of a swine—on each shoulder, middle and hind leg on both sides of the carcase,
  - (c) in the case of a carcase of a rabbit—on the midline of the chump,
  - (d) in the case of a carcase of a kangaroo—on the rump on each side of the carcase,
  - (e) in any other the case—on each quarter.
- (2) If the carcase has been broken into pieces, the brand must be applied to each of the pieces.
- (3) If the carcase has been broken into pieces and those pieces are packed in a covering or container, the brand must be applied to the covering or container and need not be applied to the pieces themselves.
- (4) A brand must be legible when applied and affixed in a reasonably permanent manner.
- (5) Despite the other provisions of this clause, if a meat safety inspector is of the opinion that a brand would not be sufficiently visible on meat or a covering of meat if applied in accordance with those provisions, the inspector must cause the brand to be applied in such manner as he or she thinks fit.

## **Division 5 Sale and storage of meat**

### **105 Sale of meat for human consumption**

- (1) A person must not sell, by wholesale or on meat retail premises, meat for human consumption or as an ingredient of processed meat unless:
  - (a) the meat, or the carcase from which it came, has been supplied from premises that are:
    - (i) authorised by a licence to be operated as an abattoir or game meat primary processing plant, or
    - (ii) an abattoir or game meat primary processing plant that is operating in accordance with the laws of the place in which the premises are situated, and
  - (b) the supplier has indicated, whether by the packaging or branding of the meat or carcase, or by documentation accompanying the meat or carcase, that the meat or carcase has been passed as being fit for human consumption in accordance with this Regulation or the laws of the place from which the meat was supplied.
- (2) A person must not sell, on meat retail premises, processed meat for human consumption unless it has been produced at premises that are:
  - (a) authorised by a licence to be operated as a meat processing plant or meat retail premises, or
  - (b) a meat processing plant or meat retail premises operating in accordance with the laws of the place in which the premises are situated.
- (3) A person must not sell meat for human consumption, or as an ingredient of processed meat, on retail premises selling meat in a form ready to be consumed (such as a restaurant or take away food shop) unless it has been supplied from premises that are:
  - (a) authorised by a licence to be operated as an abattoir, game meat primary processing plant, meat processing plant or meat retail premises, or
  - (b) an abattoir, game meat primary processing plant, meat processing plant or meat retail premises operating in accordance with the laws of the place in which the premises are situated.

### **106 Sale of meat for use as animal food**

A person must not sell, by wholesale or on meat retail premises, meat for use as animal food or as an ingredient of processed animal food unless:

- (a) the meat, or the carcase from which it came, has been supplied from premises that are:

- (i) authorised by a licence to be operated as an abattoir or game meat primary processing plant, or
  - (ii) an abattoir or game meat primary processing plant that is operating in accordance with the laws of the place in which the premises are situated, or
- (b) the meat is game meat from a kangaroo or feral goat and has been packaged, processed, treated, boned or cut up on premises that are:
- (i) authorised by a licence to be operated as an animal food processing plant, or
  - (ii) operating as the equivalent of an animal food processing plant in accordance with the laws of the place in which the premises are situated.

### **107 Storage of meat**

- (1) A person must not store any meat on meat retail premises, or a meat processing plant, used for the sale of meat for human consumption unless:
- (a) the meat, or the carcase from which it came, has been supplied from premises that are:
    - (i) authorised by a licence to be operated as an abattoir or game meat primary processing plant, or
    - (ii) an abattoir or game meat primary processing plant that is operating in accordance with the laws of the place in which the premises are situated, and
  - (b) the supplier has indicated, whether by the packaging or branding of the meat or carcase, or by documentation accompanying the meat or carcase, that the meat or carcase has been passed as being fit for human consumption in accordance with this Regulation or the laws of the place from which the meat was supplied.
- (2) A person must not store any meat for human consumption or as an ingredient of processed meat on retail premises selling meat in a form ready to be consumed (such as a restaurant or take away food shop) unless it has been supplied from premises that are:
- (a) authorised by a licence to be operated as an abattoir, game meat primary processing plant, meat processing plant or meat retail premises, or
  - (b) an abattoir, game meat primary processing plant, meat processing plant or meat retail premises operating in accordance with the laws of the place in which the premises are situated.
- (3) A person must not store, on meat retail premises, any processed animal food intended for sale unless the animal food has been produced at premises that are:
- (a) authorised by a licence to be operated as an animal food processing plant, or

- (b) an animal food processing plant operating in accordance with the laws of the place in which the premises are situated.
- (4) A person must not store, on meat retail premises, any meat intended for sale that is for use only as animal food unless:
- (a) the animal from which the meat came was slaughtered at premises that are:
    - (i) authorised by a licence to be operated as an abattoir or game meat primary processing plant, or
    - (ii) an abattoir or game meat primary processing plant that is operating in accordance with the laws of the place in which the premises are situated,and the supplier has indicated, whether by the packaging or branding of the meat or carcase, or by documentation accompanying the meat or carcase, that the meat or carcase has been passed as being fit for use as animal food in accordance with this Regulation or the laws of the place from which the meat was supplied, or
  - (b) the animal from which the meat came was slaughtered at premises that are:
    - (i) authorised by a licence to be operated as a knackery, or
    - (ii) a knackery that is operating in accordance with the laws of the place in which the premises are situated.

## **Division 6 Issue and use of brands for meat**

### **108 Application for and issue of brands**

- (1) The holder of a licence that authorises the operation of an abattoir or a game meat primary processing plant may apply to the Food Authority for the issue to the holder of such of the prescribed brands referred to in clause 96 or 101 as are necessary for the operation of the abattoir or game meat primary processing plant concerned.
- (2) An application under this clause must be in writing.
- (3) The fee payable for the issue of the brand is the amount that the Food Authority determines is equivalent to the cost to the Food Authority of the manufacture of the brand.
- (4) The holder of a licence to whom a brand is issued by the Food Authority under this Part must ensure that the brand and any equipment issued to the holder by the Food Authority to enable the application of the brand is returned to the Food Authority within 7 days after the licence ceases to be in force (except during any period of suspension).

Maximum penalty: 25 penalty units.



### **109 Storage of brands**

The holder of a licence that authorises the operation of an abattoir or a game meat primary processing plant must ensure that any brand issued to the holder under this Part is stored in a place which is locked and to which access is available only to the holder of the licence and the meat safety inspector for the abattoir or processing plant.

### **110 Lost, stolen or damaged brands**

- (1) The holder of a licence that authorises the operation of an abattoir or a game meat primary processing plant who becomes aware that a brand issued to the holder under this Part has been lost or stolen must immediately report that fact to the Food Authority.
- (2) If a brand issued under this Part in relation to an abattoir or game meat primary processing plant is lost or stolen, the holder of the licence concerned must return any other brand so issued that has not been lost or stolen to the Food Authority.
- (3) If a brand issued under this Part in relation to an abattoir or game meat primary processing plant is lost, stolen or damaged, the holder of the licence concerned may apply in writing to the Food Authority:
  - (a) in the case of a brand that is lost or stolen—for the issue of new brands for the abattoir or game meat primary processing plant, but only if the holder has complied with subclauses (1) and (2), and
  - (b) in the case of a brand that is damaged—for the issue of a replacement brand.
- (4) On payment of the cost of manufacture of a new brand or a replacement brand, the Food Authority may, if satisfied that the provisions of this clause have been complied with, issue the new brand or the replacement brand to the holder of the licence concerned.

### **111 Resemblances to prescribed brands**

A person must not manufacture or possess a brand which resembles a prescribed brand referred to in clause 96 or 101 unless the manufacture or possession is authorised by this Regulation or has been approved by the Food Authority.

Maximum penalty: 25 penalty units.

### **112 Unauthorised branding of meat**

A person must not brand, stamp or otherwise mark any meat with a mark resembling a prescribed brand referred to in clause 96 or 101 unless:

- (a) the person is authorised by this Regulation to do so or is acting under the direction of a person so authorised, or

- (b) the person is authorised in writing by the Food Authority.

## **Division 7 Meat safety inspectors**

### **113 Appointment of meat safety inspectors for abattoirs and game meat primary processing plants**

The holder of a licence that authorises the operation of an abattoir or game meat primary processing plant must not operate the abattoir or processing plant to which the licence relates unless there is a person holding the position of meat safety inspector for the abattoir or processing plant whose appointment has been approved in writing by the Food Authority.

### **114 Duty of meat safety inspector to report contraventions of Regulation**

A meat safety inspector for an abattoir or a game meat primary processing plant is to report, as soon as practicable, to the Food Authority any contravention of this Regulation relating to the abattoir or processing plant of which the inspector becomes aware.

### **115 Revocation of approval of appointment of meat safety inspector**

- (1) The Food Authority may revoke the approval of a person to hold the position of meat safety inspector at a particular abattoir or game meat primary processing plant if the Food Authority is of the opinion that the person:
  - (a) has not competently carried out any function of a meat safety inspector under this Regulation, or
  - (b) has failed to report any contravention of this Regulation relating to the abattoir or processing plant of which the person was aware or should have been aware.
- (2) A revocation of an approval under this clause:
  - (a) may be made only after the Food Authority has given the meat safety inspector an opportunity to be heard, and
  - (b) must be in writing served on the meat safety inspector and the holder of the licence for the abattoir or game meat primary processing plant concerned.

## **Division 8 Sampling and analyses**

### **116 Meat businesses to undertake analyses of certain meats, meat products, animal by-products and water**

- (1) The holder of a licence that authorises the operation of an abattoir must, at the holder's own expense, ensure that samples of water (supplied otherwise than through a reticulated water system) used in connection with the slaughtering of abattoir animals in the course of the operation of the abattoir are analysed in accordance with this clause.

Maximum penalty: 25 penalty units.

- (2) The holder of a licence that authorises the operation of a meat processing plant must, at the holder's own expense, ensure that samples of meat and meat products that are handled in the course of the operation of the processing plant and are required by the NSW Food Safety Schemes Manual to be analysed are analysed in accordance with this clause.

Maximum penalty: 25 penalty units.

- (3) The holder of a licence that authorises the operation of meat retail premises must, at the holder's own expense, ensure that samples of ready to eat meat products that are handled in the course of the operation of the premises and are required by the NSW Food Safety Schemes Manual to be analysed are analysed in accordance with this clause.

Maximum penalty: 25 penalty units.

- (4) The holder of a licence that authorises the operation of a rendering plant must, at the holder's own expense, ensure that samples of rendered animal by-products that are handled in the course of the operation of the rendering plant are analysed in accordance with this clause.

Maximum penalty: 25 penalty units.

- (5) An analysis for the purposes of this clause is to be carried out at the frequency:
- (a) except as provided by paragraph (b), required by the NSW Food Safety Schemes Manual, or
  - (b) required by a notice served on the holder of the licence under subclause (6).
- (6) The Food Authority may, by notice in writing given to the holder of a licence, do either or both of the following:
- (a) specify the frequency at which analyses are to be carried out for the purposes of this clause,
  - (b) set out the standards required to be met in respect of the samples being analysed.

### **117 Reports of analyses**

- (1) The holder of a licence must ensure that every analysis carried out for the purposes of clause 116 is carried out in a laboratory approved by the National Association of Testing Authorities, Australia, or the Food Authority, for the particular type of analysis to be undertaken.

Maximum penalty: 25 penalty units.

- (2) The holder of a licence must, in accordance with subclause (3), notify the Food Authority of the details of any analysis carried out by or on behalf of the holder for the purposes of clause 116 if the results of the analysis indicate that:
  - (a) the sample analysed failed to meet the standards set out in the NSW Food Safety Schemes Manual, or
  - (b) where a notice was given to the holder under clause 116 (6) setting out the required standards, the sample analysed failed to meet those standards.

Maximum penalty: 25 penalty units.

- (3) A notification under subclause (2) must:
  - (a) be made orally within 24 hours after the holder becomes aware of the results of the analysis, and
  - (b) be made in writing within 7 days after the holder becomes aware of the results of the analysis.

## **Division 9 Miscellaneous**

### **118 Establishment of Meat Industry Consultative Council**

- (1) The Food Authority is to establish a committee to be called the Meat Industry Consultative Council which has the following functions:
  - (a) undertaking consultation with the Food Authority for the purposes of section 105 of the Act in relation to the food safety scheme prescribed under this Part (the ***meat food safety scheme***),
  - (b) the ongoing review of the operation of the meat food safety scheme.
- (2) The Council is to consist principally of persons from the meat industry appointed by the Food Authority.
- (3) The Food Authority may also appoint as members of the Council:
  - (a) such members of staff of the Food Authority as the Food Authority determines, and
  - (b) such other employees of the Department of Industry, Skills and Regional Development as the Food Authority determines, and
  - (c) such representatives of other bodies or organisations as the Food Authority determines.
- (4) The Food Authority is to appoint a Chairperson of the Council from the members of the Council.

- (5) The procedure for the calling and holding of meetings of the Council is to be determined by the Food Authority.

### **119 Licence fees for licences in respect of meat businesses**

- (1) The holder of a licence that authorises the carrying on of one or more of the activities specified in Column 1 of the Table in Part 2 of Schedule 3 is to pay a licence fee each year to the Food Authority that is equal to the total of the fees applicable to the licence as calculated in accordance with that Table.
- (2) The Food Authority may increase the amount of any licence fee payable under this clause annually in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics.
- (3) In Part 2 of Schedule 3, **food handler** means a full-time equivalent food handler who is an employee of the relevant licensee.

## **Part 10 Plant products food safety scheme**

### **Division 1 Preliminary**

#### **120 Definitions**

In the plant products food safety scheme:

**fresh cut fruit** means any fruit that has been processed in some way (for example, by trimming, cutting, slicing, peeling or pulling apart), but is still raw.

**fresh cut vegetable** means any of the following vegetables that has been processed in some way (for example, by trimming, cutting, slicing, peeling or pulling apart), but is still raw:

- (a) capsicum,
- (b) carrot,
- (c) celery,
- (d) leek,
- (e) mushroom,
- (f) spinach,
- (g) chinese cabbage,
- (h) cabbage,
- (i) witlof,

- (j) lettuce,
- (k) any other leafy green vegetable not included in the preceding paragraphs.

***pasteurisation*** means, in relation to fruit or vegetable juice:

- (a) heating the juice to a temperature of not less than 72 degrees Celsius and retaining the juice at that temperature for no less than 15 seconds, or
- (b) treating the juice using a technology or method that produces an equivalent lethal effect on microorganisms present in the juice as that provided by the method referred to in paragraph (a).

***plant product*** means fresh cut fruit, fresh cut vegetable, vegetables in oil, unpasteurised juice or seed sprouts.

***plant products business***—see clause 124.

***seed sprouts*** means sprouted seeds (other than wheat grass) or sprouted beans.

***unpasteurised juice*** means fruit or vegetable juice, or a mixture of such juice, that has not been subject to pasteurisation.

***vegetables in oil*** means:

- (a) fruits, vegetables or herbs, or
- (b) parts of fruits, vegetables or herbs, or
- (c) a combination of anything in paragraph (a) or (b),

immersed wholly or partly in oil.

## **121 Plant products food safety scheme**

The provisions of Part 7, this Part and Part 3 of Schedule 3 are prescribed as a food safety scheme under Part 8 of the Act.

## **122 Application of plant products food safety scheme to retail premises and food not intended for sale**

- (1) The plant products food safety scheme does not apply to or in respect of the handling of food on retail premises.
- (2) The plant products food safety scheme does not apply to or in respect of the handling of food in or from a vehicle from which the food is sold by retail.
- (3) The plant products food safety scheme does not apply to or in respect of the handling of food that is not intended for sale.

**123 Application of plant products food safety scheme to fresh cut fruit and vegetables, seed sprouts and juices**

- (1) The Food Authority may, on the application of any person or on the Authority's own initiative, declare that the plant products food safety scheme does not apply to the plant products business, or an activity of the plant products business, if the Food Authority is satisfied that the plant products business concerned, or the activity concerned, involves the handling of a plant product (other than vegetables in oil) that:
  - (a) will be further processed in a way that will convert it from being a plant product and reduce the risk of microbiological contamination in it before it is supplied to a consumer, or
  - (b) will be in packaging, when supplied to a consumer, that indicates that the plant product is not ready to consume until it is further processed in a way that will reduce the risk of microbiological contamination in it.
- (2) For the purposes of this clause, the risk of microbiological contamination is taken to be reduced:
  - (a) in fresh cut fruit, fresh cut vegetable and seed sprouts by cooking or by a process equivalent in its effectiveness, or
  - (b) in unpasteurised juice by pasteurisation or by a process equivalent in its effectiveness.
- (3) The Food Authority may require such information to be provided by an applicant for a declaration under this clause as the Food Authority considers is necessary to determine the application.
- (4) The Food Authority may revoke a declaration under this clause for any reason that the Food Authority considers appropriate, but only after having given written notice of its intention to do so to the proprietor of the plant products business concerned.

**124 Meaning of "plant products business"**

- (1) In the plant products food safety scheme, **plant products business** means a business involving the handling of plant products, but only if any of the following activities are carried out in the course of that business:
  - (a) the extraction of juice from vegetables or fruits without pasteurising the juice,
  - (b) the processing of seed sprouts, fruits or vegetables to produce plant products, including (but not limited to) cutting, peeling, preserving and cooking,
  - (c) the storage of plant products,
  - (d) the transportation of plant products,

(e) the packaging of plant products.

(2) A reference to a business or activity in subclause (1) does not include a reference to any business or activity that is the subject of a declaration that is in force under clause 123.

## **Division 2 Sampling and analyses**

### **125 Plant products business to undertake analyses of plant products**

(1) The holder of a licence must, at the holder's own expense, ensure that the following are analysed in accordance with this clause:

(a) samples of plant products that are handled in the course of the plant products business authorised by the licence and are required to be analysed by the NSW Food Safety Schemes Manual,

(b) samples of seed used for sprouting,

(c) samples of spent irrigation water that has been used for seed sprouting,

(d) samples of water that has not been supplied through a reticulated water system and that is used in connection with the production and processing of plant products in the course of the business.

Maximum penalty: 25 penalty units.

(2) An analysis for the purposes of this clause is to be carried out at the frequency:

(a) except as provided by paragraph (b), required by the NSW Food Safety Schemes Manual, or

(b) required by a notice served on the holder of the licence under subclause (3).

(3) The Food Authority may, by notice in writing given to the holder of a licence, do either or both of the following:

(a) specify the frequency at which analyses are to be carried out for the purposes of this clause,

(b) set out the standards required to be met in respect of the samples being analysed.

### **126 Reports of analyses**

(1) The holder of a licence must ensure that every analysis carried out for the purposes of clause 125 is carried out in a laboratory approved by the National Association of Testing Authorities, Australia, or the Food Authority, for the particular type of analysis to be undertaken.



Maximum penalty: 25 penalty units.

- (2) The holder of a licence must, in accordance with subclause (3), notify the Food Authority of the details of any analysis carried out by or on behalf of the holder for the purposes of clause 125 if the results of the analysis indicate that:
  - (a) the sample analysed failed to meet the standards set out in the NSW Food Safety Schemes Manual, or
  - (b) where a notice was given to the holder under clause 125 (3) setting out the required standards, the sample analysed failed to meet those standards.

Maximum penalty: 25 penalty units.

- (3) A notification under subclause (2) must:
  - (a) be made orally within 24 hours after the holder becomes aware of the results of the analysis, and
  - (b) be made in writing within 7 days after the holder becomes aware of the results of the analysis.

## **Division 3 Miscellaneous**

### **127 Industry consultation**

For the purposes of the consultation referred to in section 105 of the Act in relation to the plant products food safety scheme, the Food Authority is to consult directly with each holder of a licence that authorises the operation of a plant products business.

### **128 Licence fees for licences in respect of plant products businesses**

- (1) The holder of a licence that authorises the carrying on of one or more of the activities specified in Column 1 of the Table in Part 3 of Schedule 3 is to pay a licence fee each year to the Food Authority that is equal to the total of the fees applicable to the licence as calculated in accordance with that Table.
- (2) The Food Authority may increase the amount of any licence fee payable under this clause annually in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics.
- (3) In Part 3 of Schedule 3, **food handler** means a full-time equivalent food handler who is an employee of the relevant licensee.

## Part 11 Seafood safety scheme

### Division 1 Preliminary

#### 129 Definitions

In the seafood safety scheme:

**annual local shellfish program levy** means the levy payable under Division 7.

**estuarine waters** means waters located within the estuary of a New South Wales river.

**local committee** means a local shellfish committee appointed under clause 147.

**local program** means a local shellfish program prepared under clause 144 (3).

**NSW Shellfish Committee** means the New South Wales Shellfish Committee appointed under clause 145.

**NSW Shellfish Industry Manual** means the publication of that name published by the Food Authority, as in force from time to time.

**Program** means the New South Wales Shellfish Program established under clause 144.

**seafood**—see clause 133.

**seafood business**—see clause 134.

**shellfish** means bivalve molluscs, including cockles, clams, mussels, oysters, pipis and scallops, but does not include the following:

- (a) scallops and pearl oysters, where the only part intended for human consumption is the adductor muscle,
- (b) the spat of bivalve molluscs.

**spat** means juvenile bivalve molluscs taken for the sole purpose of growing on, that is, the process where juvenile molluscs are further grown for a sufficient period to enable their development prior to sale.

**transshipment** means the process of transferring live shellfish between harvest areas.

#### 130 Seafood safety scheme

The provisions of Part 7, this Part, Part 4 of Schedule 3 and Schedule 7 are prescribed as a food safety scheme under Part 8 of the Act.

#### 131 Application of seafood safety scheme to retail premises and food not intended for

**sale**

- (1) The seafood safety scheme does not apply to or in respect of the handling of food on premises if the food is intended to be sold by retail from those premises.
- (2) The seafood safety scheme does not apply to or in respect of the handling of food in or from a vehicle from which the food is sold by retail.
- (3) The seafood safety scheme does not apply to or in respect of the handling of food that is not intended for sale.

**132 Certain vessels excluded from Part**

The seafood safety scheme does not apply to a vessel that is used in the handling of seafood intended for sale if the vessel is used for one or more of the following purposes only:

- (a) the cultivating and handling of live estuarine bivalve molluscs,
- (b) setting and retrieving fishing gear,
- (c) towing.

**133 Meaning of “seafood”**

- (1) In the seafood safety scheme, **seafood** means any of the following intended for human consumption:
  - (a) aquatic vertebrates and aquatic invertebrates,
  - (b) any product of, or anything containing a product of, a thing referred to in paragraph (a).
- (2) However, seafood does not include the following:
  - (a) amphibians, mammals or reptiles,
  - (b) aquatic plants,
  - (c) any product of, or anything containing a product of, an amphibian, mammal or reptile, or an aquatic plant, that does not also contain any other thing referred to in subclause (1) (a) or (b).

**134 Meaning of “seafood business”**

- (1) In the seafood safety scheme, **seafood business** means a business involving the handling of seafood, including (but not limited to) the carrying on of any of the following activities:
  - (a) the cultivating, harvesting or collecting of shellfish,

- (b) the depuration of shellfish,
- (c) the cultivating of spat,
- (d) the processing of seafood, including (but not limited to) skinning, gilling and gutting, filleting, shucking, cooking, smoking, preserving and canning,
- (e) the packaging of seafood,
- (f) the storage of seafood,
- (g) the transportation of seafood, except the transportation of seafood from retail premises to the consumer or in a vehicle from which the seafood will be sold by retail,
- (h) the wholesaling of seafood.

(2) For the purposes of the seafood safety scheme, a **seafood business**:

- (a) does not include the act of taking or catching fin fish, crustacea or cephalopods 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 handling of live lobsters, crayfish, abalone, crabs or sea urchins, and
- (c) does not include the retail sale of seafood.

### **135 Application of Food Standards Code to primary production of seafood**

For the purposes of section 21 (5) of the Act, the following provisions of the *Food Standards Code* apply to a food business (within the meaning of section 6 of the Act) that involves the handling of food (being seafood) and is primary food production:

- (a) Standard 3.2.1,
- (b) Standard 4.2.1 (as modified by this Part).

### **136 Modification of Food Standards Code**

Standard 4.2.1 of the *Food Standards Code* is modified as follows:

- (a) 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.

- (b) by omitting clause 16 (3) (a) and by inserting instead the following:

- (a) the conditions of the ASQAP Manual specified in the Schedule to this Standard, and

## **Division 2 Additional licence requirements**

### **137 Application requirements**

Without limiting the grounds on which the Food Authority may refuse a licence, the Food Authority must not grant a licence authorising the carrying on of a seafood business unless satisfied that the applicant has any necessary authorisation under the *Fisheries Management Act 1994* to carry on the activities to which the application relates.

### **138 Suspension or cancellation of licence**

Without limiting the grounds on which the Food Authority may suspend or cancel a licence, the Food Authority may suspend or cancel a licence authorising the carrying on of a seafood business if any relevant authorisation under the *Fisheries Management Act 1994* has been suspended or cancelled.

## **Division 3 Sampling, analyses and records**

### **139 Seafood businesses to undertake analyses of seafood**

- (1) The holder of a licence that authorises the operation of a seafood business must, at the holder's own expense, ensure that the following are analysed in accordance with this clause:
  - (a) samples of seafood that are handled in the course of the seafood business authorised by the licence and are required to be analysed by the NSW Food Safety Schemes Manual,
  - (b) samples of shellfish handled in the course of the seafood business authorised by the licence that are required to be analysed by the NSW Shellfish Industry Manual,
  - (c) samples of those environments in which seafood handled in the course of the seafood business authorised by the licence is grown and harvested, being samples that are required to be analysed by the NSW Shellfish Industry Manual,
  - (d) samples of water, other than water supplied through a reticulated water system, used in connection with the production and processing of seafood in the course of the business, being samples that are required to be analysed by the NSW Food Safety Schemes Manual,
  - (e) samples of water used for the wet storage of shellfish that are required to be analysed by the NSW Shellfish Industry Manual,

- (f) samples of water used for the depuration of shellfish that are required to be analysed by the NSW Shellfish Industry Manual.

Maximum penalty: 25 penalty units.

- (2) An analysis for the purposes of this clause of samples of shellfish or water used for the wet storage or depuration of shellfish is to be carried out at the frequency that is required by the NSW Shellfish Industry Manual.
- (3) An analysis for the purposes of this clause that is not referred to in subclause (2) is to be carried out at the frequency:
  - (a) except as provided by paragraph (b), required by the NSW Food Safety Schemes Manual, or
  - (b) required by a notice served on the holder of the licence under subclause (4).
- (4) The Food Authority may, by notice in writing given to the holder of a licence, do either or both of the following:
  - (a) specify the frequency at which analyses (other than an analysis referred to in subclause (2)) are to be carried out for the purposes of this clause,
  - (b) set out the standards required to be met in respect of the samples being analysed.

#### **140 Reports of analyses**

- (1) The holder of a licence must ensure that every analysis carried out for the purposes of clause 139 is carried out in a laboratory approved by the National Association of Testing Authorities, or by the Food Authority, for the particular type of analysis to be undertaken.

Maximum penalty: 25 penalty units.

- (2) The holder of a licence must, in accordance with subclause (3), notify the Food Authority of the details of any analysis carried out by or on behalf of the holder for the purposes of clause 139 if the results of the analysis indicate that:
  - (a) in the case of an analysis referred to in clause 139 (2), the sample analysed failed to meet the standards set out in the NSW Shellfish Industry Manual, or
  - (b) in any other case, the sample analysed failed to meet:
    - (i) the standards set out in the NSW Food Safety Schemes Manual, or
    - (ii) where a notice was given to the holder under clause 139 (4) setting out the required standards, the sample analysed failed to meet those standards.

Maximum penalty: 25 penalty units.

- (3) A notification under subclause (2) must:
- (a) be made orally within 24 hours after the holder becomes aware of the results of the analysis, and
  - (b) be made in writing within 7 days after the holder becomes aware of the results of the analysis.
- (4) The person in charge of a laboratory in which an analysis for the purposes of clause 139 is carried out must submit a written report to the Food Authority on the results of the analysis within 24 hours after the analysis is completed if:
- (a) the analysis was of samples of shellfish or water used for the wet storage or depuration of shellfish, and
  - (b) the analysis is not the subject of an exemption under subclause (6).

Maximum penalty: 25 penalty units.

- (5) The person in charge of a laboratory in which an analysis for the purposes of clause 148 (1) (a) (ii) is carried out must submit a written report to the Food Authority on the results of the analysis within 24 hours after the analysis is completed.

Maximum penalty: 25 penalty units.

- (6) The Food Authority may exempt analyses from the operation of subclause (4) or (5) in a particular case or class of cases.
- (7) An exemption must be in writing and notified to each laboratory that is affected or, in a case where the exemption affects or may affect a number of laboratories, may instead be published in the Gazette.

#### **141 Records to be kept**

The holder of a licence that authorises the operation of a seafood business must ensure that the following records are kept in relation to the business for a period of 2 years from the occurrence of the event to which they relate:

- (a) in relation to each occasion on which shellfish is harvested:
  - (i) the date and time of harvest, and
  - (ii) the name of the harvest area from which the shellfish was harvested, and
  - (iii) the species of shellfish harvested and quantity of each species harvested,
- (b) in relation to each occasion on which shellfish is collected:
  - (i) the date and time of collection, and

- (ii) the name of the harvest area from which the shellfish was collected, and
  - (iii) the species of shellfish collected and quantity of each species collected,
- (c) in relation to each occasion on which shellfish is relayed:
- (i) the name of the harvest area from which the shellfish was relayed, and
  - (ii) the date and time at which the shellfish was relayed from the harvest area, and
  - (iii) the name of the harvest area to which the shellfish was relayed, and
  - (iv) the date and time at which the shellfish was relayed to the harvest area, and
  - (v) the species of shellfish relayed and the quantity of each species relayed,
- (d) in relation to each occasion on which shellfish is translocated:
- (i) the name of the area from which the shellfish was translocated, and
  - (ii) the date on which the shellfish was translocated from the area, and
  - (iii) the name of the harvest area to which the shellfish was translocated, and
  - (iv) the date on which the shellfish was translocated to the harvest area, and
  - (v) the species of shellfish translocated and the quantity of each species translocated,
- (e) in relation to the wet storage of each batch of shellfish:
- (i) the date and time at which wet storage commenced, and
  - (ii) the date and time at which wet storage ended, and
  - (iii) if the wet storage was carried out for the food business concerned by another food business, the licence number issued to the other business by the Food Authority, and
  - (iv) the name of the operator of the wet storage facility, and
  - (v) the source of the water used for the wet storage,
- (f) in relation to the depuration of each batch of shellfish:
- (i) the date and time at which depuration commenced, and
  - (ii) the date and time at which depuration ended, and
  - (iii) particulars that identify the depuration plant used for the depuration, and
  - (iv) the name of the operator of the depuration facility, and



- (v) the source of the water used for the depuration, and
- (vi) a unique identifier of the batch of shellfish.

Maximum penalty: 25 penalty units.

#### **142 Labelling of shellfish**

The holder of a licence must ensure that any packaging containing shellfish ready for sale (whether wholesale or retail sale) bears a label that includes the following:

- (a) the name and address of the seafood business authorised by the licence,
- (b) a unique identifier of the batch of shellfish,
- (c) the name of the harvest area from which the shellfish was harvested,
- (d) the date of the harvest,
- (e) the species and quantity of shellfish,
- (f) a statement indicating the conditions under which the shellfish should be stored.

Maximum penalty: 25 penalty units.

#### **143 Depuration of shellfish**

- (1) The holder of a licence that authorises the harvesting or collecting of shellfish must ensure that shellfish harvested or collected under the authority of the licence are depurated in the circumstances specified in the plan of management referred to in clause 144 (3) (b).
- (2) For the purposes of subclause (1), the shellfish must be depurated for a minimum period of 36 hours and any method used for the disinfection of depuration water must be capable of achieving a reduction in *Escherichia coli* of 99.9 per cent.

### **Division 4 New South Wales Shellfish Program**

#### **144 Establishment of New South Wales Shellfish Program**

- (1) The Food Authority is required:
  - (a) to establish, manage and operate a program to be called the New South Wales Shellfish Program, and
  - (b) to ensure that the Program is maintained and applied to the cultivation, harvest, collection, depuration, transshipment, labelling, identification and tracking of shellfish.
- (2) The objective of the Program is to ensure that shellfish harvested or collected in New

South Wales for sale for human consumption meet food safety requirements by:

- (a) assessing harvest areas to determine appropriate risk-based classifications and required food safety controls, and
  - (b) establishing criteria for the harvest, collection and depuration of shellfish, and
  - (c) ensuring that those criteria are satisfied in the harvest, collection and depuration of shellfish, and
  - (d) monitoring and assessing the effectiveness of those criteria.
- (3) For each area in which shellfish is harvested or collected, the Food Authority is to prepare a local shellfish program that includes the following:
- (a) the boundaries of any harvest area or areas within that local area,
  - (b) plans for the management of harvest areas within that local area that set out the environmental conditions that must be met before shellfish can be harvested, collected or depurated,
  - (c) a mechanism by which the Food Authority can advise licence holders in the local area who harvest or collect shellfish of any change to the status of a harvest area,
  - (d) the identification of sites for the sampling of the environment in which shellfish are harvested or collected,
  - (e) a plan for the taking of the samples referred to in paragraph (d) and a plan for the testing of those samples,
  - (f) the identification of pollution sources that may adversely affect the environment in which the shellfish are harvested or collected.

#### **145 Establishment of NSW Shellfish Committee**

- (1) The Food Authority is to establish a committee to be called the NSW Shellfish Committee which has the following functions:
  - (a) undertaking consultation with the Food Authority for the purposes of section 105 of the Act in relation to the food safety scheme prescribed under this Part (the **seafood safety scheme**) in its application to shellfish,
  - (b) the ongoing review of the operation of the seafood safety scheme in its application to shellfish.
- (2) The Committee is to consist principally of persons from the shellfish industry appointed by the Food Authority.
- (3) The Food Authority may also appoint as members of the Committee:

- (a) such members of staff of the Food Authority as the Food Authority determines, and
  - (b) such other employees of the Department of Industry, Skills and Regional Development as the Food Authority determines, and
  - (c) such representatives of other bodies or organisations as the Food Authority determines.
- (4) In appointing persons from the shellfish industry to be members of the Committee, the Food Authority is to consider the following matters, but may also have regard to other relevant matters:
- (a) whether or not the person holds a licence to harvest, collect or depurate the shellfish,
  - (b) whether or not the person is commercially reliant on the harvesting, collection or depuration of shellfish,
  - (c) whether or not the person has demonstrated previous compliance with the Program,
  - (d) whether or not the person has experience as a member at a local committee level in the Program.
- (5) The Food Authority is to appoint a Chairperson of the Committee from the members of the Committee.
- (6) The procedure for the calling and holding of meetings of the Committee is to be as determined by the Food Authority.

#### **146 Responsibilities of NSW Shellfish Committee**

The NSW Shellfish Committee is responsible for the following:

- (a) advising the Minister and the Food Authority on matters relating to the operation and administration of the Program, including its operation at a local level,
- (b) communicating with and assisting local committees and industry members on matters relating to the Program,
- (c) providing, where appropriate, representatives to other committees dealing with shellfish food safety issues.

**Note—**

The NSW Shellfish Committee also has functions under clause 145.

#### **147 Appointment of local shellfish committees**

- (1) The Food Authority is required to appoint a local shellfish committee for each area or group of areas of estuarine waters to which the Program relates.
- (2) A local committee is to comprise such number of members as the Food Authority considers appropriate.
- (3) The Food Authority is to arrange for the election of members of a local committee by such persons as the Food Authority is satisfied are holders of licences that authorise the harvesting or collection of shellfish, the operation of a depuration plant or the cultivation of shellfish or spat in the proposed area of operations of the committee.
- (4) A person is eligible to be elected to a local committee if the Food Authority is satisfied that the person:
  - (a) is the holder of a licence that authorises the harvesting or collection of shellfish, the operation of a depuration plant or the cultivation of shellfish or spat in the proposed area of operations of the committee or was the holder of such a licence, and
  - (b) has previously complied with the Program.

#### **148 Responsibilities of local shellfish committees**

- (1) A local committee is responsible for the following:
  - (a) administering, under the direction of the Food Authority, the local program for the area for which the committee is appointed, including:
    - (i) advising the Food Authority, and licence holders in the local area who harvest, collect or depurate shellfish, when the environmental conditions set out in the local program that must be met before shellfish can be harvested, collected or depurated are not satisfied, and
    - (ii) co-ordinating the collection and analysis, at the expense of the local program, of samples of the environment in which the shellfish are grown, harvested or collected, in accordance with the plan for the management of harvest areas within that local area, and any additional sampling requirements of the Food Authority, and
    - (iii) ensuring that each analysis carried out for the purposes of the local program is carried out in a laboratory approved by the National Association of Testing Authorities, or by the Food Authority, for the particular type of analysis to be undertaken,
  - (b) communicating and consulting with the NSW Shellfish Committee, the Food Authority and persons who harvest farmed shellfish, collect wild shellfish, cultivate

or depurate shellfish or cultivate spat,

- (c) determining annually, in consultation with persons required to comply with the local program, the total projected administration and operational costs of the local program (including the cost of maintaining the local committee),
- (d) advising the Food Authority before 1 August in each year of the costs referred to in paragraph (c),
- (e) preparing and submitting to the Food Authority, before 1 August in each year, a report on the local committee's operations, including the level of participation in the local program, an account of the finances of the committee and any other matter that the NSW Shellfish Committee notifies as being required for inclusion in the report.

- (2) A local committee is to nominate one or more of its members to assist in the day to day operation of the local program under the general direction of the Food Authority.

#### **149 Provisions relating to members and procedure of committee**

Schedule 7 applies to each local committee.

#### **150 Funding of committees**

- (1) The Food Authority may arrange for the funding of the NSW Shellfish Committee from licence fees and levies payable under Division 6.
- (2) The Food Authority may arrange for the funding of each local committee from money levied under Division 7.
- (3) Each committee funded by the Food Authority is to keep accounts of:
  - (a) all amounts paid to the committee by the Food Authority for the purposes of enabling the committee to exercise its functions, and
  - (b) all amounts expended by the committee.
- (4) A local committee is to establish and maintain at an authorised deposit-taking institution located in New South Wales a trust account for the operation of the relevant local program into which all amounts referred to in subclause (3) (a) are to be paid.
- (5) The Food Authority may require a committee funded by the Food Authority under this Part to produce its accounts for inspection at any reasonable time.

### **Division 5 Annual general licence fees**

#### **151 Annual general licence fees for seafood businesses**

- (1) The holder of a licence that authorises the carrying on of one or more of the activities

specified in Column 1 of the Table in Part 4 of Schedule 3 is to pay a licence fee each year to the Food Authority that is equal to the total of the fees applicable to the licence as calculated in accordance with that Table.

- (2) The Food Authority may increase the amount of any licence fee payable under this clause annually in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics.
- (3) In Part 4 of Schedule 3, **food handler** means a full-time equivalent food handler who is an employee of the relevant licensee.

## **Division 6 Licence fees and levies for State shellfish program**

### **152 Payment of licence fees for shellfish harvesting, cultivating of shellfish, cultivating of spat or operation of depuration plant**

- (1) The holder of a licence that authorises the harvesting of shellfish, cultivating of shellfish, cultivating of spat or the operation of a depuration plant is to pay a licence fee each year to the Food Authority.
- (2) The amount of the licence fee is the fee determined by the Food Authority or the fee calculated on the basis determined by the Food Authority.
- (3) The Food Authority may determine a fee, or a basis for calculating a fee, for the purposes of subclause (2) that:
  - (a) applies generally or is limited in its application by reference to specified exceptions or factors, or
  - (b) applies differently according to different factors of a specified kind.
- (4) Without limiting subclauses (2) and (3), the Food Authority may determine that a fee is to be increased in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics.
- (5) The licence fee payable under this clause is in addition to any other licence fee or levy payable by the holder under this Part.

### **153 Shellfish area service levy**

- (1) The holder of a licence is to pay a levy each year to the Food Authority if the holder:
  - (a) is also the holder of a class A aquaculture permit issued under Part 6 of the *Fisheries Management Act 1994* that authorises the carrying on of any activity authorised by the licence, and
  - (b) is the lessee under an aquaculture lease granted under Part 6 of that Act.

- (2) The amount of the levy payable under this clause by the holder of a licence is to be calculated by multiplying the number of hectares (including any part of a hectare) of the area of the aquaculture lease granted to the holder by \$31.
- (3) The levy payable under this clause is in addition to any other licence fee or levy payable by the holder under this Part.

#### **154 Purposes for which licence fee or levy to be applied**

A licence fee or levy payable under this Division is to be applied only for the following purposes:

- (a) meeting the costs incurred in maintaining the NSW Shellfish Committee,
- (b) meeting the costs incurred by that Committee in carrying out its responsibilities,
- (c) contributing to the operating costs of the Program.

### **Division 7 Local shellfish program levy**

#### **155 Payment of annual local shellfish program levy**

- (1) An annual local shellfish program levy is payable to the Food Authority, in addition to any other levy payable under this Part, by the holder of a licence that authorises any of the following activities if there is a local committee appointed for the area in which the activity is carried on:
  - (a) the harvesting, cultivation or collection of shellfish,
  - (b) the cultivation of spat,
  - (c) the operation of a depuration plant.
- (2) The levy is to be applied only for the following purposes:
  - (a) meeting the costs incurred in maintaining the local committees,
  - (b) meeting the costs incurred by those committees in carrying out their responsibilities.

#### **156 Calculation of annual local shellfish program levy**

- (1) The annual local shellfish program levy payable by the holder of a licence is to be calculated in accordance with this clause.
- (2) The Food Authority is to determine the levy payable under this clause in relation to the holder of a licence who harvests, collects or cultivates shellfish, cultivates spat or operates a depuration plant in an area for which a local committee is appointed by dividing the total projected administration and operational costs submitted to the Food Authority under clause 148 (1) (c) for the year concerned by the number of such

licence holders.

- (3) If the holder of a licence harvests, collects or cultivates shellfish, cultivates spat or operates a depuration plant in more than one area for which a local committee is appointed, the holder is liable to pay a levy under this Division for each of those areas.
- (4) Despite any other provision of this Division, the levy payable by the holder of a licence in respect of an area for which a local committee is appointed is to be reduced by half if:
  - (a) the only activity carried on in that area under the licence is:
    - (i) the operation of a depuration plant, or
    - (ii) the cultivating of spat, and
  - (b) the holder harvests, collects or cultivates shellfish, cultivates spat or operates a depuration plant in at least one other such area and has paid an unreduced amount of levy required under this Division in relation to at least one other such area.

## **Division 8 Miscellaneous**

### **157 Establishment of New South Wales Seafood Industry Forum**

- (1) The Food Authority is to establish a committee to be called the New South Wales Seafood Industry Forum which has the following functions:
  - (a) undertaking consultation with the Food Authority for the purposes of section 105 of the Act in relation to the food safety scheme prescribed under this Part (the **seafood safety scheme**), other than in its application to shellfish,
  - (b) the ongoing review of the operation of the seafood safety scheme, other than in its application to shellfish.
- (2) The Forum is to consist principally of persons from the seafood industry appointed by the Food Authority.
- (3) The Food Authority may also appoint as members of the Forum:
  - (a) such members of staff of the Food Authority as the Food Authority determines, and
  - (b) such other employees of the Department of Industry, Skills and Regional Development as the Food Authority determines, and
  - (c) such persons who are representatives of other bodies or organisations as the Food Authority determines.



- (4) The Food Authority is to appoint a Chairperson of the Forum from the members of the Forum.
- (5) The procedure for the calling and holding of meetings of the Forum is to be as determined by the Food Authority.

## **Part 12 Vulnerable persons food safety scheme**

### **Division 1 Preliminary**

#### **158 Vulnerable persons food safety scheme**

The provisions of Part 7, this Part and Part 5 of Schedule 3 are prescribed as a food safety scheme under Part 8 of the Act.

#### **159 Meaning of “vulnerable persons food business”**

In the vulnerable persons food safety scheme, ***vulnerable persons food business*** means a food business to which Standard 3.3.1 of the *Food Standards Code* applies.

**Note—**

See clause 160 which contains modifications relating to Standard 3.3.1 of the *Food Standards Code*.

#### **160 Modification of Food Standards Code**

Standard 3.3.1 of the *Food Standards Code* is modified by omitting the matter relating to child care centres from the Schedule to that Standard.

### **Division 2 Sampling and analyses**

#### **161 Vulnerable persons food business to undertake analyses of food**

- (1) The holder of a licence that authorises the carrying on of a vulnerable persons food business must, at the holder’s own expense, ensure that the following are analysed in accordance with this clause:
  - (a) samples of food handled in the course of the business,
  - (b) samples of water, other than water supplied through a reticulated water system, used in connection with the handling of food in the course of the business.

Maximum penalty: 25 penalty units.

- (2) An analysis for the purposes of this clause is to be carried out at the frequency:
  - (a) except as provided by paragraph (b), required by the NSW Food Safety Schemes Manual, or
  - (b) required by a notice served on the holder of the licence under subclause (3).

- (3) The Food Authority may, by notice in writing given to the holder of a licence, do either or both of the following:
- (a) specify the frequency at which analyses are to be carried out for the purposes of this clause,
  - (b) set out the standards required to be met in respect of the samples being analysed.

## **162 Reports of analyses**

- (1) The holder of a licence that authorises the carrying on of a vulnerable persons food business must ensure that every analysis carried out for the purposes of clause 161 is carried out in a laboratory approved by the National Association of Testing Authorities, Australia, or by the Food Authority for the particular type of analysis to be undertaken.

Maximum penalty: 25 penalty units.

- (2) The holder of a licence that authorises the carrying on of a vulnerable persons food business must, in accordance with subclause (3), notify the Food Authority of the results of any analysis carried out by or on behalf of the holder of the licence for the purposes of clause 161 if the results of the analysis indicate that:

- (a) the sample analysed failed to meet the requirements of the NSW Food Safety Schemes Manual, or
- (b) where a notice was given to the holder under clause 161 (3) setting out the required standards, the sample analysed failed to meet those standards.

Maximum penalty: 25 penalty units.

- (3) A notification under subclause (2) must:

- (a) be made orally within 24 hours after the holder becomes aware of the results of the analysis, and
- (b) be made in writing within 7 days after the holder becomes aware of the results of the analysis.

## **Division 3 Miscellaneous**

### **163 Establishment of New South Wales Vulnerable Persons Food Safety Scheme Consultative Committee**

- (1) The Food Authority is to establish a committee to be called the New South Wales Vulnerable Persons Food Safety Scheme Consultative Committee which has the following functions:

- (a) undertaking consultation with the Food Authority for the purposes of section 105

of the Act in relation to the food safety scheme prescribed under this Part (the ***vulnerable persons food safety scheme***),

- (b) the ongoing review of the operation of the vulnerable persons food safety scheme.
- (2) The Committee is to consist principally of persons from the vulnerable persons food industry appointed by the Food Authority.
- (3) The Food Authority may also appoint as members of the Committee:
  - (a) such members of staff of the Food Authority as the Food Authority determines, and
  - (b) such other employees of the Department of Industry, Skills and Regional Development as the Food Authority determines, and
  - (c) such employees of the Ministry of Health as the Food Authority determines, and
  - (d) such representatives of other bodies or organisations as the Food Authority determines.
- (4) The Food Authority is to appoint a Chairperson of the Committee from the members of the Committee.
- (5) The procedure for the calling and holding of meetings of the Committee is to be as determined by the Food Authority.

**164 Licence fees for licences in respect of vulnerable persons food businesses**

- (1) The holder of a licence that authorises the carrying on of a vulnerable persons food business is to pay a licence fee each year to the Food Authority calculated in accordance with this clause in respect of each of the premises to which the licence relates.
- (2) The fee payable in respect of premises is the fee set out in Column 2 of the Table in Part 5 of Schedule 3 opposite the number of full-time equivalent food handlers specified in Column 1 of that Table that are employed by the relevant licensee to handle food at the premises.
- (3) The Food Authority may increase the amount of any licence fee payable under this clause annually in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics.

## Part 13 Egg food safety scheme

### Division 1 Preliminary

#### 165 Definitions

In the egg food safety scheme:

**blended egg product mixture**—see clause 168 (3).

**cracked egg** means an egg with a cracked shell, where a crack is visible or visible by candling, and includes a broken egg.

**egg** means the egg of any avian species (other than the egg of a ratite).

**egg business**—see clause 168 (1).

**egg producer** means a person who produces eggs for sale.

**egg product**—see clause 168 (2).

**licence** means a licence authorising the carrying on of an egg business.

#### 166 Egg food safety scheme

The provisions of Part 7, this Part and Part 6 of Schedule 3 are prescribed as a food safety scheme under Part 8 of the Act.

#### 167 Application of egg food safety scheme to retail premises and food not intended for sale

- (1) The egg food safety scheme (except clauses 171-174 of this Part) does not apply to or in respect of the handling of food on retail premises.
- (2) The egg food safety scheme (except clauses 171-174 of this Part) does not apply to or in respect of the handling of food in or from a vehicle from which the food is sold by retail.
- (3) The egg food safety scheme does not apply to or in respect of the handling of food that is not intended for sale.

#### 168 Meaning of “egg business”, “egg product” and “blended egg product mixture”

- (1) In the egg food safety scheme, **egg business** means a business involving any of the following:
  - (a) producing, washing, grading or dry cleaning more than 240 eggs in any week,
  - (b) the examination (other than random examination for the purpose of quality control) of more than 240 eggs in any week to detect cracks,

- (c) manufacturing, pasteurising or processing of egg products,
  - (d) manufacturing, pasteurising or processing of blended egg product mixtures,
  - (e) transporting egg products (other than in dried form), blended egg product mixtures (other than in dried form) or cracked eggs, or any combination of those things,
  - (f) storing egg products (other than in dried form), blended egg product mixtures (other than in dried form) or cracked eggs, or any combination of those things, other than storing on premises in connection with a business that also undertakes any of the following on the premises:
    - (i) the manufacturing or processing of egg products or blended egg product mixtures,
    - (ii) the production of food using egg products or blended egg product mixtures, or both.
- (2) In the egg food safety scheme, **egg product** means the whole or a part of the content of an egg with the shell removed and in any form.
- (3) In the egg food safety scheme, **blended egg product mixture** means a product consisting of at least 80 per cent by weight of egg white or egg yolk, or both, and other food.

#### **169 Application of Food Standards Code to primary production of eggs**

For the purposes of section 21 (5) of the Act, the following provisions of the *Food Standards Code* apply to a food business (within the meaning of section 6 of the Act) that involves the handling of food (being eggs) and is primary food production:

- (a) Standard 3.1.1 (as modified by this Part),
- (b) Standard 3.2.1,
- (c) Divisions 1 and 4 of Standard 3.2.2,
- (d) clause 4 of Division 2 of Standard 3.2.2 unless the food business is referred to in section 101 of the Act,
- (e) Standard 3.2.3,
- (f) Standard 4.1.1,
- (g) Divisions 1 and 2 of Standard 4.2.5 (as modified by this Part).

#### **170 Modification of Food Standards Code**

- (1) Standard 2.2.2 of the *Food Standards Code* is modified by inserting after clause 4:

## **5 Compliance with clause 4**

- (1) A person is not required to comply with clause 4 if:
  - (a) the number of eggs produced by the person per week does not exceed 240, and
  - (b) the person sells or supplies those eggs:
    - (i) directly to consumers at the place at which the eggs are produced, or
    - (ii) for charitable fund-raising purposes where it is intended that all such eggs are to be cooked thoroughly and consumed immediately.
- (2) Standard 4.2.5 is modified, but only in relation to the primary production of eggs, as follows:
  - (a) by inserting after clause 3 (3):
    - (4) An egg producer is not required to comply with this clause unless the egg producer produces, washes, grades, dry cleans or assesses for cracks more than 240 eggs in any week.
  - (b) by inserting after clause 10:

## **10A Compliance with clause 10**

An egg producer is not required to comply with clause 10 (1), (2) and (4) if:

- (a) the number of eggs produced by the producer per week does not exceed 240, and
- (b) the egg producer sells or supplies those eggs:
  - (i) directly to consumers at the place at which the eggs are produced, or
  - (ii) for charitable fundraising purposes where it is intended that all such eggs are to be cooked thoroughly and consumed immediately.

## **Division 2 Requirements relating to production, handling and sale of**

## **eggs, egg products and blended egg product mixtures**

### **171 Sale of unpasteurised egg product and unpasteurised blended egg product mixture**

A person must not sell unpasteurised egg product or unpasteurised blended egg product mixture except to the holder of a licence that authorises the holder to pasteurise the egg product or blended egg product mixture, or both.

Maximum penalty: 25 penalty units.

### **172 Unpasteurised egg product not to be used in food for sale**

(1) A person must not use unpasteurised egg product in food other than in the preparation of blended egg product mixture.

Maximum penalty: 25 penalty units.

(2) This clause does not apply to egg product from an egg that is cracked and broken for the purpose of, and in the course of, the preparation of the food.

(3) Nothing in this clause affects any requirement of clause 7 of Standard 3.2.2 of the *Food Standards Code*.

### **173 Unpasteurised blended egg product mixture not to be used in food for sale**

A person must not use unpasteurised blended egg product mixture in food.

Maximum penalty: 25 penalty units.

### **174 Sale and use of cracked eggs**

(1) A person must not sell a cracked egg except to the holder of a licence.

Maximum penalty: 25 penalty units.

(2) A person must not use a cracked egg in the preparation of food unless:

(a) the cracked egg is used in the preparation of egg product or blended egg product mixture, or

(b) the cracked egg was cracked and broken for the purpose of, and in the course of, the preparation of the food.

Maximum penalty: 25 penalty units.

(3) Nothing in this clause affects any requirement of Standard 2.2.2 of the *Food Standards Code* as modified by this Regulation.

### **175 Sale and processing of dirty eggs**

(1) An egg producer or a person who operates an egg business must ensure that any egg

intended for human consumption on the shell of which there is visible faeces, soil or other matter is dealt with by:

- (a) selling the egg to the holder of a licence that authorises the washing or dry cleaning of eggs, or
- (b) cleaning the egg shell so that the visible faeces, soil or other matter is removed from the shell, or
- (c) separating the egg shell from the egg product by using a process that:
  - (i) minimises contact between the outside of the shell and the egg product and does not cause contamination of the egg product during or after the process of separation, and
  - (ii) pasteurises the egg product.

Maximum penalty: 25 penalty units.

- (2) A reference in this clause to **other matter** does not include a reference to labels, stickers or ink stamps.

#### **176 Eggs for sale to be free of chemical contaminants**

- (1) An egg producer must not sell eggs for human consumption that have been obtained from a bird that has been administered a veterinary chemical product (within the meaning of the Agvet Code) in contravention of the [Stock Medicines Act 1989](#) or the [Pesticides Act 1999](#) unless the Food Authority has approved in writing of the sale of the eggs.

Maximum penalty: 25 penalty units.

- (2) The Food Authority is not to give approval for the purposes of subclause (1) unless the egg producer concerned has demonstrated to the satisfaction of the Food Authority that the eggs comply with Standard 1.4.2 of the *Food Standards Code*.
- (3) In this clause, **Agvet Code** means the provisions applying because of section 5 of the [Agricultural and Veterinary Chemicals \(New South Wales\) Act 1994](#).

#### **177 Method of pasteurisation of egg product**

A reference in any provision of the egg food safety scheme to the pasteurisation (however expressed) of an egg product is a reference to the pasteurisation of the egg product:

- (a) in accordance with the requirements of Standard 4.2.5 of the *Food Standards Code* and using equipment in accordance with the requirements of the NSW Food Safety Schemes Manual, or
- (b) by using an equivalent heat process using any other time and temperature



combination of equal or greater lethal effect on pathogens in the egg product as would be achieved by pasteurisation in accordance with that Standard and using equipment that complies with the requirements of the NSW Food Safety Schemes Manual, or

- (c) by using any other process that provides an equivalent or greater lethal effect on pathogens in the egg product as would be achieved by pasteurisation in accordance with that Standard and using equipment approved by the Food Authority that complies with the requirements of the NSW Food Safety Schemes Manual.

### **178 Method of pasteurisation of blended egg product mixture**

A reference in any provision of the egg food safety scheme to the pasteurisation (however expressed) of blended egg product mixture is a reference to the pasteurisation of the blended egg product mixture:

- (a) by using an equivalent heat process using any other time and temperature combination of equal or greater lethal effect on pathogens in the blended egg product mixture as would be achieved by pasteurisation of an egg product in accordance with the requirements of Standard 4.2.5 of the *Food Standards Code* and using equipment that complies with the requirements of the NSW Food Safety Schemes Manual, or
- (b) by using any other process that provides an equivalent or greater lethal effect on pathogens in the blended egg product mixture as would be achieved by pasteurisation of an egg product in accordance with that Standard and using equipment approved by the Food Authority that complies with the requirements of the NSW Food Safety Schemes Manual.

## **Division 3 Sampling and analyses**

### **179 Egg businesses to undertake analyses of eggs, egg products, blended egg product mixtures and water**

- (1) The holder of a licence that authorises the operation of an egg business must, at the holder's own expense, ensure that samples of each of the following are analysed in accordance with this clause:
  - (a) eggs that are handled in the course of the business and are required to be analysed by the NSW Food Safety Schemes Manual,
  - (b) egg products that are handled in the course of the business and are required to be analysed by the NSW Food Safety Schemes Manual,
  - (c) blended egg product mixtures that are handled in the course of the egg business and are required to be analysed by the NSW Food Safety Schemes Manual,
  - (d) water that has not been supplied through a reticulated water system used in the production of eggs, processing of eggs, egg products and blended egg product

mixtures by the business.

Maximum penalty: 25 penalty units.

- (2) An analysis for the purposes of this clause is to be carried out at the frequency:
- (a) except as provided by paragraph (b), required by the NSW Food Safety Schemes Manual, or
  - (b) required by a notice served on the holder of the licence under subclause (3).
- (3) The Food Authority may, by notice in writing given to the holder of a licence do either or both of the following:
- (a) specify the frequency at which analyses are to be carried out for the purposes of this clause,
  - (b) set out the microbiological standards required to be met in respect of the eggs, egg products, blended egg product mixtures or water being analysed.

#### **180 Reports of analyses**

- (1) The holder of a licence must ensure that every analysis carried out for the purposes of clause 179 is carried out in a laboratory approved by the National Association of Testing Authorities, Australia, or the Food Authority, for the particular type of analysis to be undertaken.

Maximum penalty: 25 penalty units.

- (2) The holder of a licence must, in accordance with subclause (3), notify the Food Authority of the details of any analysis carried out by or on behalf of the holder for the purposes of clause 179 if the results of the analysis indicate that:
- (a) the sample analysed failed to meet the microbiological standards set out in the NSW Food Safety Schemes Manual, or
  - (b) where a notice was given to the holder under clause 179 (3) setting out the required microbiological standards, the sample analysed failed to meet those microbiological standards.

Maximum penalty: 25 penalty units.

- (3) A notification under subclause (2) must:
- (a) be made orally within 24 hours after the holder becomes aware of the results of the analysis, and
  - (b) be made in writing within 7 days after the holder becomes aware of the results of the analysis.

**181 Records to be kept in relation to sale, purchase, transportation and storage of cracked eggs, unpasteurised egg products and unpasteurised blended egg product mixtures**

(1) **Records relating to sales** The holder of a licence must ensure that the following records are kept in relation to the sale, in the course of the conduct of the egg business to which the licence relates, of any cracked eggs, unpasteurised egg products and unpasteurised blended egg product mixtures:

- (a) the names and addresses of the persons or businesses to whom the eggs, egg products or mixtures are sold,
- (b) the dates on which the eggs, egg products or mixtures are sold,
- (c) the lot identification numbers of the eggs, egg products or mixtures sold,
- (d) the quantity of eggs, egg products or mixtures sold.

Maximum penalty: 25 penalty units.

(2) **Records relating to purchases** The holder of a licence must ensure that the following records are kept in relation to the purchase, in the course of the conduct of the egg business to which the licence relates, of any cracked eggs, unpasteurised egg products and unpasteurised blended egg product mixtures:

- (a) the names and addresses of the persons or businesses from whom the eggs, egg products or mixtures are purchased,
- (b) the dates on which the eggs, egg products or mixtures are purchased,
- (c) the lot identification numbers of the eggs, egg products or mixtures purchased,
- (d) the quantity of eggs, egg products or mixtures purchased.

Maximum penalty: 25 penalty units.

(3) **Records relating to transportation** The holder of a licence must ensure that the following records are kept in relation to the transportation to another person or business, in the course of the conduct of the egg business to which the licence relates, of any cracked eggs, unpasteurised egg products and unpasteurised blended egg product mixtures:

- (a) the names and addresses of the persons or businesses for whom the eggs, egg products or mixtures are transported and to whom the eggs, egg products or mixtures are transported,
- (b) the names and addresses of the persons or businesses (if known to the holder) that supplied the eggs, egg products or mixtures,

- (c) the addresses of premises from which the eggs, egg products or mixtures were collected for transportation and to which the eggs, egg products or mixtures were delivered,
- (d) the dates on which the eggs, egg products or mixtures are transported,
- (e) the lot identification numbers of the eggs, egg products or mixtures transported,
- (f) the quantity of eggs, egg products or mixtures transported.

Maximum penalty: 25 penalty units.

- (4) **Records relating to storage** The holder of a licence must ensure that the following records are kept in relation to the storage for another person or business, in the course of the conduct of the egg business to which the licence relates, of any cracked eggs, unpasteurised egg products or unpasteurised blended egg product mixtures:
- (a) the names and addresses of the persons or businesses for whom the eggs, egg products or mixtures are stored,
  - (b) the date on which the eggs, egg products or mixtures were first stored,
  - (c) the lot identification numbers of the eggs, egg products or mixtures stored,
  - (d) the quantity of eggs, egg products or mixtures stored.

Maximum penalty: 25 penalty units.

## Division 4 Miscellaneous

### 182 Establishment of New South Wales Egg Industry Consultative Committee

- (1) The Food Authority is to establish a committee to be called the New South Wales Egg Industry Consultative Committee which has the following functions:
  - (a) undertaking consultation with the Food Authority for the purposes of section 105 of the Act in relation to the food safety scheme prescribed under this Part (the **egg food safety scheme**),
  - (b) the ongoing review of the operation of the egg food safety scheme.
- (2) The Committee is to consist principally of persons from the egg industry appointed by the Food Authority.
- (3) The Food Authority may also appoint as members of the Committee:
  - (a) such members of staff of the Food Authority as the Food Authority determines, and
  - (b) such other employees of the Department of Industry, Skills and Regional

Development as the Food Authority determines, and

(c) such representatives of other bodies or organisations as the Food Authority determines.

(4) The Food Authority is to appoint a Chairperson of the Committee from the members of the Committee.

(5) The procedure for the calling and holding of meetings of the Committee is to be as determined by the Food Authority.

### **183 Licence fees for licences in respect of egg businesses**

(1) The holder of a licence that authorises the carrying on of one or more of the activities specified in Column 1 of the Table in Part 6 of Schedule 3 is to pay a licence fee each year to the Food Authority that is equal to the total of the fees applicable to the licence as calculated in accordance with that Table.

(2) The Food Authority may increase the amount of any licence fee payable under this clause annually in accordance with the annual percentage increase (if any) in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics.

(3) In Part 6 of Schedule 3, **food handler** means a full-time equivalent food handler who is an employee of the relevant licensee.

## **Schedule 1 Form**

### **Form 1 Report of food safety auditor**

(Clause 6)

#### **Audit details**

Licence name:

Licence number:

Facility location:

Facility reference number:

Auditor first name:

Auditor surname:

Auditor number:

Audit date:

Audit duration:

Last audit date:

#### **Audit items**

*[The information below is to be completed in respect of each of the following audit items:*

- *food safety program,*

- *construction and maintenance,*
- *hygiene and sanitation,*
- *process control,*
- *product ID and traceability,*
- *analytical and testing,*
- *pre-requisite programs,*
- *corrective action.]*

**1** Previous Corrective Action Request (CAR)? Yes  No

(a) *If yes to 1, issues to close?* Yes  No

(b) *If yes to (a), for each issue:*

(i) Issue number from previous CAR:

(ii) Close out comments:

(c) *If yes to 1, issues to reissue?* Yes  No

(d) *If yes to (c), for each issue:*

(i) Issue number from previous CAR:

(ii) Description:

(iii) Rectification date:

**2** New issues? Yes  No

(a) *If yes to 2, for each issue:*

(i) Description:

(ii) Rectification date:

**Result:** CAR issued / Acceptable (*Delete whichever is not applicable*)

CAR issue level: Minor / Major / Critical (*Delete whichever is not applicable*)

**Audit results**

Audit score:

Audit level:

Audit outcome:

**Auditor declarations**

I am of the opinion that the food business is being carried on in compliance with the requirements of the regulations relating to food safety programs.

Yes  No

I am of the opinion that the food business is being carried on in compliance with the provisions of the Food Safety Standards.

Yes  No

**Auditor comments**

Comments:

## Schedule 2 Penalty notices

(Clause 9)

### Part 1 Offences against the Act

<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)	\$770	\$1540
Section 16 (2)	\$770	\$1540
Section 17 (1)	\$660	\$1320
Section 17 (2)	\$660	\$1320
Section 18 (1)	\$770	\$1540
Section 18 (2)	\$770	\$1540
Section 18 (3)	\$770	\$1540
Section 19 (1)	\$770	\$1540
Section 20 (1) (a)	\$770	\$1540
Section 20 (1) (b)	\$770	\$1540
Section 20 (2)	\$770	\$1540
Section 21 (1)	\$440	\$880
Section 21 (2)	\$440	\$880
Section 21 (3)	\$440	\$880
Section 21 (4)	\$440	\$880
Section 35 (a)	\$1430	\$2860
Section 35 (b)	\$1430	\$2860
Section 35 (c)	\$1430	\$2860
Section 41	\$770	\$1540
Section 43 (2)	\$770	
Section 64	\$770	\$1540
Section 66AA (3)	\$660	\$1320
Section 77	\$220	\$440
Section 83	\$220	\$440
Section 89 (1)	\$220	\$440

Section 99 (2)	\$770	
Section 100 (1)	\$440	\$880
Section 104 (1)	\$660	\$1,320
Section 104 (2)	\$660	\$1,320
Section 104 (3)	\$660	\$1,320
Section 104 (4)	\$660	\$1,320
Section 104 (5)	\$660	\$1,320
Section 106C (1)	\$330	\$660
Section 106C (2)	\$330	\$660
Section 106D (1)	\$330	\$660
Section 106D (2)	\$330	\$660
Section 106G (1)	\$330	\$660
Section 106G (2)	\$330	\$660
Section 106N (4)	\$330	\$660
Section 106O (2)	\$330	\$660
Section 136 (1)	\$440	\$880

## Part 2 Offences against this Regulation

### Table

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision of this Regulation</b>	<b>Penalty for an individual</b>	<b>Penalty for a corporation</b>
Clause 52 (2)	\$330	\$330
Clause 53 (1)	\$330	\$330
Clause 53 (2)	\$330	\$330
Clause 70 (1)	\$660	\$660
Clause 71 (1)	\$660	\$660
Clause 71 (2)	\$660	\$660
Clause 82 (1)	\$660	\$660
Clause 82 (2)	\$660	\$660
Clause 82 (3)	\$660	\$660
Clause 98 (1)	\$660	



Clause 98 (2)	\$660	
Clause 98 (4)	\$660	
Clause 103 (1)	\$660	
Clause 103 (2)	\$660	
Clause 103 (4)	\$660	
Clause 108 (4)	\$660	\$660
Clause 111	\$660	\$660
Clause 116 (1)	\$660	\$660
Clause 116 (2)	\$660	\$660
Clause 116 (3)	\$660	\$660
Clause 116 (4)	\$660	\$660
Clause 117 (1)	\$660	\$660
Clause 117 (2)	\$660	\$660
Clause 125 (1)	\$330	\$330
Clause 126 (1)	\$330	\$330
Clause 126 (2)	\$330	\$330
Clause 139 (1)	\$660	\$660
Clause 140 (1)	\$660	\$660
Clause 140 (2)	\$660	\$660
Clause 140 (4)	\$660	
Clause 140 (5)	\$660	
Clause 141	\$660	\$660
Clause 142	\$660	\$660
Clause 161 (1)	\$660	\$660
Clause 162 (1)	\$660	\$660
Clause 162 (2)	\$660	\$660
Clause 171	\$660	\$660
Clause 172 (1)	\$440	\$440
Clause 173	\$440	\$440
Clause 174 (1)	\$660	\$660
Clause 174 (2)	\$330	\$330

Clause 175 (1)	\$660	\$660
Clause 176 (1)	\$660	\$660
Clause 179 (1)	\$660	\$660
Clause 180 (1)	\$660	\$660
Clause 180 (2)	\$660	\$660
Clause 181 (1)	\$660	\$660
Clause 181 (2)	\$660	\$660
Clause 181 (3)	\$660	\$660
Clause 181 (4)	\$660	\$660

### Schedule 3 Licence fees

(Clauses 75, 119, 128, 151, 164 and 183)

#### Part 1 Licence fees in relation to dairy food businesses

##### Table

Column 1	Column 2	Column 3
Categories of activities authorised by licence		Fee \$
1 Operation of dairy primary production business or operation of dairy processing business, or both	For each premises where the activities are carried out:	
	(a) 0 to 5 food handlers engaged in the activities at the premises	441
	(b) more than 5 but no more than 50 food handlers engaged in the activities at the premises	910
2 Operation of dairy produce store (other than a dairy produce store that is operated on the same premises as a dairy processing business)	(c) more than 50 food handlers engaged in the activities at the premises	3,988
	For each premises where the activities are carried out:	
	(a) 0 to 5 food handlers engaged in the activities at the premises	441
	(b) more than 5 but no more than 50 food handlers engaged in the activities at the premises	910

	(c) more than 50 handlers engaged in the activities at the premises	3,988
3	Transporting of milk or dairy products, or both (including as dairy transport business) For each vehicle used for the activities	328
4	Vehicle vendor of milk For each vehicle used for the activities	328
5	Operation of raw milk product manufacturing business For each premises where the activities are carried out:	
	(a) 0 to 5 food handlers engaged in the activities at the premises	441
	(b) more than 5 but no more than 50 food handlers engaged in the activities at the premises	910
	(c) more than 50 food handlers engaged in the activities at the premises	3,988
6	Operation of raw milk collection, transport and delivery business	328

## Part 2 Licence fees in relation to meat food businesses

### Table

Column 1	Column 2	Column 3
Categories of activities authorised by licence		Fee \$
1	Operation of abattoir, meat processing plant, meat retail premises or rendering plant, or any combination of those For each premises where the activities are carried out:	
	(a) 0 to 5 food handlers engaged in the activities at the premises	441
	(b) more than 5 but no more than 50 food handlers engaged in the activities at the premises	910
	(c) more than 50 food handlers engaged in the activities at the premises	3,988
2	Operation of game meat primary processing plant For each premises where the activities are carried out:	
	(a) 0 to 5 food handlers engaged in the activities at the premises	441

	(b) more than 5 but no more than 50 food handlers engaged in the activities at the premises	910
	(c) more than 50 food handlers engaged in the activities at the premises	3,988
	For each premises where the activities are carried out:	
3	Operation of knackery or animal food processing plant, or both	
	(a) 0 to 5 food handlers engaged in the activities at the premises	441
	(b) more than 5 but no more than 50 food handlers engaged in the activities at the premises	910
	(c) more than 50 food handlers engaged in the activities at the premises	3,988
4	Operation of game meat field depots	For each site at which the depots are located 441
5	Operation of animal food field depots	For each site at which the depots are located 328
6	Operation of meat van, game meat field harvesting van, animal food van or animal food field harvesting van	For each vehicle 328
7	Operation of poultry farm	For each premises where the activities are carried out 328

### Part 3 Licence fees in relation to plant products businesses

#### Table

Column 1	Column 2	Column 3
Categories of activities authorised by licence		Fee \$
	For each premises where the activities are carried out:	
1	Processing plant products	
	(a) 0 to 5 food handlers engaged in the activities at the premises	441
	(b) more than 5 but no more than 50 food handlers engaged in the activities at the premises	910

	(c) more than 50 food handlers engaged in the activities at the premises	3,988
2 Storing plant products on premises other than premises where plant products are being processed	For each premises where the activities are carried out:	
	(a) 0 to 5 food handlers engaged in the activities at the premises	441
	(b) more than 5 but no more than 50 food handlers engaged in the activities at the premises	910
	(c) more than 50 food handlers engaged in the activities at the premises	3,988
3 Transporting plant products	For each vehicle used for the activities	328

## Part 4 Annual general licence fees for seafood businesses

### Table

Column 1	Column 2	Column 3
Categories of activities authorised by licence		Fee \$
1 Capture or collect any wild seafood, or store, gill, gut or cook only wild seafood that licensee has captured or collected, or any combination of those activities	With or without a vessel	328
2 Processing of finfish or crustacea (including freezing, thawing and preparing sushi) or storing of seafood (other than as referred to in item 1) or any combination of those	For each premises where the activities are carried out:	
	(a) 0 to 5 food handlers engaged in the activities at the premises	441
	(b) more than 5 but no more than 50 food handlers engaged in the activities at the premises	910
	(c) more than 50 food handlers engaged in the activities at the premises	3,988
3 Transportation of seafood by vehicle on land (except by licensees referred to in item 1 if transporting their own catch of wild seafood to a store or processor)	For each vehicle used for the activities	328 per vehicle

## Part 5 Licence fees in relation to vulnerable persons food businesses

### Table

Column 1	Column 2
Number of food handlers working at premises	Fee \$
0 to 3	276
More than 3 but not more than 10	355
More than 10 but not more than 30	657
More than 30 but not more than 50	954
More than 50	1,254

## Part 6 Licence fees in relation to egg businesses

### Table

Column 1	Column 2	Column 3
Categories of activities authorised by licence		Fee \$
1 Producing, washing, grading, dry cleaning or examining more than 240 eggs in any week or manufacturing or processing (including pasteurising) of egg products or blended egg product mixtures (or any combination of those activities)	For each premises where the activities are carried out:	
	(a) 0 to 5 food handlers engaged in the activities at the premises	441
	(b) more than 5 but no more than 50 food handlers engaged in the activities at the premises	910
	(c) more than 50 food handlers engaged in the activities at the premises	3,988
2 Storing egg products (other than in dried form), blended egg product mixtures (other than in dried form) or cracked eggs or any combination of those products (other than at premises where egg products or blended egg product mixtures are being manufactured or processed or at premises where egg products or blended egg product mixtures are being used in the production of food)	For each premises where the activities are carried out:	
	(a) 0 to 5 food handlers engaged in the activities at the premises	441
	(b) More than 5 but no more than 50 food handlers engaged in the activities at the premises	910
	(c) More than 50 food handlers engaged in the activities at the premises	3,988

3	Transporting egg products (other than in dried form), blended egg product mixtures (other than in dried form) or cracked eggs or any combination of them	For each vehicle	328
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## **Schedule 4 Standards for animal food processing plants**

(Clause 91)

### **1 General**

- (1) The design and layout of the plant and its equipment must facilitate the hygienic production of animal food and animal food products and any inspection or auditing necessary during or after production.
- (2) There must be adequate working space for the satisfactory performance of animal food processing and auditing operations.
- (3) Chiller and freezer capacity must be adequate for maximum daily production and accommodate the total quantity of product likely to be held on the plant at any one time.

### **2 Construction requirements**

- (1) The plant must be constructed so that all exposed surfaces are of material that is:
  - (a) durable, and
  - (b) non-toxic, and
  - (c) smooth-surfaced (including the floors), and
  - (d) resistant to corrosion or capable of being maintained free of corrosion, and
  - (e) impervious to moisture, and
  - (f) resistant to or protected from impact, and
  - (g) easily cleaned and drained to prevent ponding of blood and, where necessary, capable of being dismantled for cleaning, and
  - (h) resistant to chipping, flaking or fraying, and
  - (i) of a finish that makes contamination clearly visible.
- (2) The plant must be constructed so that:
  - (a) the joints are effectively sealed, and
  - (b) the accumulation of dust, water, litter or waste materials on ledges and sills is minimised, including by means of adequate coving at wall to floor junctions.

- (3) All equipment and appliances used for processing purposes must be:
  - (a) durable, and
  - (b) non-toxic, and
  - (c) smooth-surfaced, and
  - (d) resistant to corrosion or capable of being maintained free of corrosion, and
  - (e) impervious to moisture, and
  - (f) resistant to or protected from impact, and
  - (g) easily cleaned and, where necessary, capable of being dismantled for cleaning, and
  - (h) resistant to chipping, flaking or fraying, and
  - (i) of a finish that makes contamination clearly visible.
- (4) Door openings and passage-ways must be of a size ensuring that the product does not come into contact with jambs or walls.
- (5) The plant must be constructed and maintained so as to exclude:
  - (a) the entrance of any animals not intended for use in animal food processing including dogs, cats, birds, rodents and insects, and
  - (b) any harbourage for vermin, and
  - (c) environmental contaminants, including dust.

### **3 Supply of water**

- (1) The plant must be adequately supplied with continuous hot and cold potable water at a volume and pressure to enable hygienic practice and, if ice is used, it must be produced from potable water and stored and handled in a manner that protects it from contamination.
- (2) Non-potable water, used where there is no risk of contamination of meat (for example, refrigeration or fire control), must be supplied in lines separate from the supply of potable water.

### **4 Lighting**

Lighting must be sufficient to enable hygienic processing, inspection and auditing.

### **5 Ventilation**

Ventilation must maintain product wholesomeness and remove excessive heat, steam and



condensation and prevent the entry of odours, dust, vapour or smoke.

## **6 Amenities**

Unless the Food Authority otherwise approves, hand wash-basins and, where necessary, sterilisers, must be provided and be readily accessible and at appropriate locations for use during processing.

## **7 Storage**

- (1) Processing rails or other carcase elevating devices must be of a height sufficient to ensure that there is adequate carcase clearance over, or from, operational equipment and structures not designed for contact to prevent any cross contamination.
- (2) Separate areas must be provided for processes that emit heat, steam, smoke and other contaminants to ensure that such emissions are controlled and do not jeopardise the hygienic processing of animal food and animal food products.
- (3) Where canopies are used, they must be vented to the outside of the plant and constructed to prevent drip.
- (4) Clearly identified facilities must be provided for storing and removing inedible material to prevent contamination of animal food.

## **8 General operational hygiene requirements**

- (1) The requirements of clauses 6.8.1-6.8.17 of the document titled *Standard for the Hygienic Production of Pet Meat: PISC Technical Report 88*, published by CSIRO and as in force from time to time, must be complied with.
- (2) In applying those clauses of that Standard:
  - (a) a reference to pet meat is to be read as a reference to animal food, and
  - (b) a reference to pet meat processing is to be read as a reference to animal food processing.

## **Schedule 5 Prescribed brands for abattoir meat**

(Clause 96)

### **Part 1 Brand for meat fit for human consumption**

#### **1 Characters to be included in brand**

The brand must be completed by inserting in the space marked "A" a number allocated to the premises by the Food Authority.

#### **2 Dimensions**

- (1) Unless otherwise approved by the Food Authority, the dimensions of the brand must be 50 millimetres in length and 37 millimetres in height when used on a flat surface.
- (2) The units of measurement referred to in subclause (1) may be subject to a tolerance of plus or minus 2 millimetres.

#### **3 Ink to be used**

The ink to be used must be:

- (a) red in colour, and
- (b) suitable for food application purposes.

## **Part 2 Brand for lamb**

### **4 Application of the brand**

The prescribed brand must be applied by repeating the above mark, without any break, as often as is necessary to comply with clause 99 (1) (d) of this Regulation.

### **5 Characters to be included in the mark**

The prescribed brand must be completed:

- (a) by inserting in the space marked "A" a number allocated to the premises by the Food Authority, and
- (b) by inserting in one of the spaces marked "CYPHER" one of the following in relation to the owner of the licensed premises to which the number referred to in paragraph (a) relates:
  - (i) the name, or an abbreviation of the name, of the owner,
  - (ii) the trading name, or an abbreviation of the trading name of the owner,
  - (iii) the logo or an abbreviation of the logo of the owner, and

- (c) by inserting in one of the spaces marked “CYPHER” the location or area, or an abbreviation of the location or area, where the licensed premises to which the number referred to in paragraph (a) is located, and
- (d) by inserting in one of the spaces marked “CYPHER” the name or logo, or an abbreviation of the name or logo of the person who owns the meat at the time of branding.

## **6 Dimensions**

- (1) Unless otherwise approved by the Food Authority, the letters used in the brand must be 17 millimetres in height with a space of 9 millimetres between each row of words.
- (2) The units of measurement referred to in subclause (1) may be subject to the following tolerances:
  - (a) for dimensions not exceeding 10 millimetres—plus or minus 1 millimetre,
  - (b) for dimensions greater than 10 millimetres—plus or minus 2 millimetres.

## **Part 3 Brand for hogget**

## **7 Application of the brand**

The prescribed brand must be applied by repeating the above mark, without any break, as often as necessary to comply with clause 99 (1) (d) of this Regulation.

## **8 Characters to be included in the mark**

The prescribed brand must be completed:

- (a) by inserting in the space marked “A” a number allocated to the premises by the Food Authority, and
- (b) by inserting in one of the spaces marked “CYPHER” one of the following in relation to the owner of the licensed premises to which the number referred to in paragraph (a) relates:
  - (i) the name, or an abbreviation of the name, of the owner,
  - (ii) the trading name, or an abbreviation of the trading name of the owner,
  - (iii) the logo or an abbreviation of the logo of the owner, and
- (c) by inserting in one of the spaces marked “CYPHER” the location or area, or an abbreviation of the location or area, where the licensed premises to which the number referred to in paragraph (a) is located, and
- (d) by inserting in one of the spaces marked “CYPHER” the name or logo, or an abbreviation of the name or logo of the person who owns the meat at the time of branding.

## **9 Dimensions**

- (1) Unless otherwise approved by the Food Authority, the letters used in the brand must be 17 millimetres in height with a space of 9 millimetres between each row of words.
- (2) The units of measurement referred to in subclause (1) may be subject to the following tolerances:
  - (a) for dimensions not exceeding 10 millimetres—plus or minus 1 millimetre,
  - (b) for dimensions greater than 10 millimetres—plus or minus 2 millimetres.

## **Schedule 6 Prescribed brands for game meat**

(Clause 101)

### **1 Characters to be included in brand**

The brand must be completed by inserting in the space marked “A” a number allocated to the premises by the Food Authority.

### **2 Dimensions of brand**

- (1) The dimensions of the brand are those approved by the Food Authority in relation to the type of game meat to which the brand is to be applied.
- (2) The units of measurement approved by the Food Authority in relation to the brand may be subject to the following tolerances:
  - (a) for dimensions not exceeding 10 millimetres—plus or minus 1 millimetre,
  - (b) for dimensions greater than 10 millimetres—plus or minus 2 millimetres.

## **Schedule 7 Provisions relating to members and procedure of local shellfish committees**

(Clause 149)

### **Part 1 General**

#### **1 Definitions**

In this Schedule:

**committee** means a local shellfish committee appointed under clause 147.

**member** means a member of a committee.

## **Part 2 Constitution**

### **2 Terms of office of members**

Subject to this Schedule, a member holds office for such term (not exceeding 3 years) as is specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

### **3 Deputies**

- (1) The Food Authority may, from time to time, appoint a person to be the deputy of a member, and may at any time revoke any such appointment.
- (2) In the absence of a member, the member's deputy:
  - (a) may, if available, act in the place of the member, and
  - (b) while so acting, has all the functions of the member and is to be taken to be the member.

### **4 Vacancy in office of member**

- (1) The office of a member becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Food Authority, or
  - (d) is removed from office by the Food Authority under subclause (2), or
  - (e) is absent from 3 consecutive meetings of the committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the committee for having been absent from those meetings, or
  - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (g) becomes a mentally incapacitated person, or
  - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an

offence that, if committed in New South Wales, would be an offence so punishable.

- (2) The Food Authority may at any time remove from office all or any of the members of a committee.

## **5 Filling of vacancy in office of member**

If the office of a member becomes vacant, a person is, subject to this Regulation, required to be appointed to fill the vacancy.

## **6 Disclosure of pecuniary interests**

- (1) If:

- (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the committee, and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the committee.

- (2) A disclosure by a member of a committee at a meeting of the committee that the member:

- (a) is a member, or is in the employment, of a specified company or other body, or
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

- (3) Particulars of any disclosure made under this clause must be recorded by the members of the committee in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the members of the committee.

- (4) After a member of the committee has disclosed the nature of an interest in any matter, the member must not, unless the Food Authority or the other members of the committee otherwise determines or determine:

- (a) be present during any deliberation of the committee with respect to the matter, or



- (b) take part in any decision of the committee with respect to the matter.
- (5) For the purposes of the making of a determination by the members of the committee under subclause (4), a member of the committee who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
  - (a) be present during any deliberation of the other members of the committee for the purpose of making the determination, or
  - (b) take part in the making by the other members of the committee of the determination.
- (6) A contravention of this clause does not invalidate any decision of the committee.
- (7) A member is taken not to have an interest in a matter for the purposes of this clause merely because the member is the holder of an aquaculture permit or aquaculture lease under the *Fisheries Management Act 1994* or is the holder of a licence.

## **Part 3 Procedure**

### **7 General procedure**

The procedure for the calling and holding of meetings of a committee is, subject to any direction by the Food Authority, to be determined by the committee.

### **8 Quorum**

The quorum for a meeting of a committee is a majority of its members for the time being.

### **9 Presiding member**

- (1) The chairperson of a committee or, in the absence of the chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the committee.
- (2) The person presiding at a meeting of a committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

### **10 Voting**

A decision supported by a majority of the votes cast at a meeting of a committee at which a quorum is present is the decision of the committee.