



Australian Capital Territory

Food Amendment Act 2014

A2014-57

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Australian Capital Territory

Food Amendment Act 2014

A2014-57

An Act to amend the *Food Act 2001* and the *Food Regulation 2002*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Food Amendment Act 2014*.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see [Legislation Act](#), s 79).

3 Legislation amended

This Act amends the *Food Act 2001* and the *Food Regulation 2002*.

Part 2 Food Act 2001

4 Application of Act to primary food production Section 6 (1) (b)

substitute

- (b) part 8 (Registration of food businesses).

5 Application of Act to water suppliers Section 7 (1) (i)

substitute

- (i) part 8 (Registration of food businesses).

6 New section 7A

in part 1, insert

7A Application of Act to certain food businesses

- (1) This Act does not apply to a food business conducted by a volunteer for a community organisation to raise funds for 1 or more of the following purposes:
- (a) a religious, educational, charitable or benevolent purpose;
 - (b) promoting or encouraging literature, science or the arts;
 - (c) looking after, or giving attention to, people who need care because of a physical or mental disability or condition;
 - (d) sport, recreation or amusement;
 - (e) conserving resources or protecting the natural environment from harm;
 - (f) preserving historical or cultural heritage;
 - (g) a political purpose;

(h) protecting or promoting the common interests of the community generally or a particular section of the community.

(2) However, this Act does apply to a food business mentioned in subsection (1) that is—

(a) prescribed by regulation; or

(b) conducted at a regulated event.

Note A regulated event is declared by the Minister under s 91.

(3) The Executive may make a regulation for subsection (2) (a) if the Executive considers it necessary for the protection of public health or otherwise appropriate.

(4) In this section:

community organisation—

(a) means a not-for-profit entity; but

(b) does not include—

(i) a club that holds a licence under the *Gaming Machine Act 2004*; or

(ii) an entity declared by the Minister not to be a community organisation.

volunteer means a person who conducts a food business for which the person is—

(a) not paid; or

(b) paid in the circumstances prescribed by regulation.

(5) A declaration under subsection (4), definition of ***community organisation***, paragraph (b) (ii) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act*.

**7 Display of closure notices
Section 84A (2) (b)**

substitute

- (b) may only be removed by an authorised officer.

8 New section 84A (3)

insert

- (3) An authorised officer may remove a closure notice—
- (a) if a clearance certificate is issued for the prohibition order to which the notice relates; or
 - (b) to reposition, update or correct the notice.

9 Section 84C

substitute

84C Proprietor to maintain closure notice

- (1) The proprietor of a food business commits an offence if—
- (a) an authorised officer places a closure notice at the premises of the food business; and
 - (b) the proprietor fails to ensure that—
 - (i) the closure notice is not moved from where it was placed; or
 - (ii) no part of the closure notice is obscured or defaced.

Maximum penalty: 100 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if the proprietor proves that the proprietor took reasonable steps to ensure that—

- (a) the closure notice was not moved from where it was placed by the authorised officer; and
- (b) no part of the closure notice was obscured or defaced.

Note The defendant has a legal burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 59).

10 Part 8 heading

substitute

Part 8 Registration of food businesses

11 Sections 89 to 91

substitute

89 Offence—food business not registered or exempt

A person commits an offence if—

- (a) the person conducts a food business; and
- (b) the food business is—
 - (i) not registered under this part; and
 - (ii) not exempt from registration under section 90.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

90 Food businesses exempt from registration

A regulation may prescribe that a food business, other than a food business conducted at a regulated event, is exempt from registration.

91 Regulated events

- (1) The Minister may declare that an event is a regulated event for this Act.
- (2) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**12 Registration of food businesses
Section 92 (6)**

substitute

- (6) The registration of a food business is for a period of up to 3 years stated in the registration, beginning on the day the chief health officer registers the food business.

**13 Renewal of registration
Section 93 (3)**

omit

1 year

substitute

a period of up to 3 years stated in the registration,

**14 Certificate of registration
Section 96 (2) (b)**

after

trading name

insert

(if any)

15 Section 105 heading

substitute

105 Food business register

16 Section 105 (1)

substitute

- (1) The chief health officer must keep a register of food businesses that have been registered under section 92 (Registration of food businesses) or whose registration has been renewed under section 93 (Renewal of registration) (the *food business register*).

17 Section 105 (2)

omit

18 Section 105 (3)

omit

register mentioned in subsection (1) (b)

substitute

food business register

19 Section 105 (4) and (5)

omit

A food

substitute

The food

20 Section 105 (6)

omit

a food

substitute

the food

21 Section 106 heading

substitute

106 Publication and inspection of food business register**22 Section 106**

omit

a food

substitute

the food

**23 Definitions—pt 9A
Section 116, new definition of *site***

insert

site, for a registered food business, does not include a site used by the business for the handling or sale of food at a regulated event.

24 Section 117 heading

substitute

117 Registered food business to have food safety supervisor

25 New section 117 (1A)

before subsection (1), insert

- (1A) A registered food business must have a food safety supervisor.

26 Section 117 (1)

after 1st mention of

business

insert

, other than a food business conducted only at a regulated event,

27 New section 120

in part 9A, insert

120 Exemptions—pt 9A

- (1) The Minister may exempt, with or without conditions, any people, food businesses, premises, food or activities from the operation of this part.
- (2) An exemption has no effect during a period when a condition of the exemption is not complied with.
- (3) An exemption is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**28 Publication of details of food businesses related to offences
Section 146 (8)**

omit

within 21 days

29 Section 146 (8), new note

insert

Note A notice must be published as soon as possible after the time mentioned in s (8) (a), (b) or (c) (whichever applies) (see [Legislation Act](#), s 151B).

**30 Regulation-making power
Section 152 (2) (b)**

omit

31 Dictionary, new definitions

insert

regulated event means an event declared under section 91.

site, for a registered food business, for part 9A (Food safety supervisors)—see section 116.

Part 3 Food Regulation 2002

32 New section 4A

insert

4A Circumstances of payment to volunteers—Act, s 7A (3), def *volunteer*, par (b)

The following circumstances are prescribed:

- (a) a person is paid to manage the work of unpaid volunteers carrying out work for a community organisation;
- (b) a person is paid an amount in relation to work done for a community organisation and the payment is not assessable income under the *Income Tax Assessment Act 1997* (Cwlth), section 6-15 (What is *not* assessable income).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 23 October 2014.

2 Notification

Notified under the [Legislation Act](#) on 4 December 2014.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Food Amendment Bill 2014, which was passed by the Legislative Assembly on 27 November 2014.

Clerk of the Legislative Assembly

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