

1993

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Food (Amendment) Bill (No. 2) 1993

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1993
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Food (Amendment) Bill (No. 2) 1993

**A BILL
FOR**

An Act to amend the *Food Act 1992*

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

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Food (Amendment) Act (No. 2) 1993*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

- 10 (2) The remaining provisions commence on the day on which the provisions of the *Food (Amendment) Act 1993* (other than sections 1, 2 and 3) commence.

Principal Act

3. In this Act, "Principal Act" means the *Food Act 1992*.¹

PART II—AMENDMENTS OF PRINCIPAL ACT

Interpretation

4. Section 4 of the Principal Act is amended—

- (a) by inserting “, store” after “serve” in the definition of “handle”;
- 5 (b) by omitting the definition of “inspector”; and
- (c) by inserting the following definitions:

“ ‘analyst’ means a person appointed as an analyst under section 8C;

10 “health officer’ means an Environmental Health Officer appointed under section 8A;”.

Insertion

5. After Part I of the Principal Act the following Part is inserted:

“PART IA—ADMINISTRATION

Health officers

15 “8A. (1) The Minister may, by instrument, appoint suitably qualified persons to be Environmental Health Officers for the purposes of this Act.

“(2) A health officer shall, subject to this Act, perform such duties as the Minister directs.

Identity cards

20 “8B. (1) The Minister shall issue to each health officer an identity card that specifies the name and appointment of the person and on which appears a recent photograph of the person.

25 “(2) A former health officer shall not, without reasonable excuse, fail to return his or her identity card to the Minister upon ceasing to be a health officer.

Penalty for contravention of subsection (2): \$100.

Analysts

“8C. (1) The Minister may, by instrument, appoint suitably qualified persons to be analysts for the purposes of this Act—

- 30 (a) in respect of a particular type of analysis specified in the instrument; or
- (b) in respect of all types of analyses.

“(2) Within 4 weeks of the first appointment under subsection (1), and thereafter annually, the Minister shall publish, by notice in the *Gazette*, the name and address of each person currently appointed as an analyst.

Secrecy

5 “8D. (1) A person to whom this section applies shall not, directly or indirectly, except where it is necessary to do so for the purposes of this Act or the regulations—

10 (a) make a record of, or divulge or communicate to any person, any confidential commercial information in respect of food or information concerning the affairs of another person; or

(b) produce to a person a document produced to, or otherwise acquired by, the first-mentioned person;

being information or a document acquired or obtained under this Act or the regulations.

15 Penalty: \$5,000 or imprisonment for 6 months, or both.

“(2) Nothing in this section prohibits a person from disclosing information or producing a document—

(a) with the prior consent in writing of the Minister, if the Minister is satisfied that such disclosure is in the public interest;

20 (b) with the consent of the person who has a proprietary interest in the information or the document; or

(c) to a court in proceedings arising out of this Act or the regulations.

25 “(3) Notwithstanding paragraph (2) (c), a health officer appearing as a witness in any proceedings arising out of this Act or the regulations shall not be compelled to produce a report made or received confidentially in his or her official capacity or containing confidential commercial information in respect of food.

“(4) In this section—

‘confidential commercial information’, in relation to food, means—

30 (a) a trade secret relating to food; or

(b) any other information relating to food that has a commercial value that would be, or could be expected to be, destroyed or diminished if the information were disclosed;

'court' includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

5 'person to whom this section applies' means a person who is, or has been, engaged in the administration or execution of this Act or the regulations;

'produce' includes permit access to."

Insertion

6. After Part IIC of the Principal Act the following Part is inserted:

10 "PART IICA—INSPECTION AND ANALYSIS

"Division 1—Preliminary

Interpretation

"19YA. (1) For the purposes of this Part, a thing is connected with a particular offence if—

- 15 (a) the offence has been committed with respect to it;
- (b) it will afford evidence of the commission of the offence; or
- (c) it was used, or it is intended to be used, for the purpose of committing the offence.

20 "(2) A reference in this Part to an offence shall be read as including a reference to an offence that there are reasonable grounds for believing is being, has been or will be, committed.

"(3) Where a health officer enters premises in accordance with this Part, a reference to the occupier of the premises includes a reference to a person the health officer believes on reasonable grounds—

- 25 (a) to be the occupier of those premises; or
- (b) to be in charge of those premises.

"Division 2—Health officers' powers

Entry to premises

30 "19YB. (1) Where a health officer believes on reasonable grounds that it is necessary to do so for the purposes of this Act, he or she may, with such assistance and by such force as is reasonable, enter prescribed premises—

- (a) other than a dwelling or any part of those premises used for residential purposes—at any reasonable time;

- (b) with the consent of the occupier;
- (c) pursuant to a warrant issued under section 19YE; or
- (d) if the health officer believes on reasonable grounds that the circumstances are of such seriousness and urgency as to require immediate entry to the premises without the authority of a warrant.

5

“(2) A health officer who enters premises pursuant to subsection (1) is not entitled to remain on those premises if, on request by the occupier, the health officer does not produce his or her identity card to the occupier.

“(3) In this section, a reference to reasonable time in relation to entry to prescribed premises is—

10

- (a) in the case of food premises—a reference to any hour of the day or night when the relevant food business is being conducted at those premises; or
- (b) in the case of prescribed premises other than food premises—a reference to any time during normal business hours.

15

“(4) In this section—

‘prescribed premises’ means premises which the health officer believes on reasonable grounds to be—

- (a) food premises; or
- (b) premises that contain records relating to—
 - (i) food for sale;
 - (ii) the manufacture, preparation, processing, treatment or handling of food for sale; or
 - (iii) an appliance.

20

25 Consent to entry

“19YC. (1) Before obtaining the consent of a person for the purposes of paragraph 19YB (1) (b), a health officer shall—

- (a) produce his or her identity card; and
- (b) inform that person that he or she may refuse to give consent.

30

“(2) Where a health officer obtains the consent of a person for the purposes of paragraph 19YB (1) (b), the health officer shall ask the person to sign a written acknowledgment—

- (a) of the fact that the person has been informed that he or she may refuse to give consent;

- (b) of the fact that the person has voluntarily given consent; and
- (c) of the day on which, and the time at which, that consent was given.

5 “(3) Where it is material in any proceedings for a court to be satisfied of the voluntary consent of a person for the purposes of paragraph 19YB (1) (b) and an acknowledgment, in accordance with subsection (2), signed by the person is not produced in evidence, the court shall assume, unless the contrary is proved, that the person did not voluntarily give such consent.

Powers of health officers

10 “19YD. Subject to this Part, where a health officer enters any premises in accordance with this Part, he or she may—

- (a) inspect, examine, take measurements in relation to, or conduct tests concerning, the premises or any system of work, plant, substance or thing at the premises;
- 15 (b) inspect and test any container, equipment or appliance on the premises that the health officer believes on reasonable grounds to be used for the manufacture, preparation, processing, treatment, handling, sale or disposal of food;
- 20 (c) inspect and test any food for sale or any material or substance that the health officer believes on reasonable grounds to be food for sale and take samples of any such food, material or substance;
- (d) open, or require a person to open, and examine any container or package that the health officer believes on reasonable grounds to contain food for sale;
- 25 (e) take such photographs or make such video, sound recordings or films in connection with an inspection as the health officer believes on reasonable grounds to be necessary for the purposes of this Act;
- 30 (f) seize anything (including records, documents, packaging material, labels or labelling material and material used in connection with advertising) that the health officer believes on reasonable grounds to be connected with an offence against this Act or the regulations;
- 35 (g) require the occupier of the premises to make available to the health officer any record, document, labelling or advertising material relating to food or the sale of food, the manufacture, preparation, processing, treatment or handling of food for sale or to an appliance;
- (h) where information relating to food for sale, the sale of food, the manufacture, preparation, processing, treatment or handling of

food for sale or to an appliance is stored on computer or other electronic equipment—require the occupier of the premises to produce the information in a visible or audible form;

- 5 (i) inspect, make copies of and take extracts from any record or document or of information referred to in paragraph (h);
- (j) require the occupier of the premises to provide information or answer questions reasonably related to the use of those premises in connection with the manufacture, preparation, processing, treatment, handling, sale or disposal of food;
- 10 (k) require the occupier of the premises to render such assistance to the health officer as is necessary and reasonable to enable the health officer to exercise his or her powers under this section; and
- (m) stop, detain and inspect any vehicle that the health officer believes on reasonable grounds to have in or upon it anything connected with an offence against this Act or the regulations.
- 15

Search warrants

20 "19YE. (1) Where an information on oath is laid before a magistrate alleging that there are reasonable grounds for suspecting that there may be, on any premises to which entry is permitted under section 19YB, a thing of a particular kind connected with a particular offence against this Act or the regulations and the information sets out those grounds, the magistrate may issue a search warrant authorising a health officer named in the warrant, with such assistance and by such force as is necessary and reasonable—

- (a) to enter the premises;
- 25 (b) to search those premises for things of that kind; and
- (c) to exercise any of the powers referred to in section 19YD in relation to such a thing.

"(2) A magistrate shall not issue a warrant under subsection (1) unless—

- 30 (a) the informant or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) that the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
- (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- 35

"(3) A warrant shall—

- (a) state the purpose for which it is issued;

- (b) specify the nature of the offence in relation to which the entry, search and exercise of the powers under section 19YD are authorised;
- 5 (c) specify particular hours during which the entry is authorised or state that the entry is authorised at any time of the day or night;
- (d) include a description of the kinds of things in relation to which the powers under section 19YD may be exercised; and
- (e) specify a day, not being later than 1 month after the date of issue of the warrant, on which the warrant ceases to have effect.

10 ***“Division 3—Things seized by health officers***

Notice of seizure

“19YF. A health officer who seizes anything under paragraph 19YD (f) shall, as soon as practicable, give—

- (a) the owner of the thing seized; or
- 15 (b) if the owner is not present or readily available, the person who had possession, custody or control of the thing immediately before its seizure;

a notice in writing specifying—

- (c) the thing seized, including the relevant quantity (if any);
- 20 (d) the date and place of seizure;
- (e) the location of the thing seized;
- (f) the reasons for the seizure;
- (g) the procedure provided for by this Act for obtaining relief against the seizure; and
- 25 (h) the name, address and telephone number of a health officer who may be contacted in relation to the seizure.

Storage of things seized

30 “19YG. (1) Anything seized by a health officer in accordance with this Part may, at the option of the health officer, be detained on the premises where it was found and for that purpose it may—

- (a) be placed in a room, compartment, cabinet or an enclosed area;
- (b) be secured against interference; and
- (c) be identified in a manner that makes it clear that the thing has been seized for the purposes of this Act.

“(2) Where, in accordance with subsection (1), a thing has been detained on premises, the health officer responsible shall, as soon as practicable, give the occupier of those premises a notice in writing specifying—

- 5 (a) the thing detained, including the relevant quantity (if any);
- (b) the manner and circumstances in which the thing has been detained;
- (c) the expected period of such detention;
- 10 (d) the liability of the occupier in respect of an offence under subsection 19ZC (2); and
- (e) the name, address and telephone number of a health officer who may be contacted in relation to the detention.

Access to seized records

15 “19YH. Where a record or document is seized under this Part, the health officer shall permit the person otherwise entitled to possession of it, or his or her agent, to inspect, make copies of or take extracts from the record or document.

Return of thing seized

20 “19YI. (1) If, at any time after a thing has been seized under this Part—

- (a) the Minister becomes satisfied that no contravention of this Act or the regulations has been committed in respect of the thing; and
- (b) the thing has not been destroyed or disposed of in a manner that would prevent it being dealt with in accordance with this
- 25 subsection;

the Minister shall cause the thing to be delivered to—

- (c) the person from whom it was seized; or
- (d) such other person as appears to the Minister to be entitled to it.

30 “(2) Where anything is delivered under subsection (1) after being forfeited to the Territory under section 19YO, such proprietary and other interests in the thing obtain as existed immediately before such forfeiture.

Application for relief against seizure

“19YJ. (1) A person claiming to be entitled to anything seized under this Part may—

- 35 (a) in the case of food having a maximum durable shelf-life of 7 days—within 72 hours after the seizure of the food; and

(b) in any other case—within 10 days after the seizure of the thing; apply to a court of competent jurisdiction in the Territory for an order disallowing the seizure.

5 “(2) An application under subsection (1) shall be made in accordance with the relevant rules of court and shall not be heard unless the applicant has served a copy of the application on the health officer responsible for the relevant seizure.

Appearance to application

10 “19YK. The health officer responsible for the relevant seizure is entitled to appear as respondent at the hearing of an application made under subsection 19YJ (1).

Order disallowing seizure

“19YL. On the hearing of an application made under subsection 19YJ (1), the court shall make an order disallowing the relevant seizure—

15 (a) if—

(i) it is proved by or on behalf of the applicant that the applicant would, but for the seizure, be entitled to the return of the thing seized; and

20 (ii) it is not proved beyond reasonable doubt that an offence was being or had been, at the time of the seizure, committed, being an offence with which the thing is connected; or

(b) if, in the opinion of the court, there are exceptional circumstances justifying the making of an order disallowing the seizure;

25 but otherwise the court shall refuse the application.

Ancillary orders

“19YM. (1) In the event that the court makes an order disallowing the seizure of a thing, it shall also make 1 or both of the following orders, namely:

30 (a) an order directing the respondent to cause the thing to be delivered to the applicant or to such other person as appears to the court to be entitled to it;

35 (b) if the thing cannot for any reason be so delivered or the thing has in consequence of the seizure depreciated in value an order directing the Territory to pay to the applicant such amount by way of compensation as the court considers to be just and reasonable.

5 “(2) Where the applicant satisfies the court that he or she has sustained financial loss by reason of being deprived of the thing seized, the court may, in making an order under subsection (1), direct the Territory to pay the applicant such amount by way of compensation as the court considers just and reasonable.

“(3) The award of costs with respect to the hearing of an application lies in the discretion of the court.

“(4) If the court makes an order for the payment of compensation or awards costs, the order is enforceable as a judgment of the court.

10 **Adjournment pending other proceedings**

15 “19YN. If, on the hearing of an application made under subsection 19YJ (1), it appears to the court that the thing that is the subject of the application is required to be produced in evidence in any pending proceedings in connection with an offence against this Act or the regulations, the court may, on the application of the respondent, or on its own motion, adjourn the hearing until the conclusion of those proceedings.

Forfeiture of things seized

“19YO. Where—

20 (a) anything seized under this Part has not been dealt with in accordance with subsection 19YI (1); and

(b) an application for disallowance of the seizure under subsection 19YJ (1)—

(i) has not been made within the relevant period allowed; or

25 (ii) has been made within that period, but the application has been refused or has been withdrawn before a decision in respect of the application had been made;

the thing is forfeited to the Territory and may, subject to this Part, be destroyed, sold or otherwise disposed of as the Minister may, generally or in a particular case, direct.

30 **Cost of destruction or disposal of things forfeited**

“19YP. (1) Where—

(a) a person is convicted of an offence against this Act or the regulations, in respect of anything forfeited to the Territory under this Division; and

35 (b) that person was the owner of the thing immediately before it was forfeited;

any costs incurred by or on behalf of the Territory in connection with the lawful destruction or disposal of the thing is a debt due to the Territory by that person.

5 “(2) Where a debt under subsection (1) is due by 2 or more persons, the liability of those persons is joint and several.

“(3) In any proceedings under subsection (1), a certificate signed by the Minister stating that the amount of any costs and the manner in which they were incurred is evidence of the matters stated.

Destruction of noxious material

10 “19YQ. Where a health officer has seized any food under this Part and the health officer believes on reasonable grounds that the food contains animal or vegetable matter that is decomposed or dirt contaminated then, notwithstanding any provision to the contrary in this Part, the health officer may cause the food to be destroyed.

15 “*Division 4—Procedure for taking samples*

Owner of sample to be informed

“19YR. Where a health officer takes a sample of food under this Part with the intention that it be submitted for analysis, he or she shall, before or as soon as practicable after taking the sample, inform—

- 20 (a) the owner of the food comprised in the sample; or
 (b) if the owner is not present or readily available, the person from whom the sample was taken or the person having charge of the food;

of his or her intention of having the food analysed.

25 **Payment for sample**

“19YS. (1) Where a health officer takes a sample of food under this Part he or she shall pay or tender an amount representing the current market value of the food comprised in the sample.

30 “(2) In any proceedings for an offence of selling food in contravention of this Act or the regulations, the taking of a sample of food in accordance with this Part shall, for the purposes of this Act, be taken to be a sale of the food.

Sampling procedure

“19YT. (1) A health officer shall—

- 35 (a) take samples in accordance with any applicable standard; or

- (b) where there is no applicable standard, take samples in accordance with this section.

“(2) Where a sample is not taken in accordance with an applicable standard, the health officer shall—

- 5 (a) divide the sample into 3 parts;
- (b) label and seal each part in such a manner as its nature permits;
- (c) deliver 1 part to the owner, agent, servant or person in charge of the food sampled;
- (d) retain 1 part for a future comparison; and
- 10 (e) submit 1 part to an analyst.

“(3) Where—

- (a) food is contained in a package; and
 - (b) the division of the food into 3 parts would not yield parts sufficient for accurate analysis;
- 15 the health officer may take sufficient other packages containing food of that kind and mix the food together.

“(4) Food mixed in accordance with subsection (3) shall be taken to be a sample for the purposes of this section.

- 20 “(5) For the purposes of subsections (2) and (3), where food is in packages, a sample may be constituted by 1 or more packages.

“(6) Subject to subsection (2), where a sample is constituted by more than 1 package, a part into which the sample may be divided under subsection (2) may consist of 1 or more packages.

Samples from vending machines

- 25 “19YU. The provisions of this Division do not apply in relation to a sample taken from a food vending machine by means of the ordinary operation of the machine if, at the time that the sample is taken, there is no person who admits to the health officer to being in charge of the machine and the health officer believes on reasonable grounds that it is impracticable
- 30 to ascertain particulars of the owner or manufacturer of the food.

“Division 5—Analysis of samples

Duty of analysts

“19YV. Where a sample of food is submitted to an analyst for analysis under this Part, the analyst shall—

- 5
- (a) make an analysis of the food or supervise the analysis of the food by another person acting under his or her direction;
 - (b) furnish the person who submitted the food for analysis with a certificate containing the information referred to in subsection 19YW (1); and
 - (c) where a method of analysis has been prescribed by a standard for the analysis of food of the type submitted to the analyst—duly observe the method of analysis prescribed.

Certificate evidence

10 “19YW. (1) Subject to subsection (2), in any proceedings for an offence against this Act or the regulations, a certificate purporting to be signed by an analyst and stating in relation to food taken or seized under this Part—

- 15
- (a) that the analyst signing the certificate is duly appointed under this Act;
 - (b) when and from whom the food was received;
 - (c) which (if any) labels or other means of identifying the food accompanied it when it was received;
 - 20 (d) where a method of analysis has been prescribed by a standard for the analysis of food of the type submitted to the analyst—that the analyst has duly observed the method of analysis prescribed in making the analysis; and
 - (e) the results of the analysis;

25 is evidence of the matters stated in the certificate and of the facts on which they are based.

30 “(2) Subsection (1) only applies if a copy of the certificate was served on the defendant in the proceedings, or on the defendant’s legal representative on the record of those proceedings, not later than 14 days, or such shorter period as the court orders, before the commencement of the proceedings.

“(3) For the purposes of subsection (1), a certificate that purports to be signed by an analyst shall, unless the contrary is proved, be taken to have been signed by the analyst who purports to have signed it.

35 “(4) Subject to subsection (5), where the certificate of an analyst is admitted in evidence in a proceeding, the defendant may require the analyst to be called as a witness for the prosecution and the analyst may be cross-examined as if he or she had given evidence of the matters stated in the certificate.

“(5) Subsection (4) does not entitle a person to require the analyst to be called as a witness for the prosecution unless—

- (a) the prosecutor has been given at least 4 days’ notice of the person’s intention to require the analyst to be called; or
- 5 (b) the court, by order, allows the analyst to be so called.

Analysis of spare part of sample

10 “19YX. (1) In any proceedings to which this section applies the court shall, on the application of either party to the proceedings, order the health officer to deliver or send, in such manner as it determines, the part of any sample which has been retained for future comparison pursuant to paragraph 19YT (2) (d) to an independent analyst for analysis or to the analyst for the prosecution and to the analyst for the defence for joint analysis.

15 “(2) This section applies to any proceedings before a court for an offence against this Act or the regulations in respect of any food a sample of which has been taken by a health officer under this Part where the court is satisfied that the result of the analysis of the part of the sample left with a person referred to in paragraph 19YT (2) (c) shows that the food comprised in that part did not contravene the requirements of the Act or the regulations to which the proceedings relate.

20 “(3) The analyst to whom a part of the sample is submitted pursuant to an order under subsection (1) shall—

- (a) make an analysis of the food or supervise the analysis of the food by another person acting under his or her direction;
- 25 (b) where a method of analysis has been prescribed by a standard for the analysis of food of the type submitted to the analyst—duly observe the method of analysis prescribed; and
- (c) furnish the court with a certificate stating—
 - 30 (i) where a method of analysis has been prescribed by a standard for the analysis of food of the type submitted to the analyst—that the analyst has duly observed the method of analysis prescribed in making the analysis; and
 - (ii) the results of the analysis.

“(4) A certificate transmitted to a court under this section is evidence of the matters stated in the certificate and of the facts on which they are based.

35 “(5) The costs of carrying out such an analysis shall be in the discretion of the court.

“(6) If, in a case where an appeal is brought, no order under subsection (1) has been made by the lower court, a reference in this section to a court shall be read as a reference to the appellate court.

“(7) In subsection (1)—

- 5 ‘independent analyst’ means any analyst who has not previously analysed any other part of the sample to which the proceedings relate.

Time limit for certain prosecutions

- 10 “19YY. Where a sample of food has been taken under this Part for the purpose of analysis, no prosecution for an offence against this Act or the regulations in respect of the food may be commenced after the expiration of the period of 6 months from the date on which the sample was taken.

“Division 6—Offences in relation to investigations

Obstruction of health officers

- 15 “19YZ. A person shall not, without reasonable excuse—
- (a) hinder or obstruct a health officer in the exercise of his or her powers, or the performance of his or her duties, for the purposes of this Act or the regulations; or
- 20 (b) contravene a requirement made of him or her by a health officer in the exercise of his or her powers under section 19YD.

Penalty:

- (a) for contravention of paragraph (a)—\$5,000 or imprisonment for 6 months, or both;
- (b) for contravention of paragraph (b)—\$5,000.

25 False information

“19YZA. A person shall not knowingly provide false information to a health officer in relation to an offence against this Act or the regulations.

Penalty: \$5,000 or imprisonment for 6 months, or both.

Prohibited use of analysis

- 30 “19YZB. A person shall not use for trade or advertising purposes the results of an analysis made for the purposes of this Act.

Penalty: \$5,000.

Interference with things detained

5 "19YZC. (1) Where a health officer has seized a thing under this Part and detained it on premises pursuant to section 19YG, a person who, without the permission of the health officer, removes, breaks, opens or interferes with the thing is guilty of an offence punishable on conviction by a fine not exceeding \$5,000 or imprisonment for 6 months, or both.

10 "(2) Where an offence against subsection (1) has been committed, then whether or not any person has been charged with or convicted of that offence, the occupier of the premises where the offence was committed is guilty of an offence.

Penalty: \$5,000 or imprisonment for 6 months, or both.

"(3) It is a defence to a prosecution for breach of subsection (2) that the defendant—

- 15 (a) had taken all reasonable steps to prevent the breach of subsection (1); or
- (b) believed on reasonable grounds that another person had taken, or would take, all reasonable steps to prevent that breach."

Insertion

20 7. Before section 20 of the Principal Act the following section is inserted in Part III:

Evidentiary value of copies of records

"19ZA. Where—

- 25 (a) a health officer, in the exercise of his or her powers, or the performance of his or her duties, for the purposes of this Act or the regulations, makes or causes to be made a copy of a record or part of a record; and

- (b) certifies that the copy is a true copy of that record or part;

30 then, in any proceedings under this Act or the regulations, the copy is admissible in evidence for all purposes for which the record or part could have been so admitted unless the court is satisfied that the certificate of the health officer is not accurate."

Further amendments

8. The Principal Act is amended as set out in the Schedule.

PART III—MISCELLANEOUS**Renumbering of provisions**

9. (1) The amended Act is amended as provided by this section.
- 5 (2) The Parts of the amended Act are renumbered in a single series so that they bear consecutive Roman numerals.
- (3) The sections of the amended Act are renumbered in a single series so that they bear consecutive Arabic numerals.
- (4) The subsections of section 14 of the amended Act are renumbered in a single series so that they bear consecutive Arabic numerals.
- 10 (5) Any provision of the amended Act that refers to a provision of that Act that has been renumbered by subsection (2), (3) or (4) is amended by omitting that reference and substituting a reference to the provision as so renumbered.
- 15 (6) A reference in a provision of another law of the Territory made before the commencement of this section (whether or not that provision has commenced), or in any instrument or document, to a provision of the amended Act that has been renumbered by subsection (2), (3) or (4) shall (except as regards the operation of the provision before it was so renumbered) be construed as a reference to that provision as so renumbered.
- 20 (7) In this section—
“amended Act” means the Principal Act as amended by Part II of this Act.

Savings

- 25 10. (1) A person who was an inspector for the purposes of the Principal Act, immediately before the commencement day, shall on and after that day be taken to have been appointed to be an Environmental Health Officer under section 9 of the amended Act.
- 30 (2) An identity card issued under the *Public Health Act 1928* to an inspector referred to in subsection (1) shall, on and after the commencement day, be taken to be an identity card issued under section 10 of the amended Act.
- 35 (3) A person who was an analyst for the purposes of the Public Health (Sale of Food and Drugs) Regulations immediately before the commencement day, shall on and after that day be taken to have been appointed to be an analyst under section 11 of the amended Act.
- (4) In this section—
“amended Act” means the Principal Act as amended by this Act;

“commencement day” means the day on which this Act (other than sections 1 and 2) commences.

Amendment of Food (Amendment) Act 1993

5 **11.** Section 2 of the *Food (Amendment) Act 1993* is amended by omitting from subsection (2) “, or respective days,”.

SCHEDULE

Section 8

FURTHER AMENDMENTS

Section 11—

Add at the end “, or both”.

Further amendments—

1. The following provisions of the Principal Act are amended by adding “, or both” at the end of each penalty provision:

Sections 9, 10, 12, 13, 14, 15 and 18.

2. The following provisions of the Principal Act are amended by omitting “the inspector” (wherever occurring) and substituting “the health officer”:

Subsection 19V (1), paragraphs 19V (1) (c) and (d) and 19V (2) (a), subsections 19V (4) and 19W (1), paragraphs 19W (1) (d) and (e), subsection 19W (3) and paragraph 19X (2) (b).

3. The following provisions of the Principal Act are amended by omitting “an inspector” (wherever occurring) and substituting “a health officer”:

Section 19K and subsections 19V (1), 19W (1), 19X (1) and (3) and 19Z (2).

4. The following provisions of the Principal Act are amended by omitting “inspector’s” (wherever occurring) and substituting “health officer’s”:

Paragraphs 19V (2) (b) and 19W (2) (g).

NOTE

1. Act No. 47, 1992 as amended by Nos. 44 and 52, 1993.