

2014

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Food Amendment Bill 2014

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(Minister for Health)

Food Amendment Bill 2014

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Food Amendment Act 2014*.

4 **2 Commencement**

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

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

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

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

15 **3 Legislation amended**

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

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

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

5 (a) declared by the Minister to be a food business to which this
6 Act applies; or

7 (b) conducted at a regulated event.

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

9 (3) In this section:

10 ***community organisation***—

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

12 (b) does not include—

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

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

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

19 (a) not paid; or

20 (b) paid in the circumstances prescribed by regulation.

21 (4) Each of the following is a disallowable instrument:

22 (a) a declaration under subsection (2) (a);

23 (b) a declaration under subsection (3), definition of ***community***
24 ***organisation***, paragraph (b) (ii).

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

1 **7 Display of closure notices**
2 **Section 84A (2) (b)**

3 *substitute*

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

5 **8 New section 84A (3)**

6 *insert*

7 (3) An authorised officer may remove a closure notice—

8 (a) if a clearance certificate is issued for the prohibition order to
9 which the notice relates; or

10 (b) to reposition, update or correct the notice.

11 **9 Section 84C**

12 *substitute*

13 **84C Proprietor to maintain closure notice**

14 (1) The proprietor of a food business commits an offence if—

15 (a) an authorised officer places a closure notice at the premises of
16 the food business; and

17 (b) the proprietor fails to ensure that—

18 (i) the closure notice is not moved from where it was placed;
19 or

20 (ii) no part of the closure notice is obscured or defaced.

21 Maximum penalty: 100 penalty units.

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

4 (a) the closure notice was not moved from where it was placed by
5 the authorised officer; and

6 (b) no part of the closure notice was obscured or defaced.

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

9 **10 Part 8 heading**

10 *substitute*

11 **Part 8 Registration of food businesses**

12 **11 Sections 89 to 91**

13 *substitute*

14 **89 Offence—food business not registered or exempt**

15 A person commits an offence if—

16 (a) the person conducts a food business; and

17 (b) the food business is—

18 (i) not registered under this part; and

19 (ii) not exempt from registration under section 90.

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

22 **90 Food businesses exempt from registration**

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

1 **91 Regulated events**

2 (1) The Minister may declare that an event is a regulated event for this
3 Act.

4 (2) A declaration is a disallowable instrument.

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

7 **12 Registration of food businesses**
8 **Section 92 (6)**

9 *substitute*

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

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

15 *omit*

16 1 year

17 *substitute*

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

19 **14 Certificate of registration**
20 **Section 96 (2) (b)**

21 *after*

22 trading name

23 *insert*

24 (if any)

- 1 **15 Section 105 heading**
- 2 *substitute*
- 3 **105 Food business register**
- 4 **16 Section 105 (1)**
- 5 *substitute*
- 6 (1) The chief health officer must keep a register of food businesses that
- 7 have been registered under section 92 (Registration of food
- 8 businesses) or whose registration has been renewed under section 93
- 9 (Renewal of registration) (the *food business register*).
- 10 **17 Section 105 (2)**
- 11 *omit*
- 12 **18 Section 105 (3)**
- 13 *omit*
- 14 register mentioned in subsection (1) (b)
- 15 *substitute*
- 16 food business register
- 17 **19 Section 105 (4) and (5)**
- 18 *omit*
- 19 A food
- 20 *substitute*
- 21 The food

1	20	Section 105 (6)
2		<i>omit</i>
3		a food
4		<i>substitute</i>
5		the food
6	21	Section 106 heading
7		<i>substitute</i>
8	106	Publication and inspection of food business register
9	22	Section 106
10		<i>omit</i>
11		a food
12		<i>substitute</i>
13		the food
14	23	Definitions—pt 9A
15		Section 116, new definition of <i>site</i>
16		<i>insert</i>
17		<i>site</i> , for a registered food business, does not include a site used by
18		the business for the handling or sale of food at a regulated event.
19	24	Section 117 heading
20		<i>substitute</i>
21	117	Registered food business to have food safety supervisor

- 1 **25 New section 117 (1A)**
- 2 *before subsection (1), insert*
- 3 (1A) A registered food business must have a food safety supervisor.
- 4 **26 Section 117 (1)**
- 5 *after 1st mention of*
- 6 business
- 7 *insert*
- 8 , other than a food business conducted only at a regulated event,
- 9 **27 New section 120**
- 10 *in part 9A, insert*
- 11 **120 Exemptions—pt 9A**
- 12 (1) The Minister may exempt, with or without conditions, any people,
- 13 food businesses, premises, food or activities from the operation of
- 14 this part.
- 15 (2) An exemption has no effect during a period when a condition of the
- 16 exemption is not complied with.
- 17 (3) An exemption is a disallowable instrument.
- 18 *Note* A disallowable instrument must be notified, and presented to the
- 19 Legislative Assembly, under the [Legislation Act](#).
- 20 **28 Publication of details of food businesses related to**
- 21 **offences**
- 22 **Section 146 (8)**
- 23 *omit*
- 24 within 21 days

1 **29 Section 146 (8), new note**

2 *insert*

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

5 **30 Regulation-making power**
6 **Section 152 (2) (b)**

7 *omit*

8 **31 Dictionary, new definitions**

9 *insert*

10 *regulated event* means an event declared under section 91.

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

1 **Part 3 Food Regulation 2002**

2 **32 New section 4A**

3 *insert*

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

6 The following circumstances are prescribed:

- 7 (a) a person is paid to manage the work of unpaid volunteers
8 carrying out work for a community organisation;
- 9 (b) a person is paid an amount in relation to work done for a
10 community organisation and the payment is not assessable
11 income under the *Income Tax Assessment Act 1997* (Cwlth),
12 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 2014.

3 Republications of amended laws

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

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