

Food (Fees) Determination 2023 (No 1)

Disallowable instrument DI2023-264

made under the

Food Act 2001, s 150 (Determination of fees)

1 Name of Instrument

This instrument is the *Food (Fees) Determination 2023 (No 1)*.

2 Commencement

This instrument commences on 1 January 2024.

3 Determination of fees

The fee payable in respect of each matter listed in column 2 of Schedule 1, Part 1.1, is the amount listed for that item in column 3.

The fees specified in Schedule 1, Part 1.2, column 3, are the fees payable to the Territory for the purposes specified in column 2.

4 Payment of fees

A fee listed in Schedule 1 is payable to the Territory by the person specified in column 5.

The fees are exempt from Goods and Services Tax under Division 81 of *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).

5 Refunding of fees

Column 4 of Schedule 1 specifies what amount, if any, of a fee paid is non-refundable.

A non-refundable amount is included to cover the costs associated with the processing and administration of an application. As such, the non-refundable amount paid for a licence does not vary, regardless of the term of the licence.

6 Registration terms

The amounts listed in column 3 are based on a one-year registration.

Subject to some limitations, registrations can also be issued for longer terms, up to a maximum duration of three years. Where a longer term is granted, the applicable fee in column 3 is multiplied to correspond with the term of the registration.

For example, the fee payable for a two-year registration is twice the fee specified in column 3.

7 Classification of risk

The fee that is payable by a food business shall be determined according to their classification under the Food Standards Australia New Zealand (FSANZ) Priority Classification System for Food Businesses. A classification can be low, medium or high.

8 Fee-exempt food businesses

A fee is not payable by a food business that supplies food in the course of providing services to people:

- (i) in a correctional centre under the *Corrections Management Act 2007*;
- (ii) in a detention place or therapeutic protection place under the *Children and Young People Act 2008*;
- (iii) for a hospice, hospital, nursing home or other health facility operated by or on behalf of the Territory;
- (iv) in a health care facility licensed under the *Public Health Act 1997* who are contracted to supply food to patients under care of the facility;
- (v) at a pre-school, primary school, high school or secondary college (“*educational place*”) from a canteen operated either by the educational place or by the parents and citizens association of the educational place;
- (vi) in a childcare centre licensed as a childcare service under the *Children and Young People Act 2008*;
- (vii) in a childcare centre that holds a current service approval under the *Education and Care Services National Law (ACT) Act 2011*;
- (viii) by a charitable organisation that is a charity endorsed under subdivision 50-B of the *Income Tax Assessment Act 1997* (Cwlth);
- (ix) by a crisis accommodation provider declared under the *Residential Tenancies Act 1997*; or
- (x) by a community organisation, as defined in this section, that is not a charity under subdivision 50-B of the *Income Tax Assessment Act 1997* (Cwlth).

A fee is also not payable by a registered training organisation whose purpose is the provision or offering of courses that involve the handling of food intended for sale or the sale of food (e.g. a hospitality school).

A *community organisation* for this section means a society, association or other body, whether incorporated or not under the *Associations Incorporations Act 1991*, that is not carried on for the pecuniary profit or gain of its members and that is engaged in the ACT in any of the following activities:

- (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.

9 Definitions

The following terms in italics in Schedule 1 are defined:

Business hours - the office hours of the Health Protection Service, 9.00am to 4:30pm Monday to Friday, excluding public holidays.

After hours – any time not the *business hours* of the Health Protection Service.

10 Revocation

This instrument revokes DI2022-246.

Rachel Stephen-Smith MLA
Minister for Health
19 November 2023

SCHEDULE 1

Part 1.1 – Registration fees

Column 1	Column 2	Column 3	Column 4	Column 5
Section	Description	Fee Payable	Non-refundable portion of fee	Payable By
92	Application for registration of a low-risk food business	\$152.50	\$76.80	Proprietor of the food business premises to which the application for registration relates
	Application for registration of a medium risk food business	\$224.10	\$76.80	
	Application for registration of a high-risk food business	\$300.90	\$76.80	
	Application for registration of a food business conducted solely at a regulated event	Nil	Not applicable	
93	Renewal of registration of a low-risk food business	\$152.50	\$76.80	Proprietor of the food business premises to which the renewal of the registration relates
	Renewal of registration of a medium risk food business	\$224.10	\$76.80	
	Renewal of registration of a high-risk food business	\$300.90	\$76.80	

Part 1.2 – Other fees

Column 1	Column 2	Column 3	Column 4	Column 5
Section	Description	Fee Payable	Non-refundable portion of fee	Payable By
85	Reinspection of a food business during <i>business hours</i>	\$460.65	\$460.65	Proprietor of the food business subject to a Prohibition Order at the time of the request for a reinspection
	Reinspection of a food business <i>after hours</i>	\$893.30	\$893.30	

The fees determined are based on a one-year registration. Subject to some limitations, registrations can also be issued for longer terms, up to a maximum duration of three years. Where a longer term is granted, the determined fee is multiplied to correspond with the term of the registration. For example, the fee payable for a two-year registration is twice the fee specified in column 3.

For every registration for which a fee is payable, there is a non-refundable amount that has been included to cover the costs associated with the processing and administration of the application. Such costs are incurred by the regulator irrespective of whether a registration is granted or refused. The non-refundable portion of the fee is not affected by the term of the registration. Accordingly, the fee to be paid for a three-year registration will have the same non-refundable amount as a one-year registration.

For fees associated with re-inspection of a food business that is subject to a prohibition order, the full amount of the fee is non-refundable.