

**2005**

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**MAGISTRATES COURT (FOOD INFRINGEMENT NOTICES) REGULATION 2005**

**SUBORDINATE LAW SL2005-30**

**EXPLANATORY STATEMENT**

**Circulated by authority of  
Jon Stanhope MLA  
Attorney General**

# MAGISTRATES COURT (FOOD INFRINGEMENT NOTICES) REGULATION 2005

## SUBORDINATE LAW SL2005-30

### Outline

The *Magistrates Court Act 1930* part 3.8 provides a system of infringement notices for offences against various Acts. The infringement notice system is intended to provide an alternative to prosecution. The *Magistrates Court (Food Infringement Notices) Regulation 2005* enables infringement notices to be issued for certain offences in the *Food Act 2001*. The infringement notices provisions in these regulations were previously regulations under the Food Act.

The Food Act regulates the sale of food for human consumption in the ACT. The objects of the Act are to ensure food for sale is both safe and suitable for human consumption; to prevent misleading conduct in relation to sale of food; and to provide for the application in the ACT of the Food Standards Code.

The ability to issue infringement notices for offences against the Act will encourage compliance with the legislation and will allow immediate action to be taken against food businesses that breach the legislation. This should provide greater public health protection for the ACT community.

### Notes on sections

**Section 1 – Name of regulation** – provides that the regulation is the *Magistrates Court (Food Infringement Notices) Regulation 2005*.

**Section 2 – Commencement** – provides that the regulation commences at the same time as Part 3.23 of the *Statute Law Amendment Act 2005* (which has provisions that remove the infringement notice provisions from the Food Act and establish the infringement notices under the *Magistrates Court Act 1930*).

**Section 3 – Purpose of regulation** – provides that the purpose of the regulation is to create a system of infringement notices under the *Magistrates Court Act 1930*, part 3.8 for certain offences against the *Food Act 2001*.

**Section 4 – Dictionary** – provides that the dictionary included in the regulation is part of the regulation.

**Section 5 – Notes** – provides that a note included in this regulation is explanatory and is not part of the regulation.

**Section 6 – Administering authority** – provides that the administering authority for an infringement notice offence against the Food Act is the chief health officer.

**Section 7 – Infringement notice offences** – provides that infringement notices can be issued for offences listed in schedule 1, column 2.

**Section 8 – Infringement notice penalties** – provides that the penalties for the offences in

schedule 1 are listed in column 4 of the schedule. The penalties for corporations are five times the amount listed in column 4 of the schedule.

This section also provides that a charge of \$34 will be imposed for serving a reminder notice on a person who has not paid their infringement notice.

**Section 9 – Contents of infringement notices – identifying particulars for person served -** specifies how the notice must identify the person served with the infringement notice. It must be by the person's name, the name of the relevant food business, the registration number of the relevant food business or the registration of the relevant food transport vehicle.

**Section 10 – Contents of infringement notices – other information** – specifies that an infringement notice served for an offence against section 27 (1), (2), (3), or (4) of the Food Act must mention each provision of the Food Standards Code that the person has contravened. An infringement notice served on a company must include the company's ACN. For the purpose of this regulation, a company is considered to be a company registered under the *Corporations Act 2001* (Cth).

**Section 11 – Contents of infringement notices – identifying authorised person** – provides that the infringement notice must identify the authorised person who served the notice by their full name, or surname and initials, and any unique number given to the person by the administering authority.

**Section 12 – Contents of reminder notices – identifying authorised person** – provides that the reminder notice for the infringement notice must identify the authorised person who served the notice by their full name, or surname and initials, and any unique number given to the person by the administering authority.

**Section 13 – Costs if liability disputed** – specifies the cost of beginning a proceeding.

**Section 14 – Authorised people for infringement notice offences** – provides that an authorised officer may serve an infringement notice or a reminder notice under this regulation.

**Section 15 – Expiry of Regulation** – provides for the expiry of the regulation on the day the *Criminal Code 2002* applies to all ACT offences. This 'sunset clause' is included to ensure infringement notice schemes for Acts yet to be harmonised with the Criminal Code are reviewed.

**Schedule 1 – Food Act infringement notice offences and penalties** – lists the infringement notice offences and penalties under clauses 7 and 8.

## **Dictionary**

The Dictionary sets out the definitions for the regulation.