

## EXPLANATORY STATEMENT

### INSTRUMENT NO. 345 OF 2000

#### DETERMINATION OF FEES UNDER THE FOOD ACT 1992

Section 82 of the Food Act 1992 provides the Minister for Health, Housing and Community Care with the power to determine fees for the purposes of the Act or its Regulations.

The Food Act 1992 regulates the manufacture and sale of food in the ACT.

This instrument revokes the previous fee determination made under the Act.

Section 30 of the Food Act 1992 requires a person carrying on a food business to do so in accordance with a licence issued under the Act. This instrument sets out three different fees and associated Classes of Food Business Licence. The fee must accompany an application for a licence or an application to renew a licence.

This instrument further provides an exemption from the requirement to pay the licence application or licence renewal fee if the business operator is a registered charity, a child care centre, a health facility, an educational facility, a sporting club or benevolent institution. This exemption will enable the monitoring and regulation of food businesses operated by charities or benevolent institutions without placing an undue financial burden on those organisations' that do not profit from their food business activities.

For the purpose of exemption from the requirement to pay a fee for the purposes for the Act a Child Care Centre means a premises mentioned in section 324 of the *Children and Young People Act 1999*.

For the purpose of exemption from the requirement to pay a fee for the purposes for the Act Health Facility means an institution at which health services are provided. The exemption does not include the carrying on of a food business within that institution by another party.

For the purpose of exemption from the requirement to pay a fee for the purposes for the Act Educational Facility means a school, pre-school or other educational institution. The exemption does not include the carrying on of a food business within that school or institution by another party.

For the purpose of exemption from the requirement to pay a fee for the purposes for the Act Sports Club means a club that organises food sales involving volunteers that are members of that club to raise money for the club.

The first class (Class 1) of licence will apply to food businesses that engage in low risk food handling and present little chance of causing food borne illness. No cooking is involved with the operation of business in this class. Businesses in this class would include food wholesalers, sellers of low risk perishable food (regardless of packaging), sellers of pre-packaged food not food not otherwise exempt and businesses that participate in only minimal handling of unwrapped food. A \$50.00 fee has been set for Class 1 Food Business Licences – this is reflective of the administration and inspection cost associated with this class.

The second class (Class 2) of licence will apply to food businesses that engage in medium risk food handling and present a moderate chance of causing food borne illness. Businesses in this class will handle both raw and cooked food on the same premises with most of the food being prepared for immediate consumption. Other businesses in this class would include restaurants, delicatessens that sell hot food or cook food on the premises and take-away food outlets. A \$100.00 fee has been set for Class 2 Food Business Licences – this is reflective of the administration and inspection cost associated with this class.

The third class (Class 3) of licence will apply to food businesses that engage in high-risk food handling and present a significant chance of causing food borne illness. Businesses in this class may be involved in extensive pre-cooking of food, have large scale temperature controlled food storage facilities, provision food to susceptible consumers (ie. the elderly or young children) or transport high-risk food from the site of preparation to a separate site for consumption. A \$150.00 fee has been set for Class 3 Food Business Licences – this is reflective of the administration and inspection cost associated with this class.

The licensee of a food business is required to obtain an approval to structurally alter their food premises or food processing appliances (section 39 of the Act). This requirement allows for the monitoring and prevention of alterations that may compromise food safety. The Act allows for the Minister to determine a fee to cover the administrative costs of processing and assessing a proposal, as well as providing an approval notice. A \$50.00 fee has been set to require the food business operator contribute to these costs.