



Australian Capital Territory

## **Public Health (Sale of Food and Drugs) Regulations<sup>1</sup> (Amendment)**

**Subordinate Law No. 9 of 1993<sup>2</sup>**

The Australian Capital Territory Executive makes the following Regulations under the *Public Health Act 1928*.

Dated 1 March 1993.

WAYNE BERRY  
Minister

BILL WOOD  
Minister

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### **Principal Regulations**

1. In these Regulations, “Principal Regulations” means the Public Health (Sale of Food and Drugs) Regulations.

### **Commencement**

2. These Regulations commence on the day on which the provisions of the *Food Act 1992* (other than sections 1 and 2) commence.

### **Interpretation**

3. Regulation 3 of the Principal Regulations is amended—

- (a) by omitting the definition of “Sale” and substituting the following definition:

“ ‘sale’ includes—

- (a) barter or exchange;
- (b) offering or displaying for sale, barter or exchange;
- (c) supplying, or offering to supply, in circumstances in which the supplier derives, or would derive, a direct or indirect pecuniary benefit;
- (d) supplying, or offering to supply, gratuitously but with a view to gaining or maintaining custom, or otherwise with a view to commercial advantage;
- (e) having in possession for sale;
- (f) causing or permitting to be sold;
- (g) in relation to food, supplying together with other goods or with services or entertainment for which payment is made or required in circumstances where an inclusive charge is made for the food and the goods, service or entertainment (as the case may be);
- (h) in relation to food, supplying with, or as part of, a meal—
  - (i) for which payment is made or required; or
  - (ii) that is supplied by an employer to an employee in accordance with a term of an industrial award or the employee’s contract of service, for consumption at the employee’s place of work; and
- (i) engaging in a purported sale;”;

- (b) by inserting the following definitions:

“ ‘food’ has the same meaning as in the *Food Act 1992*;

‘standard’ has the same meaning as in the *Food Act 1992*;”.

### **Substitution**

4. Regulation 4 of the Principal Regulations is repealed and the following regulation substituted:

### **Adulteration**

“4. (1) For the purposes of these Regulations food is adulterated—

- (a) if it consists wholly or in part of, or is mixed with, any filthy, decomposed or putrid animal or vegetable substance;

- (b) if it consists wholly or in part of, or is mixed with, any portion of an animal or vegetable unfit for use as or in a food, whether manufactured or not;
  - (c) if it has not been sufficiently cleaned or purified;
  - (d) if it is the product of a diseased animal, or of one that has died otherwise than by slaughter; or
  - (e) if it is damaged, deteriorated or perished.
- “(2) For the purposes of these Regulations a drug is adulterated—
- (a) if another substance has been substituted, wholly or in part, for the drug; or
  - (b) if it is damaged, deteriorated or perished.”.

### **Repeal**

5. Regulation 4A of the Principal Regulations is repealed.

### **Labelling of packages**

6. Regulation 5 of the Principal Regulations is amended—
- (a) by omitting from subregulation (1) “food or” (wherever occurring);
  - (b) by adding “and” at the end of paragraph (a); and
  - (c) by omitting paragraph (b).

### **False description**

7. Regulation 6 of the Principal Regulations is amended by omitting “food or” (wherever occurring).

### **Substitution**

8. Regulation 9 of the Principal Regulations is repealed and the following regulation substituted:

### **Sale of food and drugs contrary to Regulations**

- “9. A person shall not—
- (a) sell food or a drug that is—
    - (i) adulterated;
    - (ii) falsely described; or
    - (iii) packed or enclosed for sale in a manner that is contrary to these Regulations; or
  - (b) sell a drug labelled in a manner contrary to these Regulations.”.

**Sale under certain conditions an offence**

- 9.** Regulation 10 of the Principal Regulations is amended—
- (a) by omitting paragraph (a);
  - (b) by omitting from paragraphs (c) and (d) “food or” (wherever occurring);
  - (c) by omitting from paragraph (da) “as food or”;
  - (d) by inserting in paragraph (da) “or her” after “his”; and
  - (e) by omitting from paragraphs (e) and (f) “food or” (wherever occurring).

**Contents of a mixture must be pure**

- 10.** Regulation 12 of the Principal Regulations is amended—
- (a) by omitting “food or” (wherever occurring); and
  - (b) by inserting in paragraph (3) (b) “or her” after “his”.

**Standards for foods and drugs**

**11.** Regulation 18 of the Principal Regulations is amended by omitting from subregulations (1) and (3) “food or”.

**Powers of inspection and sampling**

- 12.** Regulation 19 of the Principal Regulations is amended—
- (a) by omitting from paragraphs (1) (a), (b) and (f) “under these Regulations”;
  - (b) by omitting subregulations (3) to (6) (inclusive) and substituting the following subregulations:

“(3) Where an inspector or authorised officer takes and removes food or drugs for analysis he or she shall at the time notify his or her intention of having the article or sample analysed to any person then present apparently in charge of the article.

“(4) Where an inspector or authorised officer has notified his or her intention to take an article or sample in accordance with subregulation (3), the article or sample shall be regarded for the purposes of these Regulations as having been sold.

“(5) A person who refuses to permit an inspector or authorised officer to take a sample is guilty of an offence.

“(6) An inspector or authorised officer shall—

- (a) take samples in accordance with any applicable standard;  
or
- (b) where there is no applicable standard, take samples in accordance with this regulation.

“(6A) Where a sample is not taken in accordance with an applicable standard, the inspector or authorised officer shall—

- (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 article;
- (d) retain 1 part for a future comparison; and
- (e) submit 1 part to an analyst appointed by the Minister.

“(6B) Where—

- (a) an article is contained in a package; and
- (b) the division of the article into 3 parts would not yield parts sufficient for accurate analysis;

the inspector or authorising officer may take sufficient other packages containing articles of that kind and mix the articles together.

“(6C) Articles mixed in accordance with subregulation (6B) shall be taken to be a sample for the purposes of this regulation.

“(6D) For the purposes of subregulations (6A) and (6B), where articles are in packages, a sample may be constituted by 1 or more packages.

“(6E) Subject to subregulation (6B), where a sample is constituted by more than 1 package, a part into which the sample may be divided under subregulation (6A) may consist of 1 or more packages.”;

- (c) by omitting from subregulation (8) “in accordance with this Regulation” and substituting “otherwise than in accordance with an applicable standard”;
- (d) by inserting in subregulation (8) “or her” after “his”; and
- (e) by adding at the end the following subregulation:

“(9) In this regulation—

‘prohibited’ means prohibited under—

- (a) these Regulations; or
- (b) the *Food Act 1992*.”.

### **Handling of food by infected persons**

**13.** Regulation 20 of the Principal Regulations is amended by omitting from paragraph (a) “, skin eruption or venereal disease” and substituting “or skin eruption”.

**Sale of shell fish**

14. Regulation 57 of the Principal Regulations is amended by omitting subregulation (6).

**Repeal**

15. Regulations 58 and 60A of the Principal Regulations are repealed.

**Itinerant ice-cream vendors**

16. Regulation 65 of the Principal Regulations is amended—

- (a) by inserting in subregulation (1) “or her” after “his”;
- (b) by inserting in paragraph (1) (a) “or she” after “he”;
- (c) by omitting from paragraph (1) (a) “and”; and
- (d) by omitting paragraph (1) (b).

**Infectious diseases**

17. Regulation 92 of the Principal Regulations is amended—

- (a) by omitting “any venereal disease or any” and substituting “an”;
- (b) by inserting “or she” after “he”;
- (c) by omitting “his transmitting an infectious” and substituting “transmitting the”; and
- (d) by inserting “or her” after “his” (second occurring).

**Further amendments**

18. The Principal Regulations are amended as set out in the Schedule.

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**SCHEDULE**

Section 18

**FORMAL AMENDMENTS**

1. The following provisions are amended by inserting “or she” after “he” (wherever occurring):

Paragraphs 19 (1) (a) and (b), subsections 21 (2) and (3) and 32A (1), paragraphs 40 (c) and (d), 74 (b), 86 (b) and (j) and 89 (b), (c), (d), (e) and (g) and section 106A.

2. The following provisions are amended by inserting “or her” after “him”:

Subsection 13 (2), paragraph 19 (1) (f), section 33 and paragraphs 75 (c) and (d).

3. The following provisions are amended by inserting “or her” after “his” (wherever occurring):

Section 8, subsections 13 (1) and (2), sections 22, 33, 44 and 48, paragraphs 52 (1) (c), (d) and (e), subsections 56 (1) and 57 (5), sections 66, 70 and 72, paragraphs 75 (c), (f) and (g), section 76, paragraphs 78 (a), (b) and (g), 84 (m) and 87 (h), subsection 88 (1), paragraphs 89 (b), (e) and (f), section 99, paragraph 106 (a) and section 106A.

4. The following provisions are amended by inserting “or herself” after “himself”:

Section 70 and paragraph 86 (b).

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#### NOTES

1. Reprinted as at 31 March 1992.
2. Notified in the ACT Gazette on 2 March 1993.

#### NOTE ABOUT REGULATION HEADING

On the day on which the Public Health (Sale of Food and Drugs) Regulations are amended by these Regulations the heading to regulation 21 is amended by adding at the end of the heading “**or drugs**”.

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