



Australian Capital Territory

## **Food Regulations Amendment**

**Subordinate Law 2000 No 26**

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The Australian Capital Territory Executive makes the following regulations under the *Food Act 1992*.

Dated 23 June 2000.

MICHAEL MOORE  
Minister

BILL STEFANIAK  
Minister

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# Food Regulations Amendment

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*Food Act 1992*

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## 1 Commencement

(1) These regulations, other than paragraph (5) (c), commence on the day they are notified in the Gazette.

(2) Paragraph (5) (c) commences 3 months after the day these regulations are notified in the Gazette.

## 2 Regulations amended

These regulations amend the *Food Regulations 1994*.

## 3 New pt 1 heading

Before regulation 1 the following heading is inserted:

**“PART 1—PRELIMINARY”.**

## 4 Substitution

Regulation 3 is repealed and the following regulation and part heading are substituted:

### “3 Dictionary

The dictionary at the end of these regulations is part of these regulations.

“*Note 1* The dictionary defines certain words and expressions, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in these regulations or in other legislation.

For example, the signpost definition in the dictionary ‘*authorised medical officer*—see the *Public Health Act 1997*, subsection 5 (1)’ means that the expression *authorised medical officer* is defined in s 5 (1) of that Act and the definition applies to these regulations.

“*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulations unless the definition, or another provision of the regulations, provides otherwise or the contrary intention otherwise appears (see *Interpretation Act 1967*, s 11F and s 11G as applied by the *Subordinate Laws Act 1989*, s 9).

**“PART 2—EXEMPTIONS”.**

## 5 Exemptions from licensing requirements

Regulation 4 is amended—

(a) by omitting “19D (2)” and substituting “30 (2)”; and

- (b) by adding at the end of subparagraph (a) (i) “or”; and
- (c) by omitting subparagraph (a) (iii); and
- (d) by omitting “19D (1)” and substituting “30 (1)”.

**6 New pt 3 heading**

After regulation 4 the following part heading is inserted:

**“PART 3—EGG LABELLING”.**

**7 Insertion**

After regulation 5 the following parts and dictionary are inserted:

**“PART 4—FOOD SAFETY**

***“Division 4.1—Compliance by proprietors***

**“6 Proprietor’s obligation to comply**

The proprietor of a food business must take reasonable steps to ensure that all persons engaged in the food business comply with these regulations.

Maximum penalty: 10 penalty units.

***“Division 4.2—Inspections***

**“7 Inspection of food**

“(1) A public health officer may inspect food which is advertised, or offered, for sale to find out its composition and properties.

“(2) The public health officer may compare the results of an inspection with any advertisement that relates to the food.

“(3) The public health officer may prepare a report of the results of an inspection and comparison including any comment that the officer considers desirable in the public interest.

“(4) The public health officer may, with the Minister’s written approval—

- (a) publish the report in a newspaper circulating in the Territory, and in any other way considered desirable by the officer; and
- (b) otherwise make the report available to the public.

“(5) A proceeding may not be brought—

- (a) against the Territory or anyone else in relation to the publication of a report under this regulation; or
- (b) against the Territory or anyone else in relation to the republication (in whole or part) of a report published under this regulation.

***“Division 4.3—Food business activity***

**“8 Medical examination of food workers**

“(1) This regulation applies if the chief health officer or an authorised medical officer suspects, on reasonable grounds, that a person engaging in food business activity has a condition that may be transmitted to someone else because of that activity.

“(2) The person must not, without reasonable excuse, fail to comply with a written direction by the chief health officer or an authorised medical officer to have either or both of the following examinations:

- (a) an examination by the chief health officer or an authorised medical officer on a day, and at a time and place, specified in the direction;
- (b) a specified clinical or bacteriological examination on a day, and at a time and place, specified in the direction.

Maximum penalty: 10 penalty units.

**“9 Directions to food workers with transmissible conditions**

“(1) This regulation applies if the chief health officer or an authorised medical officer—

- (a) believes, because of an examination mentioned in regulation 8, that the person examined has a condition mentioned in that regulation; and
- (b) gives the person a written direction not to engage in food business activity.

“(2) The person must comply with the direction until—

- (a) the chief health officer or an authorised medical officer gives the person written notice withdrawing the direction; or
- (b) the person gives the chief health officer or an authorised medical officer a certificate from a doctor certifying that the person does not have a condition mentioned in regulation 8.

Maximum penalty: 10 penalty units.

**“10 Transmissible conditions and bandages**

- “(1)** A person must not engage in food business activity if he or she—
- (a) has a condition that may be transmitted to someone else because of that activity; or
  - (b) is wearing unclean or medicated bandages, and there is, as a result, a reasonably significant risk of contamination of the food.

Maximum penalty: 10 penalty units.

**“(2)** Paragraph (1) (b) does not apply in relation to a food business activity if the bandages are on the person’s hands or wrists, and are, while the activity is being carried out, covered by clean gloves suitable for the activity.

**“11 Personal cleanliness**

While engaging in food business activity, a person must be clean and wear clean clothes.

Maximum penalty: 10 penalty units.

**“12 Contact with food**

**“(1)** While engaging in food business activity, a person must avoid unnecessary contact with the food.

Maximum penalty: 10 penalty units.

**“(2)** Without limiting subregulation (1), while engaging in food business activity, a person must—

- (a) use any available equipment, as appropriate, for protecting the food from contamination; and
- (b) not place food on the ground or floor; and
- (c) not sit or lie on a table, bench or place where food is prepared; and
- (d) avoid touching his or her body or clothing, as far as possible; and
- (e) avoid touching any surface that will come into contact with the food (for example, the inside of a bag or container, the top of a plate or the blade of a knife), as far as possible; and
- (f) not breathe into a bag or wrapper to open it; and
- (g) only wipe his or her hands on a clean towel; and
- (h) not smoke or chew tobacco, or spit; and
- (i) not allow any person (other than a consumer to whom the food is sold) to touch or breathe on the food, as far as possible.

Maximum penalty: 10 penalty units.

“(3) Subregulation (2) does not apply if the food is in hermetically sealed containers at all times while the person is carrying out the activity.

“(4) A person engaged in food business activity must not, without reasonable excuse, fail to wash his or her hands—

(a) immediately before—

- (i) beginning such activity; or
- (ii) resuming such activity after a break; or
- (iii) resuming such activity after any other significant interruption (for example, after going to the toilet or smoking a cigarette); or

(b) immediately after touching his or her body or clothing while so engaged.

Maximum penalty: 10 penalty units.

## “PART 5—EQUIPMENT

### “13 Keeping equipment clean

A person who engages in food business activity, or who handles food in the course of a food business, must keep all equipment used for such activity or handling clean and free from odours.

Maximum penalty: 10 penalty units.

### “14 Prevention of food contamination

“(1) A person who engages in food business activity must properly use all available equipment to prevent contamination of the food.

Maximum penalty: 10 penalty units.

“(2) A person who engages in food business activity must not expose the food to contamination by act, neglect or omission in the use of associated equipment.

Maximum penalty: 10 penalty units.

### “15 Equipment cleaning method

“(1) The proprietor of a food business must take reasonable steps to ensure that equipment used in a food business activity is cleaned regularly using either of the following methods (an *equipment cleaning method*):



- (a) the equipment is first washed in warm water, then rinsed in water with a temperature of at least 75°C;
- (b) the equipment is cleaned using a method approved by a public health officer (for example, the use of a sanitiser approved by a public health officer).

Maximum penalty: 10 penalty units.

“(2) A proprietor must, in relation to a food business activity, ensure that—

- (a) anything used for the consumption of food is cleaned using an equipment cleaning method as soon as practicable after it is used; and
- (b) no item used in consuming food is made available to a customer if it has not been cleaned using an equipment cleaning method since it was last used; and
- (c) if a mechanical dishwasher or glass-washer is installed—
  - (i) it is capable of cleaning equipment using an equipment cleaning method; and
  - (ii) it is installed and maintained in a way that enables such cleaning to take place.

Maximum penalty: 10 penalty units.

“(3) A person may serve liquor in a glass in a bar-room for consumption on the premises only if the glass has been cleaned in a mechanical glass-washer (using an equipment cleaning method) since it was last used.

Maximum penalty: 10 penalty units.

“(4) In this regulation:

*mechanical glass-washer* means a machine capable of mechanically washing, in a single operation, the inside and outside (including the rim) of a drinking glass.

#### “16 Chipped and cracked equipment

The proprietor of a food business must ensure that no container or other utensil used for the preparation of food, or for the consumption of food, in the course of the food business is so chipped, cracked, broken or otherwise defective that it cannot be thoroughly cleaned.

Maximum penalty: 10 penalty units.

**“17 Accessory articles**

The proprietor of a food business must ensure that accessory articles used for food consumption (for example, drinking straws) are kept in a clean and sanitary condition.

Maximum penalty: 10 penalty units.

**“18 Water filters**

**“(1)** The proprietor of a food business must ensure that only a water filter of a type approved by a public health officer is used—

- (a) for preparing food or any article in association with food; or
- (b) for filtering water for supplying to the public.

Maximum penalty: 10 penalty units.

**“(2)** Subregulation (1) only applies to a water filter acquired on or after the date of commencement of these regulations for use in a food business.

**“(3)** Subregulation (2) and this subregulation cease to have effect 12 months after the date of commencement of these regulations.

**“(4)** If water filters are used in a food business, the proprietor must provide any information reasonably required by a public health officer relating to the performance and cleaning of the filters.

Maximum penalty: 10 penalty units.

**“(5)** The proprietor of a food business must take reasonable steps to ensure that all water filters used in the business are kept in a clean and sanitary condition at all times, and in good repair.

Maximum penalty: 10 penalty units.

**“19 Table linen and condiments**

**“(1)** The proprietor of a food business must take reasonable steps to ensure that—

- (a) table linen used in the business is clean; and
- (b) a reusable table napkin or serviette for use by a person has been washed since it was last used by someone else.

Maximum penalty: 10 penalty units.

**“(2)** The proprietor of a food business must take reasonable steps to ensure that—

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- (a) condiment containers used in the business are kept with the lid or stopper in place when not being used; and
- (b) the contents of condiment containers used in the business are fit for human consumption; and
- (c) condiments for customers of the business consuming food outdoors adjacent to the premises are supplied in single-serve disposable containers.

Maximum penalty: 10 penalty units.

**“PART 6—FOOD PREMISES**

**“20 Prohibited food premises**

The proprietor of a food business must not use any of the following places as food premises:

- (a) a room used at any time as a bedroom or toilet, or a place directly connected with a bedroom or toilet;
- (b) a place where the food is likely to be contaminated or deteriorate, or where any activity is carried on that is likely to contaminate the food or cause it to deteriorate;
- (c) a place where an animal is kept;
- (d) a place where rubbish is kept (except garbage handled as required by regulation 36);
- (e) a cellar, basement, underground room, stairway or passageway;
- (f) another place prohibited in writing by a public health officer.

Maximum penalty: 10 penalty units.

**“21 Food premises—cleanliness**

The proprietor of a food business must take reasonable steps to ensure that all food premises comply with the following conditions:

- (a) the premises must be kept in a clean and sanitary condition;
- (b) any vermin found on the premises must be destroyed;
- (c) places used for the preparation of food must be of sufficient size and properly enclosed, floored and sealed;
- (d) the premises must have 1 washbasin for every 10 people who engage in food business activities there, or such other ratio of

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washbasins to persons engaging in food business activities as is approved by a public health officer;

- (e) the washbasins must be connected to the sewerage network or other waste disposal system approved by a public health officer;
- (f) the washbasins for people who engage in food business activities must be accessible by those people and located as approved by a public health officer;
- (g) the washbasins for people who engage in food business activities must each have (adjacent to the washbasin) a sufficient supply of liquid soap and clean towels;
- (h) the premises must have at least the number of sinks approved by a public health officer, connected to the sewerage network or other waste disposal system approved by a public health officer;
- (i) the premises must have sufficient clean hot and cold water under pressure for the people who engage in food business activities there, or such a supply of clean hot and cold water under pressure as is approved by a public health officer;
- (j) the premises must have a supply of water under pressure of a temperature of at least 75°C for use in cleaning equipment;
- (k) the premises must allow easy access to an adequate number of toilets of an adequate quality, or such a number or quality of toilets as is directed in writing by a public health officer;
- (l) the accessible toilets must be completely cut off from the food premises by cross-ventilation;
- (m) the windows of the premises must be clean and whole, and painted surfaces and woodwork must be kept clean;
- (n) the interior surfaces of walls and ceilings of the premises must be kept adequately painted with washable paint, or treated and maintained in a way approved by a public health officer;
- (o) the floor of the premises must be covered with impervious materials;
- (p) the premises must have drainage installed so that liquids drain into a floor waste;
- (q) the walls of the premises must be lined.

Maximum penalty: 10 penalty units.

**“22 Food premises—structure**

“(1) A public health officer may, in writing, direct the proprietor of a food business to take reasonable steps to ensure that food premises comply with regulation 21.

“(2) The proprietor of a food business must not, without reasonable excuse, fail to comply with a direction under subregulation (1).

Maximum penalty: 10 penalty units.

**“23 Animals on food premises**

“(1) The proprietor of a food business must not allow an animal on any food premises.

Maximum penalty: 10 penalty units.

“(2) Subregulation (1) does not apply to—

- (a) an animal trained to assist a person to alleviate the effect of a disability that is accompanying a person with the disability (other than a person engaged in food business activity on the premises); or
- (b) an aquatic animal.

**“PART 7—TRANSPORT**

**“24 Vehicles and containers—cleanliness**

“(1) A person must use a clean vehicle and containers for transporting food for sale.

Maximum penalty: 10 penalty units.

“(2) A person must not use a vehicle or container for transporting food for sale that contains anything that would contaminate the food or cause it to deteriorate.

Maximum penalty: 10 penalty units.

**“25 Construction of vehicles**

“(1) A person must not use a vehicle for transporting food for sale unless—

- (a) it is especially built (or modified) to protect the food from contamination; and
- (b) that is the primary use of the vehicle.

Maximum penalty: 10 penalty units.

“(2) Subregulation (1) does not apply if the food is in a sealed or fully enclosed package and is transported in a separate closed container (for example, a pizza in a box transported in an insulated pouch).

**“26 Prohibited vehicles**

A person must not use a vehicle for transporting food for sale which—

- (a) has been used for transporting a dead body; or
- (b) has been used to transport a dog or other animal; or
- (c) in the opinion of a public health officer, based on reasonable grounds, is otherwise objectionable.

Maximum penalty: 10 penalty units.

**“27 Protection of food in transit**

“(1) A person transporting food for sale that is intended to be consumed in the state in which it is sold must not do so on the exterior of a vehicle unless it is fully enclosed in a container that will protect the food from contamination.

Maximum penalty: 10 penalty units.

“(2) Subregulation (1) does not apply to unprocessed fruit or vegetables.

“(3) A person transporting food for sale in a vehicle must not, without reasonable excuse, fail to ensure that while the food is in the vehicle it is kept under temperature control.

Maximum penalty: 10 penalty units.

“(4) Subregulation (3) does not apply to the transport of food for sale by a person with a licence to sell milk by retail, or to the transport of milk or cream by any other proprietor of a food business activity that is concerned with the processing or distribution of milk or cream for sale, before 8 am or after 5 pm on any day.

**“28 Display of vendor’s name**

A person transporting food for sale in a vehicle used primarily for that purpose must have the name and licence number of the licensee of the food business conspicuously and indelibly printed on the outside of the vehicle.

Maximum penalty: 10 penalty units.

**“PART 8—FOOD PROTECTION**

**“29 Protecting exposed food**

“(1) A person selling food intended to be consumed in the state in which it is sold must effectively protect the food from contamination (for example, by storage in covered containers).

Maximum penalty: 10 penalty units.

“(2) Subregulation (1) does not apply to the display of unprocessed fruit or vegetables for sale.

“(3) A person must not carry food for sale, or for delivery, through a public place, unless the food is protected as required by subregulation (1).

Maximum penalty: 10 penalty units.

**“30 Unattended food on a counter or bar**

“(1) The proprietor of a food business must take reasonable steps to ensure that exposed food is not left unattended on a counter or bar (whether for sale or not) in the food premises, unless it is protected from contamination by an adequate cover (for example, a sneeze guard) or another method approved in writing by a public health officer.

Maximum penalty: 10 penalty units.

“(2) Subregulation (1) does not apply to unprocessed fruit or vegetables.

**“31 Temperature control**

“(1) The proprietor of a food business must ensure that equipment for keeping food under temperature control is installed and adequately maintained.

Maximum penalty: 10 penalty units.

“(2) A person responsible for storing food in the course of a food business must not, without reasonable excuse, fail to keep the food under temperature control.

Maximum penalty: 10 penalty units.

**“32 Storage of food**

The proprietor of a food business must take reasonable steps to ensure that food is stored—

- (a) so that it is adequately protected against contamination; and
- (b) if the food is stored outdoors—more than 750mm above the ground.

Maximum penalty: 10 penalty units.

**“33 Protection from vermin and insects**

“(1) The proprietor of a food business must take reasonable steps to ensure that the food premises are free from insects, vermin and anything else that might contaminate the food.

Maximum penalty: 10 penalty units.

“(2) A person who engages in food business activity must protect the food from insects, vermin and anything else that might contaminate the food.

Maximum penalty: 10 penalty units.

**“34 Packing material**

A person packing food for selling in the state in which it will be consumed must not pack the food so that it touches printed paper, or paper or other material that is dirty.

Maximum penalty: 10 penalty units.

**“35 Extraneous items in food packages**

“(1) A proprietor of a food business must take reasonable steps to ensure that nothing is placed in a package of food that could contaminate the food, or cause harm in the hands of an adult or child (for example, a metal ornament, a toy that would be toxic if swallowed or a pin).

Maximum penalty: 10 penalty units.

“(2) Subregulation (1) does not prevent a thing being placed in a package of food if—

- (a) it is in a separate sealed container that is reasonably unlikely to be accidentally broken or punctured; and
- (b) the package is large enough to ensure that it would be reasonably unlikely to be swallowed accidentally by an adult or child.

**“36 Garbage and food withdrawn from sale**

“(1) The proprietor of a food business must take reasonable steps to ensure, for all garbage kept indoors on the food premises, that—

- (a) the garbage is contained in a bag or bags and placed in a garbage bin constructed of impervious material with a close-fitting lid; and



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- (b) the contents of the garbage bin are cleared at least once daily or as directed by a public health officer; and
- (c) the garbage bin is thoroughly cleaned at least once weekly or as directed by a public health officer.

Maximum penalty: 10 penalty units.

“(2) The proprietor of a food business must take reasonable steps to ensure, for all garbage kept outside the food premises, that—

- (a) the garbage is contained in a bag or bags and placed in a garbage bin constructed of impervious material with a close-fitting lid; and
- (b) the contents of the garbage bin are cleared at least once weekly or as directed by a public health officer; and
- (c) the garbage bin is thoroughly cleaned after it is cleared.

Maximum penalty: 10 penalty units.

“(3) The proprietor of a food business must take reasonable steps to ensure that any food withdrawn from sale is immediately—

- (a) put into a bin that is used only for keeping such food; or
- (b) separated from food that is for sale and clearly marked as withdrawn from sale.

Maximum penalty: 10 penalty units.

“(4) Food purported to be withdrawn from sale that is not put into a bin, or separated and marked, as required by subregulation (3) is taken to be exposed for sale.

**“37 Waste beer**

“(1) The proprietor of a food business involving the sale of beer for consumption on the food premises must take reasonable steps to ensure that this regulation is complied with.

Maximum penalty: 10 penalty units.

“(2) There must be a tray under the outlet of any beer tap installed in a bar-room on the premises to catch waste beer that drips from the tap or is spilt.

“(3) A tray mentioned in subregulation (2) must be connected and kept connected to the sewerage network by connections approved by a public health officer.

“(4) Subregulation (3) applies to a tray installed on or after the date of commencement of these regulations.

“(5) Subregulation (4) and this subregulation cease to have effect 3 years after the date of commencement of these regulations.

“(6) Waste beer must not be supplied to a person for human consumption.

“(7) In this regulation:

*beer* includes ale.

*waste beer* includes—

- (a) beer derived from overflow or spillage; and
- (b) beer derived from drips from a container or appliance; and
- (c) an unconsumed quantity of beer supplied to a person; and
- (d) a drink containing beer derived from a source mentioned in paragraph (a), (b) or (c).

**“38 Re-serving food**

A person must not, in the course of a food business, serve food to a member of the public if the food has been used before or has already been served to someone else.

Maximum penalty: 10 penalty units.

**“PART 9—MISCELLANEOUS**

**“39 Selling by self or as agent or employee**

For these regulations, a person is taken to sell food if the person sells it on his or her own account or as the agent or employee of someone else.

“**DICTIONARY**”

(See reg 3)

**authorised medical officer**—see the *Public Health Act 1997*, subsection 5 (1).

**bar-room** means a room where liquor is served to customers for consumption on the premises.

**contamination** includes exposure to dust and flies.

**doctor**—see *Interpretation Act 1967*, dictionary.

**equipment** means equipment used in a food business for handling food or keeping food free from contamination, and includes the following:

- (a) storage containers;
- (b) utensils;
- (c) benches, fittings and appliances.

**equipment cleaning method**—see subregulation 15 (1).

**food business activity** means—

- (a) manufacturing, preparing, processing, treating or handling food for sale; or
- (b) selling food.

**food premises**, for a food business, means premises used, or intended to be used, for the food business.

**liquor**—see *Liquor Act 1975*, subsection 4 (1).

**sewerage network** means the sewerage system for the provision of sewerage services mentioned in section 3 of the *Energy and Water Act 1988*.

**temperature control**, for keeping food for a food business, means keeping the food at a temperature of—

- (a) 5°C or below, if necessary to minimise the growth of infectious or toxigenic micro-organisms in the food so the microbiological safety of the food is not adversely affected for the time the food is at that temperature; or
- (b) 60°C or above, if necessary to minimise the growth of infectious or toxigenic micro-organisms in the food so the microbiological safety of the food is not adversely affected for the time the food is at that temperature; or

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- (c) another temperature, if the proprietor demonstrates that keeping the food at this temperature, for the period of time for which it is kept, does not adversely affect the microbiological safety of the food.

*the Act* means the *Food Act 1992*.

*wash* means wash with detergent and water.”.

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**Endnotes**

**Regulations amended**

- 1 SL 1994 No 4 (not republished). See also SL 1999 No 18.

**Notification**

- 2 Notified in the Gazette on 6 July 2000.

**Penalty units**

- 3 Section 33AA of the *Interpretation Act 1967* (as applied by section 9 of the *Subordinate Laws Act 1989*) deals with the meaning of offence penalties that are expressed in penalty units.