



Australian Capital Territory

# Magistrates Court (Food Infringement Notices) Regulation 2005

**Subordinate Law SL2005-30**

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The Australian Capital Territory Executive makes the following regulation under the *Magistrates Court Act 1930*.

Dated 10 November 2005.

JON STANHOPE  
Minister

SIMON CORBELL  
Minister

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# Magistrates Court (Food Infringement Notices) Regulation 2005

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**Magistrates Court Act 1930**

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**1 Name of regulation**

This regulation is the *Magistrates Court (Food Infringement Notices) Regulation 2005*.

**2 Commencement**

This regulation commences on the commencement of the *Statute Law Amendment Act 2005*, schedule 3, part 3.23.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

**3 Purpose of regulation**

The purpose of this regulation is to provide for infringement notices under the *Magistrates Court Act 1930*, part 3.8 for certain offences against the Food Act.

*Note* The *Magistrates Court Act 1930*, pt 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.

**4 Dictionary**

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*authorised officer*—see the Food Act, dictionary.’ means that the term ‘authorised officer’ is defined in that dictionary and the definition applies to this regulation.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

## **5 Notes**

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

## **6 Administering authority**

The administering authority for an infringement notice offence against the Food Act is the chief health officer.

## **7 Infringement notice offences**

The *Magistrates Court Act 1930*, part 3.8 applies to an offence against a provision of the Food Act mentioned in schedule 1, column 2.

## **8 Infringement notice penalties**

- (1) The penalty payable by an individual for an offence against the Food Act, under an infringement notice for the offence, is the amount mentioned in schedule 1, column 4 for the offence.
- (2) The penalty payable by a corporation for an offence against the Food Act, under an infringement notice for the offence, is 5 times the amount mentioned in schedule 1, column 4 for the offence.
- (3) The cost of serving a reminder notice for an infringement notice offence against the Food Act is \$34.

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**9 Contents of infringement notices—identifying particulars for person served**

An infringement notice served on a person by an authorised person for an infringement notice offence against the Food Act must identify the person served as follows:

- (a) if the person has given notice under the Food Act, section 90 (1) (Notification of conduct of exempt food businesses)—the name given by the person;
- (b) if the person is a proprietor of a food business registered under the Food Act, section 92 (3) (Registration of food businesses)—
  - (i) the name of the proprietor of the food business shown on the certificate of registration; or
  - (ii) the registration number shown on the certificate of registration;
- (c) if the offence to which the infringement notice relates involves a food transport vehicle—the registration number of the vehicle.

**10 Contents of infringement notices—other information**

- (1) If an infringement notice is served on a person for an offence against the Food Act, section 27 (1), (2), (3) or (4), the notice must mention each provision of the food standards code that the person has contravened.
- (2) An infringement notice served on a company by an authorised person for an infringement notice offence against the Food Act must include the company's ACN.

*Note* The requirement under this section is additional to the requirement under the *Magistrates Court Act 1930*, s 121 (1) (c).

(3) In this section:

*company* means a company registered under the Corporations Act.

**11 Contents of infringement notices—identifying authorised person**

An infringement notice served on a person by an authorised person for an infringement notice offence against the Food Act must identify the authorised person by—

- (a) the authorised person’s full name, or surname and initials; or
- (b) any unique number given, for this regulation, to the authorised person by the administering authority.

**12 Contents of reminder notices—identifying authorised person**

A reminder notice served on a person by an authorised person for an infringement notice offence against the Food Act must identify the authorised person by—

- (a) the authorised person’s full name, or surname and initials; or
- (b) any unique number given, for this regulation, to the authorised person by the administering authority.

**13 Costs if liability disputed**

The cost of beginning a proceeding is \$200.

**14 Authorised people for infringement notice offences**

An authorised officer may serve—

- (a) an infringement notice for an infringement notice offence against the Food Act; and



- (b) a reminder notice for an infringement notice offence against the Food Act.

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

## **15 Expiry of regulation**

- (1) This regulation expires on the default application date.
- (2) In this section:

***default application date***—see the Criminal Code, section 10.

*Note* This date is the date the provisions of the Criminal Code, ch 2 apply to all ACT offences.

## Schedule 1 Food Act infringement notice offences and penalties

(see s 7 and s 8)

column 1 item	column 2 offence provision	column 3 offence penalty (penalty units)	column 4 infringement penalty (\$)
1	22 (1)	500	500
2	22 (2)	500	500
3	23 (1)	400	400
4	23 (2)	400	400
5	24 (1) (a)	500	500
6	24 (1) (b)	500	500
7	24 (2)	500	500
8	24 (3)	500	500
9	25 (1)	500	500
10	26 (1) (a)	500	500
11	26 (1) (b)	500	500
12	26 (2)	500	500
13	27 (1) (a)	500	500
14	27 (1) (b)	500	500
15	27 (1) (c)	500	500
16	27 (2)	500	500
17	27 (3)	500	500

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<b>column 1 item</b>	<b>column 2 offence provision</b>	<b>column 3 offence penalty (penalty units)</b>	<b>column 4 infringement penalty (\$)</b>
18	27 (4)	500	500

## Dictionary

(see s 4)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this regulation.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- chief health officer
- corporation
- Corporations Act
- individual.

*Note 3* Terms used in this regulation have the same meaning that they have in the *Magistrates Court Act 1930* (see Legislation Act, s 148). For example, the following terms are defined in the *Magistrates Court Act 1930*, dict:

- administering authority
- authorised person
- infringement notice
- infringement notice offence
- reminder notice.

***authorised officer***—see the Food Act, dictionary.

***certificate of registration***, for a food business—see the Food Act, dictionary.

***Food Act*** means the *Food Act 2001*.

***food business***—see the Food Act, section 10.

***food standards code***—see the Food Act, dictionary.

***food transport vehicle***—see the Food Act, dictionary.

***proprietor***, of a food business—see the Food Act, dictionary.

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## Endnotes

**1 Notification**

Notified under the Legislation Act on 10 November 2005.

**2 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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