

1993

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

**PUBLIC HEALTH ACT 1928**

**PUBLIC HEALTH (SALE OF FOOD AND DRUGS) REGULATIONS  
(AMENDMENT)**

**EXPLANATORY MEMORANDUM**

Circulated by authority of

Mr Wayne Berry, Deputy Chief Minister and Minister for Health

Public Health (Sale of Food and Drugs) Regulations  
(Amendment)

Outline

The Public Health (Sale of Food and Drugs) Regulations are made under Section 12 of the Public Health Act 1928 with the purposes of controlling the quality and condition of food and drugs for sale in the ACT and the standard of cleanliness of the premises selling the food or drugs.

The Regulations contain labelling requirements for food and drugs which have been replaced by the comprehensive provisions of the National Food Standards Code: this Code becoming part of ACT food law with the passing of the Food Act in August 1992 and coming into force with the commencement of that Act in March 1993.

The purpose of the amendment is to delete any provisions of the Regulations that are contained in the Food Standards Code.

The opportunity has also been taken to simplify the wording of the Regulations that provide for sampling of food and to amend any sexist language.

The Food Standards Code is not applicable to drugs and all powers in relation to drugs remain.

Financial Considerations

The amendments do not involve any additional expenditure by the agency. The cost of informing industry members of changes that will affect their businesses will be met from existing resources.

Clause Notes

Clause 1 Principal Regulations

The principal regulations are the Public Health (Sale of Food and Drugs) Regulations.

Clause 2 Commencement

The amendment will commence on the same day as the commencement of the relevant parts (ie Parts other than Sections 1 and 2) of the Food Act 1992. The Food Act commences on 2nd March 1993.

### Clause 3 Interpretation

The definition of "sale" and "food" is amended to read identical to the definition of "sale" and "food" in the Food Act 1992. This has no material effect on the enforcement of the Regulations.

The word "standard" is defined to mean a standard that is a national standard ie one that is contained in the National Food Standards Code or a prescribed standard ie a standard that for some reason of emergency has been imposed on a type of food under provisions of the 1991 Agreement between States and Territories on uniformity of food standards.

### Clause 4 Repeal of Regulation 4

Regulation 4 gives the conditions under which a food or drug is deemed to be adulterated. In respect to food only, references to composition and compliance with standards have been removed and those matters which are not covered by the Food Standards Code remain.

### Clause 5 Repeal of Regulation 4A

Regulation 4A provides a standard for the quantity of mercury in seafood which has been replaced by the standard in the Food Standards Code.

### Clause 6 Labelling of packages.

The purpose of clause 6 is to remove the application to food of Regulation 5 dealing with labelling of packages of food. These provisions are contained in the Food Act 1992.

### Clause 7 False description

Regulation 6 of the principal regulations makes it unlawful to falsely describe food and drugs. The purpose of the amendment is to remove the reference to food because such powers are part of the false description provisions of the Food Act 1992.

### Clause 8 Substitution

The purpose of this clause is to set out in a more easily understood form the provisions of Regulation 9, making the sale of adulterated food and drugs, falsely described food and drugs or food and drugs packed contrary to the Regulations an offence and to remove the requirement that foods be labelled in accordance with the Regulations.

### Clauses 9 and 10 Sale under certain conditions an offence

These clauses amend Regulation 10, which makes it an offence for food or drugs to be sold if the food or drug has been in some way altered in quality or quantity so as to be fraudulently sold and Regulation 12 which makes provisions as to composition and labelling of mixtures of food and drugs. The provisions relating to drugs remain but references to food are deleted because of suitable provisions in the Food Act 1992.

### Clause 11 Standards for food and drugs

The purpose of the clause is to remove the application of Regulation 18 to food. The Regulation relates to prescribed standards and is replaced by provisions in the Food Standards Code.

### Clause 12 Powers of inspection and sampling

Regulation 19 is an important Regulation in that it details the powers under which authorised officers may inspect premises, articles and food and take samples. A purpose of the clause is to remove references to prohibitions under the principal regulations so that the prohibitions become ones that would be prohibited not only under the principal regulations but also the Food Act 1992 because of the definition of the word "prohibited". For example, 19(1)(f) empowers officers "to seize articles ....the sale of which is prohibited *under these Regulations*".

Secondly the clause places the wording of the Regulation into plainer English and makes clearer the provisions relating to the division of samples for the purpose of analysis.

### Clause 13 Handling of food by infected persons

The principal regulations were drafted at a time when the knowledge of the transmission of diseases was incomplete and a provision was included in Regulation 20 that a person suffering from "venereal disease" was not permitted to engage in any aspect of a food business. This is considered to be no longer appropriate and although the Regulation continues to restrict persons with "infectious diseases" from working in food premises the expression "venereal disease" is deleted. Infectious diseases are those defined in the Public Health (Infectious and Notifiable Diseases) Regulations.

### Clause 14 Sale of shell fish

The clause removes the reference to polluted oysters as this is a provision of the Food Standards Code.

### Clause 15 Repeal

Regulation 58, a labelling requirement for shellfish, is repealed as is Regulation 60A, a standard for ice cream. Both are replaced by provisions of the Food Standards Code.

### Clause 16 Itinerant Ice cream vendors

The purpose of the clause is to remove sexist language from Regulation 65.

### Clause 17 Infectious Diseases

An amendment of the same nature as Clause 13 is made to Regulation 92.

**Clause 18 Further amendments**

**Clause 18 removes sexist language from the principal regulations in cases where the above clauses have not done so.**