

**2007**

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

**FOOD (SAFETY PROGRAMS) AMENDMENT  
REGULATION 2007 (NO 1)**

**SUBORDINATE LAW SL2007-14**

**EXPLANATORY STATEMENT**

**Circulated by authority of  
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Minister for Health**

# FOOD (SAFETY PROGRAMS) AMENDMENT REGULATION 2007 (NO 1)

## SUBORDINATE LAW SL2007-14

### OUTLINE

The Australia and New Zealand food standards system is a cooperative arrangement between Australia, New Zealand and the Australian States and Territories to develop and implement uniform food standards.

The *Food Standards Australia New Zealand Act 1991* (Cwlth) establishes the mechanism for the development and variation of joint food regulatory measures. These measures are collected in the *Australia New Zealand Food Standards Code* (the Code).

The Code is a collection of individual food standards. Standards on related matters are grouped together into parts, which in turn are collected together into four chapters. For example, chapter 3 deals with food hygiene issues specific to Australia. New Zealand has its own food hygiene arrangements.

Food standards have the force of law. It is an offence in Australia and New Zealand to supply food that does not comply with relevant food standards.

*Standard 3.2.1 - Food Safety Programs* of the Code enables States and Territories to require food businesses to implement a food safety program based upon the HACCP principles. HACCP is Hazard Analysis and Critical Control Point. These principles ensure ongoing identification and control of hazards in the production, manufacturing and handling of food, rather than relying on end product standards alone. The food safety program is to be implemented and reviewed by the food business, and is subject to periodic audit by a suitably qualified food safety auditor.

The *Food (Safety Programs) Amendment Regulation 2007* amends the *Food Regulation 2002* (Food Regulation) to insert provisions for the operation of food safety programs for food businesses in the ACT characterised as highest risk food businesses.

Section 152 of the *Food Act 2001* authorises the making of a regulation and section 152(2) provides that a regulation may be made for the preparation, carrying out, maintenance and monitoring of food safety programs for food businesses.

### NOTES ON SECTIONS

#### Section 1 – Name of regulation

The name of the regulation is the *Food (Safety Programs) Amendment Regulation 2007 (No 1)*.

#### Section 2 – Commencement

Section 2 provides that the regulation commences the day after it is notified on the ACT Legislation Register.

### **Section 3 – Legislation amended**

Section 3 provides that the regulation amends the *Food Regulation 2002*.

### **Section 4 – New sections 2 and 2A**

Section 2 and 2A provide that the dictionary at the end of the regulation is part of the regulation and notes are for information and explanation only.

### **Section 5 – Sections 2A to 7**

Sections 2A to 7 of the Food Regulation are renumbered as sections 3 to 8.

### **Section 6 – New part 3 Food Safety Programs**

A new Part 3, Food Safety Programs, is inserted.

Sections 9 to 11 contain the provisions relating to the appointment, functions of and reporting requirements for food safety auditors.

Section 9 provides the Chief Health Officer with the power to authorise a Public Health Officer to be a food safety auditor. The Chief Executive appoints Public Health Officers under section 12 of the *Public Health Act 1997*. A Public Health Officer may not perform the function of a food safety auditor unless they are authorised by the Chief Health Officer.

Section 10 outlines the functions and responsibilities of a food safety auditor. A food safety auditor is required to:

- audit the food safety program of a highest risk food business at the frequency required by the Chief Health Officer;
- undertake follow up actions to ensure that any deficiencies identified in the audit are rectified; and
- provide the Chief Health Officer with a report on the outcome of audits or other investigations carried out.

Section 11 provides that a food safety auditor is required to provide the food business with a copy of the food safety program audit report. By providing a copy of the audit report, food businesses will be able to make improvements to their food safety program. The provision also ensures auditors are accountable for the report made.

Section 12 provides the Chief Health Officer with the discretion to determine the frequency at which audits are to be performed. The Chief Health Officer may determine that a particular industry or a food business be audited more or less frequently.

In determining the audit frequency, the Chief Health Officer must consider the risk to public health and may consider the business' food safety program compliance record. Compliance issues may range from whether a food safety program was in place, the nature and content of the program, or whether the food safety program was appropriately accessible. A determination made by the Chief Health Officer is a notifiable instrument.

Section 13 requires the proprietor of a food business to provide the Chief Health Officer with a copy of the food safety program. The proprietor must also keep a copy of the program at each of the premises from which the business is carried out, for inspection by any employee. The employees should be able to readily and easily access the food safety program. A premise can also include a food transport vehicle, as such a copy must be made available in the vehicle.

### **Section 7 – New dictionary**

The term “food safety auditor” is defined and added to the dictionary.