

Food (Regulated events) Declaration 2015 (No 2)

Disallowable instrument DI2015–286

made under the

Food Act 2001, s 91 (Regulated events)

EXPLANATORY STATEMENT

This instrument is a disallowable instrument that declares the following events, as held in Canberra each year, to be regulated events under the *Food Act 2001*:

- National Multicultural Festival
- National Folk Festival
- Curry Festival in the City
- Enlighten Night Noodle Market

The purpose of declaring the above mentioned events to be regulated events is to make it mandatory that all food businesses conducted at each event meet the requirements of the Food Act (particularly those relating to food safety), thereby providing for the protection of public health.

The preparation and sale of food at the National Multicultural Festival, National Folk Festival, Curry Festival in the City and Enlighten Night Noodle Market is considered to pose potential public health risks and should therefore be subject to regulation and food safety standards under the Food Act.

The rationale for declaring the National Multicultural Festival is that:

- it is a large public event (more than 260,000 people were reported to have attended in 2015) with a particular focus on food;
- the event is held in summer over several days (thus increasing the risk of food temperature control and storage issues);
- the large quantities of food being supplied by small temporary stalls can easily result in storage issues (increasing the risk of cross-contamination, food temperature control and pest control issues); and
- a variety of potentially hazardous foods are prepared and sold, often by volunteers with limited knowledge of appropriate food safety and hygiene, or from backgrounds with different approaches to food safety than those required by the Food Act.

The rationale for declaring the National Folk Festival is that:

- it is a large public event (more than 50,000 people were reported to have attend in 2013 and 2014) with a significant number of food stalls present;
- the event is held over several days (thus increasing the risk of food temperature control and storage issues); and
- the large quantities of food being supplied by small temporary stalls can easily result in storage issues (increasing the risk of cross-contamination, food temperature control and pest control issues).

The rationale for declaring the Curry Festival in the City and the Enlighten Night Noodle Markets is that:

- they are expected to be large public events with a particular focus on food;
- the events are held over several days (thus increasing the risk of food temperature control and storage issues);
- the large quantities of food being supplied by small temporary stalls can easily result in storage issues (increasing the risk of cross-contamination, food temperature control and pest control issues); and
- a variety of potentially hazardous foods are prepared and sold, often by volunteers with limited knowledge of appropriate food safety and hygiene, or from backgrounds with different approaches to food safety than those required by the Food Act.

As of 20 April 2015, Section 7A(1) of the Food Act states that the Act does not apply to a food business conducted by a volunteer for a community organisation for certain fundraising purposes (e.g. to raise funds for a religious, educational, charitable or benevolent purpose; sport, recreation or amusement; preserving cultural heritage, etc).

However, Section 7A(2)(b) states that the Food Act does apply to a food business mentioned in 7A(1) if it is conducted at a regulated event. In other words, a volunteer-staffed community fundraising food stall would ordinarily be exempt from the Food Act; but if the food stall operates at a declared event, it must comply with the Food Act. Compliance with the Food Act requires certain activities (e.g. an application must be made to the Chief Health Officer to register the food business, all food for sale must comply with national food safety standards, etc)

Section 91(1) of the Food Act allows the Minister to declare that an event is a regulated event under the Act. Section 91(2) of the Food Act states that a declaration is a disallowable instrument.

This disallowable instrument commences on the day after notification. This is so that its commencement will occur well before the 2016 National Multicultural Festival. This will give festival organisers and stallholders adequate time to comply with the requirements of the Food Act.

Background

In November 2013, the ACT Government announced that changes to the laws regulating non-profit community organisations would be introduced that would reduce the regulatory burden on these organisations. The resulting changes to the Food Act removed the requirement for certain food businesses to notify the

Chief Health Officer of their operation and also exempted certain community organisations selling food for fundraising purposes from the operation of the Food Act. These amendments to the Food Act commenced in 2015.

Previously any business selling potentially hazardous food – no matter for how short of a time – had to register their food business. Eligible non-profit community organisations have now been exempted from the Food Act. It was always intended, however, that a declaration power be used to ‘recapture’ these businesses if they were to sell food at a large event where food handling errors would likely have a significant impact on public health. This intention was noted in the Food Amendment Bill 2014 [Explanatory Statement](#).