



Australian Capital Territory

Food Regulation 2002

SL2002-10

made under the

Food Act 2001

Republication No 7

Effective: 1 June 2007 – 31 December 2012

Republication date: 1 June 2007

Last amendment made by SL2007-14

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Food Regulation 2002*, made under the *Food Act 2001* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 June 2007. It also includes any amendment, repeal or expiry affecting the republished law to 1 June 2007.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



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Australian Capital Territory

Food Regulation 2002

made under the

Food Act 2001

Part 1 Preliminary

1 Name of regulation

This regulation is the *Food Regulation 2002*.

2 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.

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)).

3 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.

Part 2 General

4 **Excluded reticulated water systems—Act, s 7 (3), def of relevant reticulated water system, par (c)**

A place to which a reticulated water system provides less than 365ML of water a year is prescribed.

Examples

systems that provide water to Tharwa township and the forestry settlements at Uriarra and Pierce's Creek

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

5 **Excluded primary food production activities—Act, s 11 (2) (c)**

The following primary food production activities are prescribed:

- (a) dairy farming and milk processing;
- (b) producing hen eggs commercially;
- (c) producing wine;
- (d) commercial slaughtering of livestock for human consumption.

6 **Food businesses exempt from registration—Act, s 89**

- (1) The following food businesses are prescribed:
 - (a) a food business that handles or sells food if—
 - (i) all the food is either—
 - (A) non-potentially hazardous and not contained in a closed package; or
 - (B) sold, straight after thorough cooking, for immediate consumption; and

- (ii) the food business handles or sells food during no more than 5 periods a year, and each period when it sells food is no longer than 3 days;
 - (b) the food business handles or sells food in or from a food transport vehicle that is registered under a State law that corresponds to the Act;
 - (c) a food business that transports food but does not otherwise handle or sell food;
 - (d) a food business that sells only food that is—
 - (i) contained in a closed package intended for sale; and
 - (ii) non-potentially hazardous;
 - (e) a food business that only sells, through a vending machine, food that is non-potentially hazardous.
- (2) In this section:
- non-potentially hazardous*—food is *non-potentially hazardous* if it does not need to be kept at certain temperatures to—
- (a) minimise the growth of any pathogenic micro-organisms that may be present in the food; or
 - (b) prevent the formation of toxins in the food.

7 Food standards code—incorporation

The food standards code, as in force from time to time, is incorporated in this regulation.

8 Food standards code—meaning of appropriate enforcement agency

The administrative unit to which the chief health officer belongs is the appropriate enforcement agency for the food standards code.

Part 3 Food safety programs

9 Food safety auditors

- (1) The chief health officer may, in writing, authorise a public health officer to be a food safety auditor.
- (2) In this section:

public health officer means a public health officer under the *Public Health Act 1997*, section 12.

10 Functions of food safety auditors

A food safety auditor has the following functions:

- (a) to carry out audits of food safety programs when required under section 12;
- (b) if an audit identifies deficiencies in a food safety program—to carry out any necessary follow-up action (including additional audits) to check the deficiencies are remedied;
- (c) to report to the chief health officer the results of investigations or audits carried out under this part.

11 Reporting requirements

A food safety auditor who carries out a food safety program audit of a registered food business must give a copy of the audit report to the food business.

12 Audit frequency

- (1) The chief health officer may determine how often a food safety program audit for a registered food business must be carried out.

Note Power to make a statutory instrument includes power to make different provision for different categories (see Legislation Act, s 48).

- (2) In determining the audit frequency for a registered food business, the chief health officer—
 - (a) must consider the interest of public health and safety; and
 - (b) may consider the business' compliance with food safety programs.
- (3) A determination under this section is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

13 Food safety program to be given to chief health officer and made available to employees

- (1) This section applies to a registered food business that is required to have a food safety program.

Note For requirements about food safety programs, see the food standards code, standard 3.2.1.

- (2) The proprietor of the registered food business must—
 - (a) give a copy of the food safety program (including any changes made to it) to the chief health officer; and
 - (b) keep a copy of the program (including any changes made to it) at each of the business' premises for inspection by any employee of the business.

Dictionary

(see s 2)

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:

- Act
- chief health officer.

Note 3 Terms used in this regulation have the same meaning that they have in the *Food Act 2001* (see Legislation Act, s 148). For example, the following terms are defined in the *Food Act 2001*, dict:

- food business
- food safety standard
- food standards code
- registered.

food safety auditor means a person authorised to be a food safety auditor under section 9.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

This regulation was originally the *Food Regulations 2002*. It was renamed under the *Legislation Act 2001*.

Food Regulation 2002 SL2002-10

notified LR 7 May 2002

s 1, s 2 commenced 7 May 2002 (LA s 75 (1))

remainder commenced 8 May 2002 (s 2)

as amended by

Food Amendment Regulations 2002 SL2002-14

notified LR 11 June 2002

commenced 11 June 2002 (s 2)

Food Amendment Regulations 2003 (No 1) SL2003-19

notified LR 1 July 2003

s 1, s 2 commenced 1 July 2003 (LA s 75 (1))

remainder commenced 2 July 2003 (s 2)

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.24

notified LR 12 May 2005

s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))

sch 3 pt 3.24 commenced 12 November 2005 (s 2 (2) and LA s 79)

Food (Safety Programs) Amendment Regulation 2007 (No 1) SL2007-14

notified LR 31 May 2007

s 1, s 2 commenced 31 May 2007 (LA s 75 (1))

remainder commenced 1 June 2007 (s 2)

4 Amendment history

Name of regulation

s 1 am R5 LA

Dictionary

s 2 om LA s 89 (4)
ins SL2007-14 s 4

Notes

s 2A renum as s 3

Endnotes

4 Amendment history

Notes

s 3 orig s 3 renum as s 4
(prev s 2A) ins SL2007-14 s 4
renum as s 3 SL2007-14 s 5

Excluded reticulated water systems—Act, s 7 (3), def of *relevant reticulated water system*, par (c)

s 4 orig s 4 renum as s 5
(prev s 3) renum as s 4 SL 2007-14 s 5

Excluded primary food production activities—Act, s 11 (2) (c)

s 5 orig s 5 renum as s 6
(prev s 4) am SL2003-19 s 4
renum as s 5 SL2007-14 s 5

Food businesses exempt from registration—Act, s 89

s 6 orig s 6 renum as s 7
(prev s 5) am SL2003-19 s 5
renum as s 6 SL2007-14 s 5

Food standards code—incorporation

s 7 orig s 7 renum as s 8
(prev s 6) renum as s 7 SL2007-14 s 5

Food standards code—meaning of appropriate enforcement agency

s 8 orig s 8 om A2005-20 amdt 3.160
(prev s 7) renum as s 8 SL2007-14 s 5

Food safety programs

pt 3 hdg om A2005-20 amdt 3.160
ins SL2007-14 s 6

Food safety auditors

s 9 om A2005-20 amdt 3.160
ins SL2007-14 s 6

Functions of food safety auditors

s 10 om A2005-20 amdt 3.160
ins SL2007-14 s 6

Reporting requirements

s 11 om A2005-20 amdt 3.160
ins SL2007-14 s 6

Audit frequency

s 12 om A2005-20 amdt 3.160
ins SL2007-14 s 6

Food safety program to be given to chief health officer and made available to employees

s 13 om A2005-20 amdt 3.160
ins SL2007-14 s 6

Identifying particulars for authorised officer for reminder notice—Act, s120 (f)

s 14 om A2005-20 amdt 3.160

Costs if liability disputed—Act, s 124 (3) (b)

s 15 om A2005-20 amdt 3.160

Modifications of Actpt 4 hdg ins SL2002-14 s 4
exp 10 March 2003 (s 17)**Modification of Act, pt 12**s 16 ins SL2002-14 s 4
exp 10 March 2003 (s 17)**Expiry of pt 4 and sch 2**s 17 ins SL2002-14 s 4
exp 10 March 2003 (s 17)**Infringement notice offences and penalties**

sch 1 om A2005-20 amdt 3.161

Modification of Act, part 12sch 2 ins SL2002-14 s 5
exp 10 March 2003 (s 17)**Dictionary**dict ins SL2007-14 s 7
def *food safety auditor* ins SL2007-14 s 7**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	8 May 2002
2	SL 2002 No 14	12 June 2002
3	SL2002-14	11 March 2003
4	SL2003-19	2 July 2003

Endnotes

5 Earlier republications

Republication No	Amendments to	Republication date
5	SL2003-19	3 November 2004
6	A2005-20	12 November 2005

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