



Australian Capital Territory

Food Regulation 2002

SL2002-10

made under the

Food Act 2001

Republication No 9

Effective: 5 April 2013 – 31 August 2013

Republication date: 5 April 2013

Last amendment made by [SL2013-8](#)

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 5 April 2013. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 5 April 2013.

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 includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

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 the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



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Contents

		Page
Part 1	Preliminary	
1	Name of regulation	2
2	Dictionary	2
3	Notes	2
Part 2	General	
4	Excluded reticulated water systems—Act, s 7 (3), def of <i>relevant reticulated water system</i> , par (c)	3
5	Excluded primary food production activities—Act, s 11 (2) (c)	3
6	Food businesses exempt from registration—Act, s 89	3
7	Food standards code—incorporation	4
8	Food standards code—meaning of appropriate enforcement agency	5

R9
05/04/13

Food Regulation 2002
Effective: 05/04/13-31/08/13

contents 1

	Page
Part 3	Food safety programs
9	Food safety auditors 6
10	Functions of food safety auditors 6
11	Reporting requirements 6
12	Audit frequency 6
13	Food safety program to be given to chief health officer and made available to employees 7
Part 4	Display of nutritional information for food
13A	Definitions—pt 4 8
14	Prescribed nutritional information for standard food outlets—Act, s 110 (3) (a) 8
15	Prescribed nutritional information for other standard food outlets—Act, s 111 (2) 9
15A	Prescribed requirements for working out nutritional information—Act, s 110 (3) (b) and s 111 (2) (a) 9
16	Prescribed places for display of nutritional information for standard food outlets other than supermarkets—Act, s 110 (3) (c) and s 111 (2) (b) 10
16A	Prescribed places for display of nutritional information for standard food outlets that are supermarkets—Act, s 110 (3) (c) and s 111 (2) (b) 11
17	Way of displaying nutritional information for standard food outlets other than supermarkets—Act, s 110 (3) (c) and s 111 (2) (b) 12
18	Way of displaying nutritional information for standard food outlets that are supermarkets—Act, s 110 (3) (c) and s 111 (2) (b) 13
Dictionary	14
Endnotes	
1	About the endnotes 15
2	Abbreviation key 15
3	Legislation history 16
4	Amendment history 18
5	Earlier republications 21



Australian Capital Territory

Food Regulation 2002

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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

- (1) The food standards code, as in force from time to time, is incorporated in this regulation.
- (2) The [Legislation Act](#), section 47 (6) does not apply to the food standards code.

Note The food standards code does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Legislation Act](#), s 47 (7)). The code is accessible at www.comlaw.gov.au.

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.

Part 4 Display of nutritional information for food

13A Definitions—pt 4

In this part:

nutrition information panel means a nutrition information panel that complies with the food standards code.

supermarket means a large shop selling food and other household items where the selection of goods is organised on a self-serve basis and the goods on offer include all of the following:

- (a) bread;
- (b) breakfast cereal;
- (c) butter;
- (d) eggs;
- (e) flour;
- (f) fresh fruit and vegetables;
- (g) fresh milk;
- (h) meat;
- (i) rice;
- (j) sugar;
- (k) other packaged food.

14 Prescribed nutritional information for standard food outlets—Act, s 110 (3) (a)

- (1) The following nutritional information is prescribed for a standard food item for sale at a standard food outlet other than a supermarket:

- (a) the average energy content of the food item, expressed in kilojoules for the whole of the food item;
 - (b) the following statement:

‘The average adult daily energy intake is 8,700kJ’.
- (2) The following nutritional information is prescribed for a standard food item for sale at a standard food outlet that is a supermarket:
- (a) either—
 - (i) the average energy content of the food item expressed in kilojoules per 100g; or
 - (ii) the average energy content of the food item expressed in kilojoules for the whole of the food item; or
 - (iii) if the food item is packaged or prepared on the supermarket premises—a nutrition information panel; and
 - (b) the following statement:

‘The average adult daily energy intake is 8,700kJ’.

15 Prescribed nutritional information for other standard food outlets—Act, s 111 (2)

- (1) The average energy content of the food item, expressed in kilojoules, is prescribed for each standard food item for sale by a standard food outlet (other than a standard food outlet to which the Act, section 110 applies).
- (2) The average energy content of a food item is to be worked out in accordance with the method mentioned in section 15A.

15A Prescribed requirements for working out nutritional information—Act, s 110 (3) (b) and s 111 (2) (a)

- (1) The average energy content of a standard food item must be worked out in accordance with the food standards code, standard 1.2.8

making any necessary adjustment to ensure that the calculation is done in relation to the whole of the food item, rather than per 100g.

- (2) The number of kilojoules worked out may be rounded to the nearest 10kJ.

16 Prescribed places for display of nutritional information for standard food outlets other than supermarkets—Act, s 110 (3) (c) and s 111 (2) (b)

- (1) This section applies to a standard food outlet other than a supermarket.
- (2) The places where the nutritional information mentioned in section 14 (1) (a) and section 15 (1) must be displayed in relation to a standard food item are—
- (a) on each menu on which the name or price of the standard food item is displayed and on each price tag or label or identifying tag or label for the item; and
 - (b) if there are drive-through facilities—on the drive-through menu board that displays the name or price of the standard food item or on a separate adjacent board visible at or before the point of ordering; and
 - (c) adjacent to or in close proximity to the name or price of the standard food item so as to be clearly associated with the item.
- (3) The places mentioned in subsection (1) where nutritional information is displayed in relation to a standard food item are to be consistent with the places where that nutritional information is displayed for all of the other standard food items that are displayed with that standard food item.
- (4) The places where the statement mentioned in section 14 (1) (b) must be displayed are—
- (a) in 1 place on each menu on which the name or price of 1 or more standard food items is displayed and adjacent to or in

close proximity to the standard food item or items so as to be clearly associated with the item or items; and

- (b) if there are drive-through facilities—in 1 place on the drive-through menu board adjacent to or in close proximity to the standard food item or items so as to be clearly associated with the item or items; and
- (c) in each area or display cabinet, or on each stand, where standard food items with price tags or labels or identifying tags or labels are displayed and adjacent to or in close proximity to the item or items so as to be clearly associated with the item or items and conspicuous to a person looking at the item or items.

16A Prescribed places for display of nutritional information for standard food outlets that are supermarkets—Act, s 110 (3) (c) and s 111 (2) (b)

- (1) This section applies to a standard food outlet that is a supermarket.
- (2) The places where the nutritional information mentioned in section 14 (2) (a) and section 15 (1) must be displayed in relation to a standard food item are—
 - (a) a place mentioned in section 16 (2); or
 - (b) if the nutritional information is in a nutrition information panel—on the container or wrapping enclosing the standard food item so that the nutrition information panel is—
 - (i) conspicuous to a person looking at the item; and
 - (ii) able to be seen by the person before the point of purchase without assistance from a person working at the standard food outlet.
- (3) The places mentioned in subsection (2) (a) where nutritional information is displayed in relation to a standard food item are to be consistent with the places where that nutritional information is

displayed for all of the other standard food items that are displayed with that standard food item.

- (4) The statement mentioned in section 14 (2) (b) must be displayed at a place mentioned in section 16 (4).

17 Way of displaying nutritional information for standard food outlets other than supermarkets—Act, s 110 (3) (c) and s 111 (2) (b)

- (1) This section applies to a standard food outlet other than a supermarket.
- (2) The nutritional information mentioned in section 14 (1) (a) and section 15 (1) must—
- (a) be clearly legible; and
 - (b) display the number of kilojoules in numerals and use the abbreviation “kJ”; and
 - (c) be in the same font, and at least the same font size, as the price displayed for the standard food item concerned or, if no price is displayed, as the name displayed for the item.
- (3) The statement mentioned in section 14 (1) (b) must—
- (a) be clearly legible; and
 - (b) if only 1 standard food item is displayed on a menu—be in the same font, and at least the same font size, as the name of the item displayed or, if no name is displayed, as the price displayed for the item; and
 - (c) if 2 or more standard food items are listed or displayed on a menu—be in the same font, and at least the same font size, as the name of the standard food item with the largest font size listed or displayed or, if no names are listed or displayed, as the price of the standard food item with the largest font size listed or displayed; and

- (d) for a standard food item or items displayed with a price tag or label or identifying tag or label in any area, display cabinet or stand—in at least the same font size as the largest font size on the tags or labels for the standard food item or items in the area, display cabinet or stand.

18 Way of displaying nutritional information for standard food outlets that are supermarkets—Act, s 110 (3) (c) and s 111 (2) (b)

- (1) This section applies to a standard food outlet that is a supermarket.
- (2) The nutritional information mentioned in section 14 (2) (a) and section 15 (1) must—
 - (a) be clearly legible; and
 - (b) display the number of kilojoules in numerals and use the abbreviation ‘kJ’; and
 - (c) be in the same font, and at least the same font size, as the largest shelf ticket price for the standard food item.
- (3) The statement mentioned in section 14 (2) (b) must—
 - (a) be clearly legible; and
 - (b) be in the same font, and at least the same font size, as the largest shelf ticket price for the standard food item.

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
- menu
- ready-to-eat food
- registered
- standard food item (see s 108)
- standard food outlet (see s 109).

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

nutrition information panel, for part 4 (Display of nutritional information for food)—see section 13A.

supermarket, for part 4 (Display of nutritional information for food)—see section 13A.

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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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

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

Endnotes

3 Legislation history

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)

Food (Nutritional Information) Amendment Act 2011 A2011-32 pt 3

notified LR 5 September 2011

s 1, s 2 commenced 5 September 2011 (LA s 75 (1))

pt 3 commenced 1 January 2013 (s 2)

Food (Nutritional Information) Amendment Regulation 2012 (No 1) SL2012-36

notified LR 20 August 2012

s 1, s 2 commenced 20 August 2012 (LA s 75 (1))

remainder commenced 1 January 2013 (s 2 and see [A2011-32](#) s 2)

Food Amendment Regulation 2013 (No 1) SL2013-8

notified LR 4 April 2013

s 1, s 2 commenced 4 April 2013 (LA s 75 (1))

s 3 commenced 5 April 2013 (LA s 75AA)

s 4 commenced 5 April 2013 (s 2 (1))

remainder commences on commencement of the [Food Amendment Act 2012](#) A2012-4, s 7 (s 2 (2))

Endnotes

4 Amendment history

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

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 [SL2007-14](#) 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
am [SL2013-8](#) s 4

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

Display of nutritional information for food

pt 4 hdg ins [SL2002-14](#) s 4
exp 10 March 2003 (s 17)
ins [A2012-32](#) s 7

Definitions—pt 4

s 13A ins [SL2012-36](#) s 4
def **nutrition information panel** ins [SL2012-36](#) s 4
def **supermarket** ins [SL2012-36](#) s 4

Prescribed nutritional information for standard food outlets—Act, s 110 (3) (a)

s 14 om [A2005-20](#) amdt 3.160
ins [A2012-32](#) s 7
sub [SL2012-36](#) s 5

Prescribed nutritional information for other standard food outlets—Act, s 111 (2)

s 15 om [A2005-20](#) amdt 3.160
ins [A2012-32](#) s 7
am [SL2012-36](#) s 6

Prescribed requirements for working out nutritional information—Act, s 110 (3) (b) and s 111 (2) (a)

s 15A ins [SL2012-36](#) s 7

Prescribed places for display of nutritional information for standard food outlets other than supermarkets—Act, s 110 (3) (c) and s 111 (2) (b)

s 16 hdg sub [SL2012-36](#) s 8
s 16 ins [SL2002-14](#) s 4
exp 10 March 2003 (s 17)
ins [A2012-32](#) s 7
am [SL2012-36](#) ss 9-11; ss renum R8 LA

Prescribed places for display of nutritional information for standard food outlets that are supermarkets—Act, s 110 (3) (c) and s 111 (2) (b)

s 16A ins [SL2012-36](#) s 12

Endnotes

4 Amendment history

Way of displaying nutritional information for standard food outlets other than supermarkets—Act, s 110 (3) (c) and s 111 (2) (b)

s 17 hdg sub [SL2012-36](#) s 13
s 17 ins [SL2002-14](#) s 4
exp 10 March 2003 (s 17)
ins [A2012-32](#) s 7
am [SL2012-36](#) s 14, s 15; ss renum R8 LA

Way of displaying nutritional information for standard food outlets that are supermarkets—Act, s 110 (3) (c) and s 111 (2) (b)

s 18 ins [SL2012-36](#) s 16

Infringement notice offences and penalties

sch 1 om [A2005-20](#) amdt 3.161

Modification of Act, part 12

sch 2 ins [SL2002-14](#) s 5
exp 10 March 2003 (s 17)

Dictionary

dict ins [SL2007-14](#) s 7
am [A2011-32](#) s 8
def **food safety auditor** ins [SL2007-14](#) s 7
def **nutrition information panel** ins [SL2012-36](#) s 17
def **supermarket** ins [SL2012-36](#) s 17

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	SL2002-14	12 June 2002
3	SL2002-14	11 March 2003
4	SL2003-19	2 July 2003
5	SL2003-19	3 November 2004
6	A2005-20	12 November 2005
7	SL2007-14	1 June 2007
8	SL2012-36	1 January 2013

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