

Queensland



Food Act 1981

FOOD STANDARDS REGULATION 1994

**Reprinted as in force on 11 January 1999
(includes amendments up to SL No. 343 of 1998)**

Reprint No. 2A

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Information about this reprint

This regulation is reprinted as at 11 January 1999. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



FOOD STANDARDS REGULATION 1994

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	3
2	Commencement	3
3	Definitions	3
4	Forms	3
PART 2—ADOPTION OF THE CODE		
5	Food standards	4
6	Food names	4
7	Packing and labelling	4
8	Advertising	4
9	Obtaining and dealing with food samples	4
10	Method of analysis	4
PART 3—MISCELLANEOUS		
11	Fee payable for analysis	5
12	Appeal to a Magistrates Court	5
13	Recall and disposal of dangerous food	6
14	Certain articles not to come into contact with food	6
PART 4—PRESCRIBED PATHOGENS ISOLATED IN FOOD		
15	Notice of isolation of prescribed pathogen	7
16	Chief executive may give directions	8
SCHEDULE 1		10
PROHIBITED MATERIALS		
SCHEDULE 2		11
PRESCRIBED PATHOGENS		

ENDNOTES

1	Index to endnotes	12
2	Date to which amendments incorporated	12
3	Key	12
4	Table of earlier reprints	13
5	List of legislation	13
6	List of annotations	13

FOOD STANDARDS REGULATION 1994

[as amended by all amendments that commenced on or before 11 January 1999]

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Food Standards Regulation 1994*.

Commencement

2. This regulation commences on 1 July 1994.

Definitions

3. In this regulation—

“**Australian Standard**” means a standard made by the Standards Association of Australia.

“**British Standard**” means a standard made by the British Standards Institution.

“**code**” means the Food Standards Code within the meaning given by the *National Food Authority Act 1991* (Cwlth).

“**prescribed pathogen**” means a pathogen specified in schedule 2.

“**prohibited material**” means a material specified in schedule 1.

Forms

4. The chief executive may approve forms for use under the Act.

PART 2—ADOPTION OF THE CODE

Food standards

5. The prescribed standard for a food is the standard for the food that complies with the code.

Food names

6. The prescribed name for a food is the name for the food that complies with the code.

Packing and labelling

7. The way in which a person must pack food for sale or label food for sale is in accordance with the relevant standards in the code.

Advertising

8. A person must not advertise food for sale other than in compliance with the code.

Maximum penalty—50 penalty units.

Obtaining and dealing with food samples

9. For the purposes of section 29(2) of the Act, an authorised officer must comply with the code in relation to—

- (a) the number of samples of food to be taken for analysis; and
- (b) the method of obtaining or dealing with the samples.

Method of analysis

10. For the purposes of section 36(7) of the Act, the prescribed method of analysis of an article is the method specified in the code.

PART 3—MISCELLANEOUS

Fee payable for analysis

11. If a person is liable for the cost of analysis of an article under the Act, the fee payable is \$183.

Appeal to a Magistrates Court

12.(1) This section sets out the requirements for an appeal by a proprietor to a Magistrates Court, under section 21(5) of the Act, against the refusal of an authorised officer to give to the proprietor a certificate under section 21(2) of the Act.

(2) The appeal may only be started by filing a notice of appeal, in the approved form, in a Magistrates Court in the district in which the relevant inspection was performed.

(3) Immediately after filing the notice, the appellant must serve a copy of the notice—

- (a) if the authorised officer is an officer of a local government—on the chief executive officer of the local government; or
- (c) if the authorised officer is an officer of the department—on the chief executive.

(4) The Magistrates Court must then—

- (a) appoint a place, day and time for hearing the appeal; and
- (b) give written notice of the appointed place, day and time to the appellant and the person served under subsection (3).

(5) In this section—

“district” means a district appointed for a Magistrates Court under the *Justices Act 1886*.

“relevant inspection”, for an appeal, means the inspection by an authorised officer to which the appeal relates.

Recall and disposal of dangerous food

13.(1) The chief executive may give a written direction about a specified food, or food of a specified class or description, if the chief executive is satisfied on reasonable grounds that the food is—

- (a) unfit for human consumption; or
- (b) injurious to health, dangerous or offensive.

(2) The direction may—

- (a) be given to the food's owner or any other person who has control or possession of the food; and
- (b) direct that the food be recalled, destroyed or otherwise disposed of under the direction.

(3) A person who is given a direction must comply with the direction unless the person has a reasonable excuse for not complying with the direction.

Maximum penalty—50 penalty units.

Certain articles not to come into contact with food

14.(1) A person must not allow a thing to come into contact with food for sale, or supply a thing with food for sale that is intended to come into contact with the food, if the thing is made from—

- (a) a prohibited material; or
- (b) tin plate that is lead soldered, unless the part that is lead soldered is completely covered with a lacquer that will remain intact for the durable life of the food.

(2) For example, subsection (1) applies to a person who—

- (a) uses an appliance to prepare or handle food for sale; or
- (b) serves or supplies food for sale in or on a plate, tray or other thing; or
- (c) packs food for sale in a package; or
- (d) stores or transports food for sale in or on a thing; or
- (e) supplies eating utensils with food for sale.

(3) A person must ensure the person's employees do not contravene subsection (1).

Maximum penalty—50 penalty units.

PART 4—PRESCRIBED PATHOGENS ISOLATED IN FOOD

Notice of isolation of prescribed pathogen

15.(1) In this section—

“food dealer” means a person who prepares, sells, packs or imports food for sale.

(2) This section applies to—

(a) a food dealer who—

(i) tests food and isolates a prescribed pathogen in the food; or

(ii) sends food to a place outside the State for testing and is notified that a prescribed pathogen has been isolated in the food; or

(b) a person who tests food for a food dealer and isolates a prescribed pathogen in the food.

(3) The food dealer or other person must, after isolating the pathogen or being notified that the pathogen has been isolated—

(a) orally notify the chief executive immediately; and

(b) give a written notice in the approved form to the chief executive

within 24 hours after isolating the pathogen or being notified that the pathogen has been isolated.¹

Maximum penalty for subsection(3)—50 penalty units.

Chief executive may give directions

16.(1) After being notified that a prescribed pathogen has been isolated in food (the “**infected food**”), the chief executive may give directions to a person for the purpose of identifying the source of, and controlling the danger caused by, the pathogen.

(2) The directions may be given orally or by written notice.

(3) However, if the directions are given orally, the chief executive must, as soon as practicable, confirm the directions by written notice.

(4) Without limiting subsection (1), a direction may be given about—

- (a) the preparation, handling, service, supply, packing, transportation or storage of—
 - (i) the infected food; or
 - (ii) food that may have been prepared, handled, served, supplied, packed, transported or stored with or near the infected food, or at a place or using an appliance that may have come into contact with the infected food; or
- (b) the isolation or disposal of food mentioned in paragraph (a); or
- (c) procedures to be performed to complete identification of the pathogen.

(5) A person who is given a direction must comply with the direction unless the person has a reasonable excuse for not complying with the direction.

Maximum penalty—50 penalty units.

¹ The chief executive may be contacted as follows—
Telephone—(07) 3234 0938 and Facsimile—(07) 3234 1480
Address—The Chief Executive
Level 10, 147–163 Charlotte Street, Brisbane QLD 4000
or GPO Box 48, Brisbane QLD 4001.

(6) This section does not apply to raw meat other than uncooked fermented manufactured meat.

SCHEDULE 1**PROHIBITED MATERIALS**section 3, definition “**prohibited material**”

1. Plastic of a type described in Australian Standard 2070–1992 that does not comply with the standard.

2. Metal foil made of—

- (a) a metal other than aluminium or tin; or
- (b) aluminium or tin that contains lead in a proportion of more than 10 mg/kg.

3. A substance that, when tested by the method specified in British Standard 6748, reacts to cause the test solution to contain concentrations exceeding the following—

metal	concentration
antimony	0.15 mg/L
cadmium	0.05 mg/L
copper	5.0 mg/L
lead	0.2 mg/L
zinc	5.0 mg/L.

SCHEDULE 2

PRESCRIBED PATHOGENS

section 3, definition “**prescribed pathogen**”

Campylobacter jejuni

Clostridium botulinum

Listeria monocytogenes

Yersinia enterocolitica

Salmonella (any species)

Shigella (any species)

ENDNOTES

1 Index to endnotes

		Page
2	Date to which amendments incorporated	12
3	Key	12
4	Table of earlier reprints	13
5	List of legislation	13
6	List of annotations	13

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 11 January 1999. Future amendments of the Food Standards Regulation 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954		prev	=	previous
amd	=	amended		(prev)	=	previously
amdt	=	amendment		proc	=	proclamation
ch	=	chapter		prov	=	provision
def	=	definition		pt	=	part
div	=	division		pubd	=	published
exp	=	expires/expired		R[X]	=	Reprint No.[X]
gaz	=	gazette		RA	=	Reprints Act 1992
hdg	=	heading		reloc	=	relocated
ins	=	inserted		renum	=	renumbered
lap	=	lapsed		rep	=	repealed
notfd	=	notified		s	=	section
o in c	=	order in council		sch	=	schedule
om	=	omitted		sdiv	=	subdivision
p	=	page		SIA	=	Statutory Instruments Act 1992
para	=	paragraph		SL	=	subordinate legislation
prec	=	preceding		sub	=	substituted
pres	=	present		unnum	=	unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	14 November 1994
1A	to SL No. 413 of 1996	30 April 1997
2	to SL No. 413 of 1996	7 November 1997

5 List of legislation

Food Standards Regulation 1994 SL No. 212

made by the Governor in Council on 23 June 1994
notfd gaz 24 June 1994 pp 1058–61
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 1994 (see s 2)
exp 23 June 2004 (see SIA s 54)

as amended by—

Regional Health Authorities (Consequential Amendments) Regulation 1996 SL No. 413 pt 1, 4

notfd gaz 20 December 1996 pp 1588–98
commenced on date of notification

Health Legislation Amendment Regulation (No. 1) 1998 SL No. 343 pts 1, 4

notfd gaz 18 December 1998 pp 1551–7
ss 1–2 commenced on date of notification
remaining provisions commenced 21 December 1998 (see s 2)

6 List of annotations

Forms

s 4 amd 1998 SL No. 343 s 8

Appeal to a Magistrates Court

s 12 amd 1996 SL No. 413 s 8; 1998 SL No. 343 s 8

Recall and disposal of dangerous food

s 13 amd 1998 SL No. 343 s 8

Notice of isolation of prescribed pathogen

s 15 amd 1998 SL No. 343 s 9

Chief executive may give directions

prov hdg sub 1998 SL No. 343 s 10
s 16 amd 1998 SL No. 343 s 8

PART 5—REPEALS

pt 5 (s 17) om R1 (see RA s 40)