

Queensland



Food Act 1981

FOOD STANDARDS REGULATION 1994

**Reprinted as in force on 5 April 2002
(includes amendments up to SL No. 20 of 2002)**

Reprint No. 3

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This regulation is reprinted as at 5 April 2002. 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.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have been made to use aspects of format and printing style consistent with current drafting practice (s 35).

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—SAMPLING AND ANALYSIS REQUIREMENTS		
9	Obtaining and dealing with food samples	4
10	Method of analysis	4
PART 3—MISCELLANEOUS		
11	Fee payable for analysis	4
12	Appeal to a Magistrates Court	4
14	Certain articles not to come into contact with food	5
PART 4—PRESCRIBED PATHOGENS ISOLATED IN FOOD		
15	Notice of isolation of prescribed pathogen	6
16	Chief executive may give directions	6
SCHEDULE 1		
PROHIBITED MATERIALS		
SCHEDULE 2		
PRESCRIBED PATHOGENS		
ENDNOTES		
1	Index to endnotes	10
2	Date to which amendments incorporated	10
3	Key	10

4	Table of earlier reprints	11
5	List of legislation	11
6	List of annotations	12

FOOD STANDARDS REGULATION 1994

[as amended by all amendments that commenced on or before 5 April 2002]

PART 1—PRELIMINARY

1 Short title

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

2 Commencement

This regulation commences on 1 July 1994.

3 Definitions

In this regulation—

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

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

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

4 Forms

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

PART 2—SAMPLING AND ANALYSIS REQUIREMENTS

9 Obtaining and dealing with food samples

For the purposes of section 29(2)¹ of the Act, an authorised officer must comply with the food standards 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.

10 Method of analysis

For section 36(8)² of the Act, the prescribed method of analysis of an article is the method stated in the food standards code.

PART 3—MISCELLANEOUS

11 Fee payable for analysis

If a person is liable for the cost of analysis of an article under the Act, the fee payable is \$233.42.

12 Appeal to a Magistrates Court

(1) This section sets out the requirements for an appeal by a proprietor to a Magistrates Court, under section 21(6)³ 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.

1 Section 29 (Procedure on taking samples) of the Act

2 Section 36 (Authorisation and duties of analysts) of the Act

3 Section 21 (Powers with respect to unclean food store, food vehicle or equipment) of the Act

(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.

14 Certain articles not to come into contact with food

(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 equipment to handle food for sale; or
- (b) packs food for sale in a package; or
- (c) 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

15 Notice of isolation of prescribed pathogen

(1) In this section—

“**food dealer**” means a person who handles, imports or sells 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.⁴

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

16 Chief executive may give directions

(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.

4 The chief executive may be contacted as follows—

Telephone—(07) 3234 0938 and Facsimile—(07) 3234 1480

Address—The Chief Executive

c/- Level 10, 147–163 Charlotte Street, Brisbane QLD 4000
or GPO Box 48, Brisbane QLD 4001.

Food Standards Regulation 1994

(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 handling of—

(i) the infected food; or

(ii) food that may have been handled with or near the infected food, or at a place or using equipment 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.

(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	10
3 Key	10
4 Table of earlier reprints	11
5 List of legislation	11
6 List of annotations	12

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 5 April 2002. 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**

Key	Explanation	Key	Explanation
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
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 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
2A	to SL No. 343 of 1998	11 January 1999
2B	to SL No. 174 of 1999	4 August 1999
2C	to SL No. 148 of 2000	24 July 2000
2D	to SL No. 245 of 2001	2 January 2002
2E	to SL No. 20 of 2002	22 February 2002

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 1 September 2004 (see SIA s 54)

amending legislation—

Regional Health Authorities (Consequential Amendments) Regulation 1996 SL No. 413 pts 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)

Health Legislation Amendment Regulation (No. 1) 1999 SL No. 174 pts 1–2

notfd gaz 30 July 1999 pp 1905–6
commenced on date of notification

Health Legislation Amendment Regulation (No. 1) 2000 SL No. 148 pts 1–2

notfd gaz 30 June 2000 pp 736–48
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2000 (see s 2)

Health Legislation Amendment Regulation (No. 1) 2001 SL No. 245 pts 1, 3

notfd gaz 7 December 2001 pp 1270–1
ss 1–2 commenced on date of notification
remaining provisions commenced 1 January 2002 (see s 2)

Health Legislation Amendment Regulation (No. 1) 2002 SL No. 20 pts 1–2

notfd gaz 15 February 2002 pp 618–19

commenced on date of notification

6 List of annotations**Definitions**

- s 3** def “**Australian Standard**” om 2001 SL No. 245 s 10
 def “**code**” amd 1999 SL No. 174 s 3
 om 2001 SL No. 245 s 10

Forms

- s 4** amd 1998 SL No. 343 s 8

PART 2—SAMPLING AND ANALYSIS REQUIREMENTS

- pt hdg** sub 2001 SL No. 245 s 11

Food standards

- s 5** om 2001 SL No. 245 s 12

Food names

- s 6** om 2001 SL No. 245 s 12

Packing and labelling

- s 7** om 2001 SL No. 245 s 12

Advertising

- s 8** om 2001 SL No. 245 s 12

Obtaining and dealing with food samples

- s 9** amd 2001 SL No. 245 s 13

Method of analysis

- s 10** sub 2001 SL No. 245 s 14

Fee payable for analysis

- s 11** amd 2000 SL No. 148 s 4; 2002 SL No. 20 s 3

Appeal to a Magistrates Court

- s 12** amd 1996 SL No. 413 s 8; 1998 SL No. 343 s 8; 2001 SL No. 245 s 15

Recall and disposal of dangerous food

- s 13** amd 1998 SL No. 343 s 8
 om 2001 SL No. 245 s 16

Certain articles not to come into contact with food

- s 14** amd 2001 SL No. 245 s 17

Notice of isolation of prescribed pathogen

- s 15** amd 1998 SL No. 343 s 9; 2001 SL No. 245 s 18

Chief executive may give directions

- prov hdg** sub 1998 SL No. 343 s 10
s 16 amd 1998 SL No. 343 s 8; 2001 SL No. 245 s 19

PART 5—REPEALS

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