

Queensland



Subordinate Legislation 1994 No. 212

Food Act 1981

FOOD STANDARDS REGULATION 1994

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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 Health Officer 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
- (b) if the authorised officer is an officer of a Regional Health Authority—on the regional director of the authority; or
- (c) if the authorised officer is an officer of the department—on the Chief Health Officer.

(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 Health Officer may give a written direction about a specified food, or food of a specified class or description, if the Chief Health Officer 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 Health Officer immediately; and

(b) give a written notice in the approved form to the Chief Health Officer within 24 hours.¹

Maximum penalty—50 penalty units.

Chief Health Officer may give directions

16.(1) After being notified that a prescribed pathogen has been isolated in food (the **“infected food”**), the Chief Health Officer may give directions to

¹ The Chief Health Officer may be contacted as follows—

Telephone . . . (07) 2340952.

Address The Chief Health Officer
level 15
147–163 Charlotte St
Brisbane.

Facsimile (07) 2341480.

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 Health Officer 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.

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

PART 5—REPEAL

Repeal

17. The *Food Standards Regulation 1987* is repealed.

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. Made by the Governor in Council on 23 June 1994.
2. Notified in the Gazette on 24 June 1994.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Health.