



*Food Act 2006*

# Food Regulation 2016

Current as at 1 October 2017





Queensland

# Food Regulation 2016

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# Food Regulation 2016

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Food Regulation 2016*.

### 2 Definition

In this regulation—

*supermarket* means premises in which more than 1,000m<sup>2</sup> of floor area is used for the retail sale of grocery items including at least all of the following items—

- (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.

## Part 2 Licensable food businesses

### 3 Sale of prescribed food—Act, s 48

- (1) For section 48(2)(k) of the Act—

[s 4]

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- (a) food mentioned in schedule 1, part 1 is prescribed; and
- (b) meals sold by a non-profit organisation are prescribed if—
  - (i) the organisation is a surf lifesaving club; and
  - (ii) a member of the club is involved in the preparation of the meal; and
  - (iii) the meal is sold to a member of the club for a nominal amount.
- (2) However, food mentioned in schedule 1, part 1 is not included for subsection (1)(a) if the food is in a form that makes it potentially hazardous food.

*Examples—*

couscous in a salad, pasta that is cooked

- (3) For section 48(3) of the Act, definition *snack food*, paragraph (d), the food mentioned in schedule 1, part 2 is prescribed.

#### **4 Display of licence details by mobile premises—Act, s 69**

For section 69(1)(c)(ii) of the Act, the details of the licence to be displayed on mobile premises are the following—

- (a) the name and telephone number of the local government that issued the licence;
- (b) the number of the licence as issued by the local government;
- (c) the expiry date of the licence;
- (d) the licensee's full name;
- (e) if the mobile premises are a vehicle, under the *Transport Operations (Road Use Management) Act 1995*, that is required to be registered under that Act—the registration number of the vehicle;

*Note—*

See the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, section 11 (Vehicles used on roads must be registered).

- (f) if the premises are a food vending machine—
  - (i) the serial number for the food vending machine; or
  - (ii) another unique identifying number or mark for the food vending machine.

## Part 3 Accredited food safety program

### 5 Prescribed food business—Act, s 99

- (1) For section 99(1)(e) of the Act, the following types of food businesses are prescribed—

- (a) a relevant facility that processes potentially hazardous food for at least 6 persons in the facility's care at a time;

*Example—*

a residential aged-care facility or childcare centre that prepares meals for persons in its care

- (b) a relevant facility that serves potentially hazardous food to at least 6 persons in the facility's care at a time;

*Example—*

a residential aged-care facility that serves meals, prepared by an off-site supplier, to persons in its care

- (c) a ready-for-consumption food business processing ready-for-consumption food that—

- (i) includes potentially hazardous food; and
- (ii) is for service to at least 6 persons at a time;

*Example—*

a cook-chill facility that processes food for service to patients in a private hospital

- (d) a food business whose principal activity is processing ready-for-consumption food for delivery by a delivered meals organisation if the food—

- (i) includes potentially hazardous food; and
- (ii) is for delivery to at least 6 persons at a time.

*Example—*

a Meals on Wheels branch that cooks meals for delivery to frail or aged persons

(2) In this section—

***aged-care facility*** means—

- (a) a facility in which residential care, or flexible care in a residential setting, is provided by an approved provider, other than the State, under the *Aged Care Act 1997* (Cwlth); or
- (b) a day facility that provides respite care, or rehabilitative or therapeutic treatment, to aged persons.

***delivered meals organisation*** means a community organisation delivering meals to the homes of frail or aged persons, or persons with a disability.

***preparatory year*** means the year of schooling immediately before year 1.

***private hospital*** see the *Private Health Facilities Act 1999*, section 9.

***process*** means undertaking an activity to prepare food for sale, including chopping, cooking, drying, fermenting, heating, pasteurising, thawing and washing.

***public sector hospital*** means a hospital operated by the State.

***ready-for-consumption food*** means food that is ready for consumption, including food that may be reheated, portioned or garnished, or food that undergoes similar finishing prior to service.

***ready-for-consumption food business*** means a food business whose principal activity is processing ready-for-consumption food for service in another facility that is—

- (a) a relevant facility; or
- (b) a private hospital; or
- (c) a public sector hospital.

***relevant facility*** means any of the following—



- (a) an aged-care facility;
- (b) a facility that provides care, including palliative care, to persons with a terminal illness;
- (c) a day hospital licensed under the *Private Health Facilities Act 1999*, part 6, that provides haemodialysis or cytotoxic infusion health services;
- (d) a QEC approved service under the *Education and Care Services Act 2013*, other than a school age care service under that Act;
- (e) an approved education and care service under the Education and Care Services National Law (Queensland), other than—
  - (i) a family day care service under that Law; or
  - (ii) an education and care service under that Law providing education and care primarily to children who attend school in the preparatory year or a higher year.

*respite care* means care provided to a person to give the person or their carer a short-term break from their usual care arrangement.

## **6 Exemption from requirement for accredited food safety program—Act, s 99**

For section 99(2) of the Act, a licensee is exempt if on-site catering is provided—

- (a) on not more than 11 occasions in any 12-month period; and
- (b) for not more than 199 persons on each occasion.

## Part 4 Nutritional information for food

### 7 **Prepackaged food—Act, s 164C**

For section 164C(5) of the Act, an item of ready-to-eat food is prepackaged if the food—

- (a) arrives at the premises where it is sold in a container or wrapper in or by which the food is wholly enclosed, whether or not the food is also in an outer container or wrapper that contains multiple units of the food; and
- (b) is not removed from its container or wrapper, other than any outer container or wrapper, before its sale at the premises; and
- (c) has a nutrition information panel within the meaning of the food standards code that is easily visible to the person purchasing the food before it is purchased.

### 8 **Prescribed way of working out nutritional information—Act, ss 164E and 164F**

- (1) For sections 164E(2)(b) and 164F(2)(a) of the Act, the average energy content of a standard food item must be worked out—
  - (a) in the same way as the average energy content under the food standards code is calculated; and
  - (b) if, under section 9, the average energy content is to be displayed for the whole of the item—by making necessary changes to ensure the working out is for the whole of the item instead of for 100g.
- (2) The number of kilojoules worked out may be rounded to the nearest 10kJ.

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**9 Prescribed way of displaying nutritional information—Act, ss 164E and 164F**

- (1) For sections 164E(2)(c) and 164F(2)(b) of the Act, the average energy content of a standard food item must—
- (a) for a standard food outlet that is a supermarket—
    - (i) be displayed either for the whole of the item or 100g of the item; and
    - (ii) be in the same font and colour, and at least the same font size, as the price or unit price displayed for the item; and
  - (b) for a standard food outlet that is not a supermarket—
    - (i) be displayed for the whole of the item; and
    - (ii) be in the same font, font size and colour as the price displayed for the item or, if no price is displayed, as the name displayed for the item; and
  - (c) be clearly legible; and
  - (d) display the number of kilojoules in numerals and use the abbreviation ‘kJ’; and
  - (e) be displayed at the same time and for the same period as—
    - (i) if only the name or price of the item is displayed—the name or price is displayed for the item; or
    - (ii) if both the name and price of the item are displayed—the name and price are displayed for the item.
- (2) For sections 164E(2)(c) and 164F(2)(b) of the Act, an average energy intake statement must—
- (a) be clearly legible; and
  - (b) for a menu with only 1 standard food item displayed—be in the same font, font size and colour as—

[s 9]

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- (i) if the name of the item is displayed—the name of the item; or
    - (ii) if no name is displayed—the price displayed for the item; and
  - (c) for a menu with 2 or more standard food items listed or displayed—be in the same font, font size and colour as—
    - (i) if the name of a standard food item is listed or displayed—the name of the standard food item with the largest font size listed or displayed; or
    - (ii) if no names are listed or displayed—the price of the standard food item with the largest font size listed or displayed; and
  - (d) for standard food items displayed with a price tag or label or identifying tag or label in any area, display cabinet or stand—be in the same font, font size and colour as the largest font size on the tags or labels for the standard food items in the area, display cabinet or stand; and
  - (e) be displayed at the same time and for the same period as—
    - (i) if only the name or price of a standard food item is displayed—the name or price is displayed for the item; or
    - (ii) if both the name and price of a standard food item are displayed—the name and price are displayed for the item.
- (3) In this section—

***unit price***, for a standard food item, means the price for a unit of measurement of the item.

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**10 Prescribed places for displaying nutritional information—Act, ss 164E and 164F**

- (1) For sections 164E(2)(c) and 164F(2)(b) of the Act, the prescribed places for displaying the average energy content of a standard food item are—
  - (a) on each menu on which the name or price of the item is displayed and on each price tag or label or identifying tag or label for the item; and
  - (b) if a standard food outlet has drive-through facilities—on the drive-through menu board that displays the name or price of the item or on a separate adjacent board visible at or before the point of ordering the item; and
  - (c) adjacent to or in close proximity to the name or price of the item so as to be clearly associated with the item.
- (2) The places where the average energy content of a standard food item is displayed are to be consistent with the places where nutritional information is displayed for all other standard food items displayed with that standard food item.
- (3) For sections 164E(2)(c) and 164F(2)(b) of the Act, the prescribed places for displaying an average energy intake statement for a standard food item are—
  - (a) in at least 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 items so as to be clearly associated with the items; and
  - (b) if a standard food outlet has drive-through facilities—in 1 place on the drive-through menu board adjacent to or in close proximity to the item so as to be clearly associated with the item; 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 items so as to be clearly associated with the items and conspicuous to a person looking at the items.

**11 Average energy intake statement—Act, s 164E**

For section 164E(6) of the Act, definition *average energy intake statement*, the following statement is prescribed—

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

**12 Prescribed licensable food business—Act, s 164E**

(1) For section 164E(6) of the Act, definition *prescribed licensable food business*, the following licensable food businesses are prescribed—

- (a) a licensable food business that sells standard food items at 20 or more places in Queensland or at 50 or more places in Australia;
- (b) a licensable food business that operates in a chain of food businesses that sell standard food items if together the businesses sell standard food items at 20 or more places in Queensland or at 50 or more places in Australia.

(2) However, a prescribed licensable food business does not include the following—

- (a) a cinema or convenience store;
- (b) a service station selling petrol or other fuel for motor vehicles;
- (c) a licensable food business that primarily involves off-site catering or on-site catering;
- (d) a licensable food business that is carried on from mobile premises that are a vehicle;
- (e) a licensable food business that is carried on by a non-profit organisation;

*Examples—*

- the preparation of meals by Meals on Wheels
- a food business operated by a school, sporting club or work social club to raise revenue for the school or club

- 
- (f) a licensable food business that primarily provides food services to patients of a health service facility;
  - (g) a licensable food business that only sells food that is intended to be consumed on the premises at which it is sold.
- (3) Also, a licensable food business is not a prescribed licensable food business in relation to a standard food item for a period of not more than 60 consecutive days during which the item is sold by the food business on a trial basis if—
- (a) not more than 5 standard food outlets (*trial outlets*) of the licensable food business in Queensland sell the item during all or part of the period; and
  - (b) the item has not been sold at any time before the period by the food business in any of the trial outlets.
- (4) In this section—
- convenience store* does not include a supermarket.
- health service facility* means—
- (a) a private health facility under the *Private Health Facilities Act 1999*, section 8; or
  - (b) a public sector health service facility under the *Hospital and Health Boards Act 2011*, schedule 2.

## Part 5 Miscellaneous

### 13 Prescribed contaminants—Act, s 269

For section 269 of the Act, definition *prescribed contaminant*, the contaminants mentioned in schedule 2 are prescribed.

### 14 Prescribed food—Act, s 270

- (1) For section 270(6) of the Act, definition *prescribed food*, food, other than raw meat, is prescribed.
- (2) In this section—

*raw meat* does not include—

- (a) cured, dried or smoked meat; or
- (b) uncooked fermented meat.

## **15 Fees**

The fees payable under the Act are stated in schedule 3.

## **Part 6 Repeal**

### **16 Repeal**

The Food Regulation 2006, SL No. 147 is repealed.



## **Schedule 1      Prescribed food**

### section 3

## **Part 1              Food other than snack food**

cereals

cocoa

coconut

couscous

crushed, puffed or toasted nuts, grains and seeds

edible oil

*Examples—*

macadamia oil, olive oil, vegetable oil

flour

legumes

lentils

noodles

oats

pasta

preparations for spreading on bread

*Examples—*

hazelnut spread, honey, jam, marmalade, peanut butter, vegemite

quinoa

sugar

syrops

*Examples—*

coconut syrup, glucose syrup, golden syrup, malt syrup, maple syrup, rice syrup

## **Part 2**                      **Snack food**

carob  
chocolate bars  
chocolates  
churros  
crackers  
croissants  
doughnuts  
dried vegetable chips  
friands  
meat jerky  
muesli bars  
muffins  
popcorn  
pretzels  
puffed rice  
soy chips  
toasted corn

## Schedule 2 Prescribed contaminants

### section 13

*Campylobacter jejuni*

*Clostridium botulinum*

*Listeria monocytogenes*

*Salmonella* (any species)

Shiga toxin-producing *Escherichia coli* (STEC)

*Shigella* (any species)

*Yersinia enterocolitica* (pathogenic strains only)

## **Schedule 3      Fees**

section 15

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1    Approval as an auditor (Act, s 151(2)(c))—the total of the following—	
(a)    the application fee	122.50
(b)    the approval fee, for each year of the approval	264.50
2    Renewal of an approval as an auditor (Act, s 151(2)(c)), for each year of the approval	264.50
3    Amendment of the conditions of an approval as an auditor (Act, s 151(2)(c))	27.50
4    Replacement of a damaged, destroyed, lost or stolen auditor’s approval (Act, s 154(2)(c))	27.50

## 1 Index to endnotes

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## 2 Key

### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
<b>AIA</b>	= <b>Acts Interpretation Act 1954</b>	<b>(prev)</b>	= <b>previously</b>
<b>amd</b>	= <b>amended</b>	<b>proc</b>	= <b>proclamation</b>
<b>amd</b>	= <b>amendment</b>	<b>prov</b>	= <b>provision</b>
<b>t</b>			
<b>ch</b>	= <b>chapter</b>	<b>pt</b>	= <b>part</b>
<b>def</b>	= <b>definition</b>	<b>pubd</b>	= <b>published</b>
<b>div</b>	= <b>division</b>	<b>R[X]</b>	= <b>Reprint No. [X]</b>
<b>exp</b>	= <b>expires/expired</b>	<b>RA</b>	= <b>Reprints Act 1992</b>
<b>gaz</b>	= <b>gazette</b>	<b>reloc</b>	= <b>relocated</b>
<b>hdg</b>	= <b>heading</b>	<b>renu</b>	= <b>renumbered</b>
		<b>m</b>	
<b>ins</b>	= <b>inserted</b>	<b>rep</b>	= <b>repealed</b>
<b>lap</b>	= <b>lapsed</b>	<b>(retro</b>	= <b>retrospectively</b>
		<b>)</b>	
<b>notf</b>	= <b>notified</b>	<b>rv</b>	= <b>revised version</b>
<b>d</b>			
<b>num</b>	= <b>numbered</b>	<b>s</b>	= <b>section</b>

<b>Key</b>	<b>Explanation</b>	<b>Key</b>	<b>Explanation</b>
<b>o in c</b>	= <b>order in council</b>	<b>sch</b>	= <b>schedule</b>
<b>om</b>	= <b>omitted</b>	<b>sdiv</b>	= <b>subdivision</b>
<b>orig</b>	= <b>original</b>	<b>SIA</b>	= <b>Statutory Instruments Act 1992</b>
<b>p</b>	= <b>page</b>	<b>SIR</b>	= <b>Statutory Instruments Regulation 2012</b>
<b>para</b>	= <b>paragraph</b>	<b>SL</b>	= <b>subordinate legislation</b>
<b>prec</b>	= <b>preceding</b>	<b>sub</b>	= <b>substituted</b>
<b>pres</b>	= <b>present</b>	<b>unnum</b>	= <b>unnumbered</b>
		<b>m</b>	
<b>prev</b>	= <b>previous</b>		

### 3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

<b>Current as at</b>	<b>Amendments included</b>	<b>Notes</b>
29 July 2016	none	
1 October 2016	2016 SL No. 175	

Current as at	Amendments included	Notes
1 October 2017	2017 SL No. 81	RA s 35

## 4 List of legislation

### *Regulatory impact statements*

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

### *Explanatory notes*

All subordinate legislation made on or after 1 January 2011 has an explanatory note.

#### **Food Regulation 2016 SL No. 122**

made by the Governor in Council on 28 July 2016  
 notfd <www.legislation.qld.gov.au> 29 July 2016  
 commenced on date of notification  
 exp 1 September 2026 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.  
 amending legislation—

#### **Health Legislation (Fees) Amendment Regulation (No. 2) 2016 SL No. 175 pts 1–2**

notfd <www.legislation.qld.gov.au> 30 September 2016  
 ss 1–2 commenced on date of notification  
 pt 2 commenced 1 October 2016 (see s 2)

#### **Health Legislation (Fees) Amendment Regulation (No. 1) 2017 SL No. 81**

notfd <www.legislation.qld.gov.au> 9 June 2017  
 ss 1–2 commenced on date of notification  
 pt 3 commenced 1 October 2017 (see s 2(2))

## 5 List of annotations

### **SCHEDULE 3—FEES**

**sch 3** sub 2016 SL No. 175 s 4; 2017 SL No. 81 s 6