

Queensland



*Food Act 1981*

# **FOOD HYGIENE REGULATION 1989**

**Reprinted as in force on 26 August 1998  
(includes amendments up to SL No. 73 of 1998)**

**Reprint No. 2**

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# Information about this reprint

This regulation is reprinted as at 26 August 1998. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
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Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use different spelling consistent with current drafting practice (s 26(2))
- use aspects of format and printing style consistent with current drafting practice (s 35).

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 HYGIENE REGULATION 1989

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# FOOD HYGIENE REGULATION 1989

[as amended by all amendments that commenced on or before 26 August 1998]

## PART 1—PRELIMINARY

### Short title

1. This regulation may be cited as the *Food Hygiene Regulation 1989*.

### Interpretation

4.(1) In this regulation—

“**approved**” means approved in writing by the chief health officer or, as the case requires, local government.

“**AS**” means an Australian Standard published by the Standards Association of Australia, as amended.

“**bed and breakfast business**” see section 4AA.

“**certificate of registration**” means a certificate of registration or a certificate of renewal of registration issued under these regulations and in force at the material time.

“**current**” means in force at the material time.

“**depth**”, when used in relation to an appliance, means the horizontal distance from front to back thereof.

“**food store exemption**” see section 25A.

“**food store requirements**” means the requirements for food stores stated in sections 9, 10, 11, 13 and 14.

“**frozen food**” means food that has been prepared by freezing and is intended to be sold in the frozen state.

“**frozen food retail cabinet**” has the meaning assigned to it by clause 1.4.5 of AS 1731–1983, Frozen food retail cabinets.

**“have in possession”** includes having under control in any place, whether for the use or benefit of the person in relation to whom the term is used or not and whether in the person’s actual possession or custody or not.

**“host farm business”** see section 4AB.

**“licence”** means a licence or a renewal of a licence issued under section 56 and in force at the material time.

**“medical officer of health”** has the same meaning as under the *Health Act 1937*.

**“perishable food”** means food that, in the absence of specific conditions of storage, is likely to undergo within 24 hours chemically or microbiologically related changes such as to render it organoleptically unacceptable to the ordinary consumer.

**“potentially hazardous food”** means food that is capable of supporting rapid growth of infectious or toxigenic micro-organisms.

**“registration”** means a registration, including a renewal of a registration, granted under section 58 and in force at the material time.

**“sealed”**, when used in relation to a joint or connection, means fitted together in such manner as to render it proof against moisture and vermin.

**“single service appliance”** means an appliance that is intended by the manufacturer and generally recognised as being for 1 use only.

**“tableware”** means any vessel, utensil or other thing ordinarily used in or in connection with serving, supplying or consuming food.

**“vermin”** includes, rats, mice, other rodents, insects and spiders.

(2) Where in this regulation a reference is made to a unit of measurement by way of a symbol set out in any schedule to the regulations made under the *National Measurement Act 1960* (Cwlth), as amended, to which a meaning is assigned, that symbol shall for the purposes of this regulation have the meaning so assigned to it.

(3) In this regulation—

- (a) a reference to a food by a name prescribed for a food defined in the National Health and Medical Research Council Food

Standards Code, as amended, shall be taken to be a reference to a food as so defined;

- (b) a reference to ‘water’ shall be taken to be a reference to ‘potable water’ within the meaning of the National Health and Medical Research Council Food Standards Code, as amended.

(4) A reference in this regulation to a local government, in relation to a food store, food vehicle or activity relating to food, is a reference to the local government for the local government area in which the food store or food vehicle is situated, or in which the activity relating to food happens.

### **Meaning of “bed and breakfast business”**

**4AA.** A “bed and breakfast business” is a business—

- (a) carried out by a person on premises (other than a caravan, caretaker’s or manager’s residence, flat, home unit, hostel, hotel, lodging house, motel or relocatable home) at which the person lives; and
- (b) providing accommodation at the premises—
  - (i) for a maximum of 12 guests at the same time; and
  - (ii) for a maximum continuous period of 14 days for a guest; and
- (c) providing breakfast to guests.

### **Meaning of “host farm business”**

**4AB.** A “host farm business” is a business—

- (a) carried out on a farm involved in primary production by a person who manages, and lives on, the farm; and
- (b) providing accommodation at premises on the farm—
  - (i) for a maximum of 12 guests at the same time; and
  - (ii) for a maximum continuous period of 30 days for a guest; and

- (c) providing meals, or food for preparing meals at the premises, to guests.

### **Application of Australian Standards**

**4A.** A reference in this regulation to an Australian Standard is a reference to the standard as approved, from time to time, by the Standards Association of Australia.

### **Superintendence by local governments**

**6.** Each local government shall superintend and see to the execution of this regulation within its area and shall do and provide all such acts, matters and things as may be necessary for superintending or aiding in the execution thereof.

## **PART 2—SPECIFICATIONS FOR FOOD STORES**

### **Interpretation**

**7.** In this part—

- (a) a reference to any wall or other vertical surface, floor or ceiling shall be taken to be a reference to any wall, other vertical surface, floor or ceiling in a food store;
- (b) a reference to any fixture, fitting or appliance shall be taken to be a reference to a fixture, fitting or appliance installed or used in or in connection with a food store.

### **General requirements**

**8.(1)** Every food store—

- (a) shall be so designed and constructed—
  - (i) as to ensure that food, equipment, appliances and packing materials therein, thereat or thereon are at all times

- adequately protected against the elements; and
- (ii) as to permit easy and adequate cleaning; and
  - (iii) as to afford protection against the entrance thereto and harbourage therein or thereon of animals or vermin; and
  - (iv) as to exclude as far as practicable dirt, dust, smoke, foul odours and other contaminants;
- (b) shall be large enough to enable the requirements of this regulation to be met having regard to the purpose for which it is, or is intended to be, used; and
- (c) shall be fitted, furnished and equipped with such fixtures, fittings, appliances and other equipment as are necessary for or in connection with the activities conducted or to be conducted therein, thereat or thereon.

(2) A food store, other than a food store used exclusively for or in connection with the display and sale of fresh whole fruit and vegetables, shall be so enclosed by means of floors, walls and ceilings as to be effectively separated from all areas internal or external to the food store that are likely to be a source of contamination.

### **Specific requirements—walls**

#### **9.(1) The internal surfaces of walls—**

- (a) shall be smooth, durable, resistant to corrosion, non-toxic, impervious and non-absorbent; and
- (b) shall be free from cracks, crevices and other defects; and
- (c) shall be finished in a light colour; and
- (d) shall not have fitted thereto any skirting, picture rail, architrave, cover strip or other moulding.

#### **(2) Junctions at angles between adjoining walls shall be coved.**

(3) Where preformed materials comprise or form part of the internal surfaces of walls—

- (a) voids and crevices shall not be formed so as to create harbourage for vermin; and

- (b) non-corrosive metal H-bars and other mouldings may only be used if they are fitted together well; and
- (c) all joints and edges, including those formed with H-bars and other mouldings, shall be sealed; and
- (d) those materials may be fitted so as to terminate at a height of not less than 2 m above floor level if—
  - (i) the finish on the remainder of the wall surface in question meets the requirements set out in subsection (1); and
  - (ii) resulting edges are—
    - (A) finished flush with the remainder of the wall surface; or
    - (B) bevelled at an angle of not less than 45° to the horizontal; or
    - (C) otherwise finished so as to prevent lodgment thereon of dust, dirt or grease.

(4) Door openings, windows, serving hatches and structures of a similar nature constructed in walls shall be finished—

- (a) with all edges rounded to smooth surfaces; and
- (b) so that all joints in or in connection therewith are sealed; and
- (c) so that protective fixtures fitted to the edges are integrally installed and sealed.

(5) Ledges and window sills on or in walls—

- (a) that are located in areas in which food is prepared, packed or served shall—
  - (i) be splayed downwards at an angle sufficient to ensure that they cannot be used as shelves; and
  - (ii) be finished with all edges rounded to smooth surfaces;
- (b) that are located in areas in which food is prepared and in which splashing or soiling is likely to occur shall be situated not less than 300 mm above the top of any bench or appliance that is in a position below or adjacent thereto.

(6) Subsections (1), (2), (3), (4) and (5) shall not apply in the case of walls—

- (a) in, at or on which is or are stored, handled or displayed only—
  - (i) non-perishable food that is wholly enclosed in protective packages; or
  - (ii) fresh whole fruits or vegetables or both; or
- (b) in, at or on which all food is completely enclosed within, and protected from contamination by, appliances; or
- (c) that is used as an area for dining or drinking or for the delivery or serving of food incidental to that use, provided that those walls are not adjacent to any sink, hand wash basin, glass washing appliance, counter, refrigerator or food or water heating appliance.

### **Specific requirements—floors**

#### **10.(1) The surfaces of floors—**

- (a) shall be sufficiently smooth as to render them capable of being easily cleaned, rigid, durable, non-slip, resistant to corrosion, non-toxic, impervious and non-absorbent; and
- (b) shall be free from cracks, crevices and other defects; and
- (c) where the activities ordinarily conducted thereon, including cleaning, release water or other liquids thereon, shall be sufficiently and evenly graded to trapped floor waste outlets connected to a drainage system; and
- (d) where they comprise or include preformed materials, shall be so finished as to ensure that—
  - (i) voids or crevices are not formed so as to create harbourage for vermin;
  - (ii) all joints and edges are sealed; and
  - (iii) those materials are continued up the walls and other vertical surfaces adjoining the floors for not less than 70 mm above the level of the floor.

(2) Junctions between floors and walls or other vertical surfaces shall be coved to a radius of not less than 25 mm, with such coving being firmly supported.

(3) Notwithstanding subsections (1)(d)(iii) and (2), the continuation of preformed materials up walls and other vertical surfaces and the coving of junctions between floors and walls and other vertical surfaces may be omitted where in, at or on the food store is stored, handled or displayed only food that is wholly enclosed in protective packages or is completely enclosed within, and protected from contamination by, appliances.

(4) Subsections (1), (2) and (3) shall not apply in the case of floors used as a dining or drinking area or for the delivery or serving of food incidental to that use.

### **Specific requirements—ceilings**

#### **11.(1) The surfaces of ceilings—**

- (a) shall be smooth, rigid, durable, resistant to corrosion, non-toxic, impervious and non-absorbent; and
- (b) shall be free from cracks, crevices and other defects; and
- (c) shall be finished in a light colour; and
- (d) except as is provided in subsection (2), shall not have fitted thereto a cover strip or other moulding.

(2) Ceilings may be comprised of preformed materials in the form of rigid panels well fitted to suspended non-corrosive metal T-bars and other mouldings.

(3) Where there is more than 1 level in a food store or part thereof, the under surface of a slab and beam concrete floor shall be deemed to meet the requirements of subsection (1) if—

- (a) the floor is waterproof; and
- (b) the supporting beams are of such shape as will minimise the collection of dirt, dust or grease and facilitate easy cleaning; and
- (c) the surface is so treated as to ensure that it meets the requirements of subsection (1).

(4) Junctions of walls and ceilings shall be sealed.

(5) Subsections (1), (2), (3) and (4) shall not apply in the case of ceilings in a food store—

- (a) in, at or on which is stored, handled or displayed only—
  - (i) food that is wholly enclosed in protective packages; or
  - (ii) fresh whole fruits or vegetables or both; or
- (b) where all food therein, thereat or thereon is completely enclosed and protected from contamination by appliances; or
- (c) that is used as an area for dining or drinking or for the delivery or service of food incidental to that use.

### **Water supply**

**12.** A food store shall be provided at all times with a supply of water adequate for the conduct of the activities performed in, at or on that store.

### **Lighting**

**13.(1)** A food store shall be provided at all times with natural or artificial lighting adequate for the conduct of the activities performed in, at or on that store.

**(2)** In determining the adequacy of lighting in a food store, regard shall be had to AS 1680–1976, Code of practice for interior lighting and the visual environment.

**(3)** Light fittings in parts of food stores that are used in the preparation, packing, handling or serving for sale of food shall be so constructed as to prevent contamination of food with dirt, dust or other matter falling therefrom.

### **Ventilation and exhaust equipment**

**14.(1)** A food store shall be effectively ventilated by natural or mechanical means.

**(2)** Where fumes, vapours, hot air, dust or other particulate matter is generated in the course of the activities performed in, at or on a food store, equipment for the collection, filtration, conveyance and discharge thereof shall be provided therein.

(3) Such equipment shall be in accordance with AS 1668, part 2—1991, Mechanical ventilation for acceptable indoor air quality.

### **Exclusion of insects**

**15.(1)** Where a local government or its authorised officer so requires by notice in writing given to the proprietor of a food store, the proprietor shall protect all doorways, windows and other openings therein, thereat or thereon in such manner as will exclude therefrom as far as practicable flies and other flying insects.

(2) Subsection (1) shall not apply in the case of a food store used only for the sale or the storage or handling for sale of food that is wholly enclosed in protective packages.

### **Pipes, ducts, wirings and like fittings**

**16.(1)** Where practicable, pipes, ducts, wirings and like fittings in, at or on a food store shall be located on the exterior of that store or be concealed in the walls, floors or ceilings thereof.

(2) Where the installation of pipes, ducts, wirings and like fittings as described in subsection (1) is not practicable in a food store—

- (a) pipes, ducts, wirings and like fittings shall be fixed in brackets in such manner as will provide adequate clearance between those fittings and adjacent surfaces to permit easy cleaning and inspection; and
- (b) effective means shall be provided to prevent the contamination of food or surfaces with which food comes into contact in that food store by condensate, dirt, dust, grease or leaks emanating from those pipes, ducts, wirings or like fittings; and
- (c) pipes, ducts, wirings and like fittings shall not be installed in—
  - (i) toe spaces; or
  - (ii) spaces beneath appliances so as to obstruct access for easy cleaning; and
- (d) pipes, ducts, wirings or like fittings that pass through any surface of the food store shall be sealed thereto or pass through properly

formed and finished apertures of sufficient size to afford access for cleaning, inspection and vermin control.

(3) Exposed soil pipes, or openings for the inspection or cleaning thereof, shall not be installed in those areas in a food store that are used for the preparation for sale of food or in which food that is sold or packed, stored, handled, served or supplied for sale is not wholly enclosed in packages.

(4) Where a food conveyor is located in a duct or other space within or between walls in a food store—

- (a) that duct or space shall be easily accessible for the purposes of inspection, cleaning and the control of vermin; and
- (b) the internal surfaces enclosing that duct or space shall meet the requirements of section 9.

### **Hand washing facilities**

**17.(1)** In every food store hand wash basins shall be provided—

- (a) within or adjacent to each sanitary convenience; and
- (b) in or adjacent to every part thereof in which the nature of the activities performed is such that hands are likely to be a source of contamination to food.

**(2)** For the purposes of subsection (1), each hand wash basin—

- (a) shall be—
  - (i) provided at all times with an adequate supply of hot water and cold water delivered through a common outlet; and
  - (ii) connected to an approved waste disposal system; and
  - (iii) kept at all times—
    - (A) in a clean and sanitary condition and a state of good repair and efficient action; and
    - (B) readily accessible and available for use; and
    - (C) supplied with soap or detergent; and
- (b) shall not be used for a purpose other than the washing of hands,

arms or faces.

(3) An adequate supply of single use towels or other suitable hand drying material or another facility for drying hands shall be provided in close proximity to every wash hand basin provided for the purposes of subsection (1).

### **Fixtures, fittings and appliances**

**18.(1)** Every fixture, fitting or appliance—

- (a) shall be so constructed as to be—
  - (i) impervious, durable, non-toxic and resistant to corrosion;
  - (ii) free from cracks and crevices;
  - (iii) capable of being easily and thoroughly cleaned;
  - (iv) resistant to corrosion; and
- (b) shall be so constructed as to prevent the harbourage of vermin.

(2) Notwithstanding subsection (1) pallets used for transportation and storage of food may be constructed of timber.

(3) For the purposes of this section, any fitting or appliance having a weight greater than 16 kg shall be deemed to be not easily movable unless it is mounted on wheels or castors capable of supporting it when loaded.

**(3A)** Every fixture, and every fitting and appliance that is not easily movable shall—

- (a) —
  - (i) be sealed to an adjacent surface or sufficiently free standing from that surface to allow access for cleaning and vermin control; or
  - (ii) be located at a distance of not less than 150 mm therefrom; and
- (b) be sealed to the floor or a plinth constructed in accordance with subsection (3C) or mounted on legs or brackets in accordance with subsection (3D).

**(3B)** A fixing lug or plate used to secure any fixture, fitting or appliance

to any wall or other vertical surface shall be sealed to such wall or vertical surface.

**(3C)** For the purposes of subsection (3A)(b) a plinth shall be—

- (a) built as an integral part of the floor; and
- (b) constructed of solid concrete or masonry; and
- (c) finished to a smooth level surface; and
- (d) of a height of not less than 100 mm above the floor; and
- (e) recessed under fixtures, fittings or appliances in such manner as will provide a toe space of not more than 50 mm in depth; and
- (f) rounded or bullnosed at exposed edges or corners; and
- (g) coved at its junction with the floor or any wall or other adjacent surface to a radius of not less than 25 mm.

**(3D)** For the purposes of subsection (3A)(b), legs and brackets shall—

- (a) be made of smooth, corrosion resistant material; and
- (b) be an integral part of the fixture, fitting or appliance in question or securely fixed thereto in such manner as will prevent the lodgment therein or thereon of dirt, dust or grease; and
- (c) be capable of being easily cleaned; and
- (d) be so constructed as to provide a clear space between the floor and the underside of the fixture, fitting or appliance in question adequate for efficient cleaning and in any case not less than 150 mm; and
- (e) be so constructed as to provide a clear space of not less than 40 mm between the adjacent wall or other vertical surface and the legs or, in an appropriate case, brackets and any brace or other member attached thereto; and
- (f) where they are constructed of tubular steel, be closed and sealed at the end; and
- (g) in the case of brackets, not have hollow backs.

**(3E)** In addition to compliance with the requirements specified in subsection (3D), brackets shall be sealed to the contact surface in such manner as to ensure that crevices, voids or inaccessible cavities are not

formed.

(4) Subsections (3) to (3E) shall not apply in the case of any fixture, fitting or appliance that is located or mounted on a counter, bench, work table or like equipment.

(5) Every fixture, fitting or appliance that is not easily movable and that is located or mounted on a counter, bench, work table or like equipment—

(a) shall be located or mounted in such manner as will ensure that a clear space adequate for efficient cleaning and in any case not less than 75 mm is maintained between—

(i) the fixture, fitting or appliance in question and the top of the counter, bench, work table or like equipment in question; and

(ii) the fixture, fitting or appliance in question and each adjacent wall or other vertical surface; or

(b) shall be sealed to the counter, bench, work table or like equipment in question and to each adjacent wall or other vertical surface.

(6) Every cupboard, cabinet, shelving unit or item of like equipment that is a fixture in a food store shall not be fitted with or contain a false or separate back or bottom.

(6A) The rear edges of a shelving unit referred to in subsection (6) shall be sealed to or so fixed as to be kept not less than 40 mm clear of adjacent walls or other vertical surfaces.

(6B) Shelves comprising or forming part of a shelving unit referred to in subsection (6) shall be not less than 150 mm above the floor.

(6C) The bottom guides or runners of sliding doors fitted to cupboards, cabinets or like equipment referred to in subsection (6) shall terminate not less than 25 mm from each end of the door openings.

(7) A food conveyor in, at or on a food store shall comply in all respects with such of those requirements specified in this section with respect to fixtures, fittings or appliances as are applicable.

(8) A motor or compressor that forms part of a refrigerator, frozen food cabinet or like equipment in, at or on a food store shall, where practicable and unless it is an integral part thereof, be located and mounted in a position external to areas in that food store.

(9) Where it is not practicable to comply with the requirements set forth in subsection (8), a motor or compressor specified in that subsection shall be located and mounted in compliance with such of those requirements set forth in this section with respect to fixtures, fittings or appliances as are applicable.

### **Cool rooms and freezer rooms**

**19.(1)** A cool room or freezer room in, at or on or forming part of a food store shall be designed and constructed in compliance with the general requirements for the design and construction of food stores except that—

- (a) all internal angles thereof between walls or other vertical surfaces, floors and ceilings thereof shall be coved to a radius of not less than 25 mm; and
- (b) the floors thereof shall be graded to a trapped floor waste outlet external to the cool room or freezer room.

(2) Condensate from evaporative units in a cool room in, at or on or forming part of a food store shall be collected and discharged to a drainage system located outside that cool room.

(3) Where the activities performed in such cool room or freezer room so require, racks, shelves or like supports, constructed of corrosion resistant, non-absorbent materials shall be provided.

(4) The provisions of subsection (3) do not preclude the use of pallets constructed wholly or partly of timber used for the transportation and storage of food when such pallets are mechanically handled.

(5) Each such cool room or freezer room shall be equipped with a thermometer indicating or recording temperature in the warmest part of the room in question accurate to 1°C and located so as to be easily readable.

### **Waste storage**

**20.(1)** Facilities for the temporary storage of waste shall be provided and maintained as far as practicable in a clean and sanitary condition in food stores.

(2) Waste in, at or on or in connection with food stores consisting of or containing putrescible matter shall be stored—

- (a) in suitable receptacles kept—
  - (i) inside the structure or part thereof in which the food store is situated; or
  - (ii) on an area paved with impervious material situated outside such structure or part; and
- (b) in such manner as will prevent—
  - (i) the access of vermin thereto; and
  - (ii) the creation of any nuisance.

(3) For the purposes of subsection (2), an area paved with impervious material shall be graded and drained to the approved waste disposal system.

(4) Waste receptacles that are provided in areas used for the preparation of food shall be made clearly distinguishable by labelling or otherwise from containers used for food.

### **Grease traps**

**21.(1)** A grease trap for use in, at or on or in connection with a food store shall, where practicable, be located in a position exterior to the food store.

(2) Where it is not practicable to comply with the requirements set forth in subsection (1), a grease trap to which that subsection refers shall be located in an area in such food store other than an area therein, thereat or thereon used for the sale or preparation, packing, handling, serving or supplying for sale of food.

### **Change room accommodation**

**22.** Suitable separate facilities shall be provided in, at, on or in connection with food stores for the storage of clothing, footwear and other personal effects.

### **Sanitary conveniences**

**23.** Sufficient sanitary conveniences shall be provided in, at, on or in connection with food stores.

**Transitional provisions**

**24.(1)** The requirements set forth in this part apply to a food store that is constructed or substantially altered or whose activities undergo substantial changes after the commencement of this regulation.

**(2)** Subject to the other provisions of this regulation and the powers of the local government with respect to the general supervision and regulation of food premises, a structure or part thereof that—

- (a) immediately prior to the commencement of this regulation—
  - (i) was used as a food store of a specified class or description; and
  - (ii) complied in all respects with the relevant provisions of the *Food Hygiene Regulation 1976*; and
- (b) after the commencement of this regulation continue to be kept in such condition as would have complied with those provisions if they had remained in force;

shall be deemed not to be in contravention of this regulation by reason only of the fact that the structure or part so used does not comply in all respects with this part and may continue to be used as a food store of the same class or description.

**Offences**

**25.(1)** A person shall not use for the sale or the preparation, packing, storing, handling, serving or supplying for sale of food any premises or other place that contravenes or does not comply with this part other than a structure or part thereof comprising or forming part of any premises or other place to which section 24 applies.

**(2)** However, the holder of a food store exemption for premises at which a bed and breakfast business or host farm business is carried out is not required to comply with food store requirements for the premises.

## **PART 2A—FOOD STORE EXEMPTIONS**

### ***Division 1—Applications***

#### **Application for exemption**

**25A.(1)** A person carrying out, or proposing to carry out, a bed and breakfast business or host farm business may apply for an exemption (a “**food store exemption**”) from compliance with food store requirements for the premises at which the business is carried out or proposed to be carried out.

**(2)** The application must—

- (a) be made, in the approved form, to the local government in whose area the premises are situated; and
- (b) be accompanied by the application fee.

**(3)** The application fee is the lesser of the following amounts—

- (a) the fee fixed by a resolution or local law made by the local government;
- (b) \$100.00.

#### **Decision on application**

**25B.(1)** The local government must promptly consider the application and either grant or refuse to grant the application.

**(2)** In deciding the application, the local government must consider the following criteria—

- (a) the condition of the walls, floors and ceilings of the premises;
- (b) the condition and operation of the lighting and ventilation and exhaust equipment of the premises;
- (c) the likelihood of contamination of food from the use of the premises for the sale, or preparing, packing, storing, handling, serving or supplying for sale, of food;
- (d) any other relevant issue.

(3) If the local government decides to grant the application, it must promptly issue a food store exemption for the premises.

(4) A food store exemption is subject to the condition that the premises for which it is issued are kept in a way that minimises the likelihood of contamination of food from the use of the premises for the sale, or preparing, packing, storing, handling, serving or supplying for sale, of food.

(5) In addition, a food store exemption may be issued on reasonable conditions imposed by the local government.

(6) If the local government refuses to grant the application or issues a food store exemption on conditions imposed under subsection (5), it must give the applicant written notice of its decision within 10 days after making it.

(7) The notice must state—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the applicant may appeal against the decision to a Magistrates Court within 28 days after the applicant receives the notice.

(8) If the local government fails to decide the application within 60 days after it is made, the failure is taken to be a decision by the local government to refuse to grant the application.

### *Division 2—Suspension or cancellation of exemptions*

#### **Grounds for suspension or cancellation**

**25C.** Each of the following is a ground for the suspension or cancellation of a food store exemption—

- (a) the exemption was obtained because of incorrect or misleading information;
- (b) the holder of the exemption has contravened a condition of the exemption;
- (c) the holder of the exemption has been found guilty of an offence against the Act.

**Procedure for suspension or cancellation**

**25D.(1)** If a local government believes a ground exists to suspend or cancel a food store exemption (the “**proposed action**”), it must give the holder of the exemption written notice—

- (a) stating the proposed action; and
- (b) stating the grounds for the proposed action; and
- (c) outlining the facts and circumstances forming the basis for its belief; and
- (d) if the proposed action is suspension of the exemption—
  - (i) stating the proposed suspension period; and
  - (ii) explaining the effect of suspension under this division; and
- (e) inviting the holder to show in writing, within a stated reasonable time of at least 28 days, why the proposed action should not be taken.

**(2)** If, after considering all written representations made within the stated time, the local government still considers a ground for the proposed action exists, it may—

- (a) if the proposed action was to suspend the exemption for a stated period—suspend the exemption for no longer than the proposed suspension period; or
- (b) if the proposed action was to cancel the exemption—either cancel the exemption or suspend it for a period.

**(3)** The local government must inform the holder of its decision by written notice.

**(4)** The notice must be given within 10 days after the local government makes its decision.

**(5)** If the local government decides to suspend or cancel the exemption, the notice must state—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the holder may appeal against the decision to a Magistrates Court within 28 days after the holder receives the notice.

(6) The decision takes effect on the later of the following days—

- (a) the day when the notice is given to the holder;
- (b) the day of effect stated in the notice.

(7) However, if the ground for the suspension or cancellation of the exemption is that the holder has been found guilty of an offence against the Act, the suspension or cancellation has no effect if the finding is quashed on appeal.

(8) Also, subsections (1) to (7) do not apply if the holder agrees to the local government cancelling the exemption.

(9) The local government may cancel a food store exemption under subsection (8) by written notice given to the holder.

### **Procedure for immediate suspension**

**25E.(1)** This section applies if—

- (a) a local government believes a ground exists to cancel or suspend a food store exemption; and
- (b) the local government considers the health of members of the public may be adversely affected if urgent action to suspend the exemption is not taken.

(2) The local government may immediately suspend the exemption by written notice given to the holder of the exemption.

(3) The suspension takes effect immediately the notice is given to the holder.

(4) The notice must state—

- (a) that the exemption is suspended; and
- (b) the reasons for the suspension; and
- (c) that the holder may appeal against the suspension to a Magistrates Court within 28 days after the holder receives the notice.

(5) The local government must at the same time give the holder a notice under section 25D(1).

(6) The suspension of the exemption continues until the first to happen of

the following—

- (a) the local government cancels the suspension;
- (b) the local government gives the holder notice of its decision under section 25D(3);
- (c) the end of 60 days after the notice under subsection (2) was given to the holder.

### ***Division 3—Amendment of exemptions***

#### **Procedure for amendment**

**25F.(1)** A local government may amend a food store exemption if—

- (a) the holder of the exemption agrees to the amendment; or
- (b) the local government is reasonably satisfied the exemption should be amended.

**(2)** Without limiting subsection (1)(b), the local government may be reasonably satisfied the exemption should be amended, having regard to the criteria the local government is required to consider in deciding an application for a food store exemption.

**(3)** If the local government is reasonably satisfied the exemption should be amended under subsection (1)(b), the local government must give the holder a written notice that—

- (a) states the proposed amendment and the reasons for the amendment; and
- (b) outlines the facts and circumstances forming the basis for the reasons; and
- (c) invites the holder to make written representations to the local government, within a stated reasonable time of at least 28 days, to show why the amendment should not be made.

**(4)** If, after considering the representations properly made by the holder, the local government is still reasonably satisfied the exemption should be amended in the way mentioned in the notice, or in another way having regard to the representations, it must—

- (a) issue a new food store exemption for the premises; and
  - (b) give the holder a written notice that states—
    - (i) the old exemption has been cancelled; and
    - (ii) the way in which the new exemption is different from the old exemption; and
    - (iii) the reasons for the amendment; and
    - (iv) the holder may appeal to a Magistrates Court against the decision within 28 days after the holder receives the notice.
- (5) The new exemption takes effect on the later of the following days—
- (a) the day when the notice is given to the holder;
  - (b) the day of effect stated in the notice.
- (6) In this section—
- “amend”**, a food store exemption, means—
- (a) impose conditions on the exemption; or
  - (b) vary any conditions of the exemption imposed under section 25B(5).<sup>1</sup>

### *Division 4—Appeals*

#### **Decisions open to appeal**

**25G.(1)** An applicant for a food store exemption may appeal against a decision of a local government to—

- (a) refuse to grant the application; or
- (b) impose a condition on the exemption under section 25B(5).

**(2)** The holder of a food store exemption may appeal against a decision of a local government to—

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<sup>1</sup> Section 25B (Decision on application)

- (a) suspend or cancel the exemption; or
- (b) amend the exemption under section 25F(1)(b).

### **Starting an appeal**

**25H.(1)** An appeal is started by—

- (a) filing a written notice of appeal with a Magistrates Court; and
- (b) serving a copy of the notice on the local government.

**(2)** The appeal may be made to a Magistrates Court nearest the place—

- (a) where the person lives; or
- (b) where the premises the subject of the application or exemption are situated.

**(3)** However, subsection (2) does not limit the jurisdiction of another Magistrates Court to hear the appeal.

**(4)** The notice of appeal must state fully the grounds of the appeal and the facts relied on.

### **Time for starting an appeal**

**25I.(1)** An appeal may be started at any time.

**(2)** However, if written notice is given of the decision, and reasons for the decision are included in the notice, an appeal against the decision by a person to whom the notice was given must be started within 28 days after the person receives the notice.

**(3)** The Magistrates Court may at any time extend the period for filing the notice of appeal.

### **Stay of operation of decisions**

**25J.(1)** The Magistrates Court may grant a stay of the operation of the decision to secure the effectiveness of the appeal.

**(2)** A stay—

- (a) may be granted on the conditions the court considers appropriate;

and

- (b) applies for the period the court states, but must not extend past the time when the court decides the appeal; and
- (c) may be cancelled or amended by the court.

### **Hearing procedures**

**25K.(1)** In deciding the appeal, the Magistrates Court—

- (a) has the powers of the local government in relation to food store exemptions; and
- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice; and
- (d) may hear the appeal in court or in chambers.

**(2)** The appeal is by way of rehearing.

### **Powers of court on appeal**

**25L.(1)** In deciding the appeal, the Magistrates Court may—

- (a) confirm the decision; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the issue to the local government with the directions the court considers appropriate.

**(2)** If the Magistrates Court substitutes another decision, the substituted decision is, for this regulation (other than this division), taken to be that of the local government.

### **Appeal to District Court**

**25M.** An appeal to a District Court may be made from a decision of a Magistrates Court under this division, but only on a question of law.

## **PART 3—PROTECTION OF FOOD AND APPLIANCES FROM CONTAMINATION**

### **General provisions**

**26.(1)** A person shall not use any food store, food vehicle or appliance for a purpose, other than the sale or the preparation, packing, storing, handling, serving, supplying or conveying for sale of food, that would or would be likely to contaminate or injuriously affect the wholesomeness or purity of that food.

**(2)** A person shall not use for or in connection with the sale or the preparation, packing, storing, handling, serving, supplying or conveying for sale of food any premises or other place, vehicle or appliance that are or is or have or has been used for any other purpose that would or would be likely to contaminate or injuriously affect the wholesomeness or purity of food.

**(3)** A person who in, at or on a food store or a food vehicle sells or prepares, packs, stores, handles, serves, supplies or conveys for sale food—

(a) shall cause—

- (i) food therein, thereat or thereon to be protected at all times from contamination by persons, dust, vermin, animals, offensive fumes, foul odours or other means; and
- (ii) food (other than fresh whole fruits and vegetables) therein, thereat or thereon that is ordinarily consumed in the same state in which it is sold and that is not wholly enclosed in a protective package to be protected from contamination from any source by means of a suitable case or cover or other effective means; and

(b) shall ensure that—

- (i) every jar, bowl or other receptacle therein, thereat or thereon is covered or enclosed and kept covered or enclosed at all times, other than when food is being placed therein or removed therefrom, in such a manner as will effectively protect food contained therein from contamination from any source; and

- (ii) drinking straws, tableware, and utensils or other things kept therein, thereat or thereon for use in serving, supplying or consuming food are kept prior to use in such manner as will effectively protect them from contamination; and
  - (iii) all appliances and means provided therein, thereat or thereon for the protection of food from contamination are properly used and applied only for the purpose for which they are provided; and
- (c) shall not spread or use, or cause or permit to be spread or used, upon the floor of that store or vehicle straw, sawdust, woodshavings, wood chips or like materials; and
- (d) shall not keep, spread or use or cause or permit to be kept, spread or used, in, at or on that store or vehicle a preparation containing a poison or other objectionable, injurious or deleterious substance in such manner as to expose food to the risk of contamination thereby or therewith; and
- (e) shall not clean floors, walls or ceilings in, at or on that store or vehicle by a method likely to contaminate food.

## **Prevention of cross-contamination**

### **27. A person—**

- (a) shall not keep, store, put or have in the person's possession in, at or on a food store or a food vehicle food for sale in such manner as to render it liable to be contaminated by contact with or drip from raw food, food for animals, fish bait or any other raw substance or thing; and
- (b) shall keep, store or display food for sale in such manner as will ensure that food that is ordinarily consumed in the state in which it is sold is kept, stored or displayed in a separate compartment from that in which raw food that may be or become a source of contamination is kept, stored or displayed; and
- (c) shall ensure that an appliance that has been used for the preparation of or has been in contact with raw food shall not, unless it has been effectively cleaned and disinfected after such use or contact, be used for the preparation or serving of or

allowed to come into contact with food for sale that is in a state ready for consumption or that will not be subjected to cooking before consumption; and

- (d) shall not put, store or carry any package, container or appliance so that the bottom side or other outer surface thereof comes into contact with food for sale.

### **Returned or recalled food**

**28.(1)** A person shall not receive into the stock of a food store or a food vehicle or sell food of such a nature that it may have deteriorated or become contaminated.

**(2)** A person who receives food in connection with a complaint or who receives or has in his or her possession food that is the subject of a recall shall—

- (a) put and keep that food in a suitable receptacle or segregated area and clearly identify it as returned or recalled food; and
- (b) destroy or otherwise dispose of the food in accordance with commercial practice or, as the case may be, the relevant recall arrangements.

### **Re-service of certain food prohibited**

**29.(1)** A person shall not serve or cause or permit to be served to a person food that has been served to another person.

**(2)** Subsection (1) shall not apply in the case of—

- (a) sugar, salt or condiments that have been put upon a table or counter, provided that they are contained and continue to be contained in a protective receptacle; or
- (b) food that has been completely wrapped when served and that has remained completely wrapped.

### **Interference with food package**

**30.(1)** A person shall not in, or at or on a food store or a food vehicle

open or otherwise interfere with a package of food intended for sale in that package.

(2) The proprietor of a food store or a food vehicle where packages of food intended for sale in those packages are exposed for sale shall display in prominent positions, in, at or on that store or vehicle appropriate notices setting out the effect of subsection (1).

### **Use of unclean labels, notices and the like**

**31.** A person shall not—

- (a) put on food or in a position in which it is in contact with or likely to come in contact with food any label, notice or like thing that is unclean or likely to contaminate food or that has been in contact with the mouth of a person; or
- (b) apply to food, other than raw meat or raw fish, a label by piercing that food with any object.

### **Restrictions as to exposure and the like of food outside a food store or a food vehicle or in any doorway or other open place**

**32.(1)** A person shall not outside a food store or a food vehicle or in, at or on any doorway, street, lane, footpath, yard or other open place display or expose for sale food—

- (a) that is not protected from contamination by vermin, dust or otherwise howsoever by being completely enclosed in a display case having close-fitting doors or by other equally effective means; or
- (b) that is at a lower level than 750 mm above ground level or, where there is a floor or other level above the ground, above that floor or level except where that food is shielded up to that height from contamination by dogs, cats or other animals.

(2) A person shall not deposit, or cause or permit to be deposited, in, at or on any doorway, street, lane, footpath, yard or other open place—

- (a) any food for sale that is unpackaged or perishable or not in hermetically sealed packages; or

- (b) any tray or like appliance used or intended to be used in the conveyance of bread, cakes, pastry, pies or other unpackaged food, other than fresh whole fruits and vegetables, that is ordinarily consumed in the same state as that in which it is sold.

### **Restriction as to use of certain places in a food store or food vehicle**

**33.(1)** A person shall not in, at or on a food store or a food vehicle receive for the purposes of trade any article of used clothing, used bedding, used footwear or used printed matter.

**(2)** Subsection (1) shall not apply in the case of the receipt of clothing for cleaning—

- (a) at or on a food store or food vehicle where only packaged food is sold, stored, handled or supplied for sale; or
- (b) in a place in, at or on a food store or food vehicle that is separate from where food is sold, prepared, packed, stored, handled, served or supplied for sale.

**(3)** A person engaged in or in connection with selling or preparing, packing, storing, handling, serving or supplying for sale unpackaged food shall not handle clothing to which subsection (2) applies.

### **Cloths used to wipe appliances or food**

**34.(1)** This section applies to the use of a polishing or wiping cloth in, at or on a food store or food vehicle.

**(2)** A person must not use a polishing cloth for any purpose other than as a polishing cloth.

**(3)** A person must not use a wiping cloth for any purpose other than as a wiping cloth.

**(4)** A person must not use an unclean cloth or used clothing as a polishing or wiping cloth.

**(5)** In this section—

**“cloth”** means a cloth of any material.

**“polishing cloth”** means a cloth used to wipe or polish fruit or other food

intended for sale.

“**wiping cloth**” means a cloth used to dry or wipe an appliance used in connection with the handling of food.

## **PART 4—PERSONAL HYGIENE AND CONDUCT OF WORKERS AND OTHER PERSONS IN FOOD STORES OR FOOD VEHICLES**

### **Cleanliness of persons**

**35.** A person engaged in the sale or the preparation, packing, storing, handling, serving, supplying or conveying for sale of food shall—

- (a) thoroughly cleanse his or her hands by washing them with soap or detergent and water immediately before commencing or resuming work and immediately after visiting a sanitary convenience, smoking, handling a refuse container, handkerchief or nasal tissue; and
- (b) while so engaged keep clean at all times his or her personal clothing, hands, fingernails and body; and
- (c) while so engaged in respect of food (other than fresh whole fruits and vegetables) not totally enclosed in a package, wear—
  - (i) clean protective clothing to prevent food from coming into contact with any portion of his or her ordinary clothing; and
  - (ii) clean hair covering, where required by the local government, to prevent hair from coming into contact with food or food contact surfaces.

### **Prohibition of certain acts**

**36.(1)** A person shall not, in, at or on a part of a food store or a food vehicle used for or in connection with the sale or the preparation, packing, storing, handling, serving, supplying or conveying for sale of food—

- (a) expectorate; or

- (b) smoke tobacco or any other substance; or
- (c) sit or lie on a table, workbench or other food contact surface; or
- (d) defecate or urinate.

(2) Subsection (1) shall be construed so as not to prohibit the smoking of tobacco in, at or on a food store or a food vehicle or part thereof that—

- (a) contains only food that is wholly enclosed in packages; or
- (b) is set apart for the consumption of food.

### **Prohibition of unnecessary contact with food**

37. A person engaged in the sale or the preparation, packing, storing, handling, serving, supplying or conveying for sale of food—

- (a) shall exercise due care to prevent unnecessary contact by the person or any other person with that food; and
- (b) shall ensure that that food does not come into contact with bare hands, except in the case of—
  - (i) food that is ordinarily subsequently cooked;
  - (ii) raw fruits and vegetables that are ordinarily cleaned or cooked before use;
  - (iii) a process of preparation of food in the course of which it is not practicable to avoid such contact; and
- (c) shall not—
  - (i) wipe his or her hands upon his or her personal clothing or on any thing other than a clean towel; or
  - (ii) apply a hand or finger to his or her mouth, nose, hair or scalp or an eye or ear or a part of his or her body below the waist; or
  - (iii) hold any tableware, utensil or other appliance used for eating or drinking by any means other than the handle or other part of the surface thereof that ordinarily does not come into contact with food; or
  - (iv) carry in the pocket of any article of clothing any tableware,

utensil or other appliance used for eating or drinking; or

- (v) blow with his or her breath into or onto any bag, wrapper or other package or packing material used or intended to be used as a package for food for sale; or
- (vi) apply to his or her mouth any food appliance.

### **Prohibition as to affected persons**

**38.(1)** This section applies to a person who—

- (a) is affected by, or is a carrier of, a disease that may be transmitted by the contamination of food; or
- (b) has a sore that is not covered by a waterproof bandage or dressing.

**(1A)** The person must not do any thing in, at or on a food store or food vehicle that might—

- (a) contaminate food or a food contact surface; or
- (b) transmit a disease to someone else.

**(2)** A proprietor of a food store or a food vehicle shall not permit a person to whom the provisions of subsection (1) apply to work or resume work in, at or on that food store or that food vehicle.

**(3)** A proprietor of a food store or a food vehicle who has reasonable grounds for believing or suspecting that a person present or engaged in an activity therein, thereat or thereon is a person referred to in subsection (1) shall notify forthwith the local government of his or her beliefs or suspicions.

**(4)** In this section—

“**sore**” includes a boil or infected wound.

### **Powers of chief health officer or medical officer of health**

**39.** The chief health officer or medical officer of health upon being satisfied that there are reasonable grounds for believing that contamination or the possibility of contamination of food exists or arises or is likely to exist or arise with respect to a person entering into or remaining upon or

engaged in, at or on a food store or a food vehicle may direct that the person in question—

- (a) be excluded from food stores or food vehicles until further notice or otherwise directed; and
- (b) undergo such medical examination including the taking of specimens for laboratory examinations as the chief health officer or medical officer of health requires;

and may give such directions and do all such other acts and things as are necessary or desirable for the purpose of giving effect to that direction.

## **PART 5—CONSIGNMENT AND CONVEYANCE OF FOOD**

### **Offences as to conveyance of food**

**40.(1)** A person shall not consign or forward, or cause or permit to be consigned or forwarded, food for sale that is not so packed as to protect it adequately from contamination by animals, vermin, dust or any other source.

**(2)** A person shall not convey, or cause or permit to be conveyed, in or on a vehicle, food for sale unless that food is conveyed in a compartment, van type body, case, cabinet or any other receptacle that is—

- (a) suitably constructed for use in the conveyance of food having regard to the class or description of the food in question;
- (b) fully enclosed and provided with close-fitting doors or lids that are capable of being securely closed;
- (c) otherwise fitted, equipped and maintained so as to prevent food conveyed therein from becoming contaminated.

**(2A)** Such compartment, van type body, case or cabinet shall be effectively sealed off from the driving section of the vehicle.

**(2B)** A person shall not convey, or cause or permit to be conveyed, in or on a vehicle, food for sale unless such vehicle is identified as a food vehicle

by having distinctly, legibly and indelibly written on each external side thereof in letters having a letter height of not less than 100 mm the words 'FOOD TRANSPORT VEHICLE' or other words clearly indicating that the vehicle is used for the conveyance of food generally or food of a particular class or description.

(2C) Subsections (2) to (2B) shall not apply in the case of—

- (a) raw grains or seeds intended for further processing or whole fresh fruits or vegetables; or
- (b) non-perishable food contained in a package that is so constructed as to afford protection of that food from contamination.

(3) A person shall not—

- (a) convey, or cause or permit to be conveyed, food in or on a vehicle, or in or on any compartment, van type body, case, cabinet or other receptacle therein or thereon that is not clean and free from offensive odours and vermin and other source of contamination; or
- (b) convey, or cause or permit to be conveyed, food in or on a vehicle at a time when a door or lid of any compartment, van type body, case, cabinet or other receptacle therein or thereon containing that food is not securely closed; or
- (c) cause or permit a door or lid of any compartment, van type body, case, cabinet or other receptacle in or on a vehicle, containing food, to be opened or remain open, other than for the minimum period necessary for the loading or unloading of that food.

(4) A person shall not use a food vehicle for any purpose that may or may be likely to contaminate or injuriously affect the wholesomeness or purity of food, including the conveyance of any human or animal corpse or remains.

### **Animals in vehicles**

**41.** A person shall not cause or permit any dog or other animal to have or continue to have access to a part of a food vehicle.

**Protection of food during conveyance**

**42.** A person who conveys food for sale shall convey it in such manner as will ensure that it is not likely to be or become contaminated at any time during transit by contact with or drip from raw food, food for animals, fish bait or any other substance or thing.

**Offences as to sale or serving or supplying for sale of certain food from vehicles**

**43.** A person shall not sell, or serve or supply for sale, in, on or from a vehicle, food other than prepacked food, fresh whole fruits and vegetables unless—

- (a) the driving section of the vehicle is separate and effectively sealed off from the place therein where the food is sold or supplied for sale; and
- (b) fixtures, fittings and appliances in or on the vehicle that come into contact with food are constructed from suitable impervious material capable of being readily cleaned; and
- (c) where required by the local government, the vehicle—
  - (i) shall be fitted with 1 or more than 1 sink supplied with cold water, and hot water at a temperature of not less than 75°C for the washing of appliances; and
  - (ii) shall be provided with a hand wash basin supplied with cold water, and hot water at a temperature of not less than 75°C, soap or detergent and single service towels or a warm air hand-drying device; and
  - (iii) shall be equipped with a holding tank of sufficient capacity to hold waste water generated therein or be connected to an approved waste disposal system; and
- (d) the place therein where food is prepared or stored and whence food is sold, served or supplied is so constructed as to afford complete protection of that food from contamination from any source and is dustproof while the vehicle is in motion; and
- (e) the vehicle is equipped with suitable appliances for the proper storage of food, including where necessary suitable appliances for

maintaining food at appropriate temperatures in accordance with the requirements of sections 45 and 46; and

- (f) adequate ventilation and natural or artificial lighting is provided therein.

### **Prohibition for use of certain vehicles for the preparation or packing of food for sale**

**44.** A person shall not use a vehicle for the preparation or packing of food for sale unless that vehicle is, wherever practicable, designed, constructed, fitted, furnished and equipped in all respects in accordance with this regulation as if it were a food store.

## **PART 6—PERISHABLE AND POTENTIALLY HAZARDOUS FOOD**

### **Duty as to storing certain food**

**45.(1)** A person who sells or prepares, packs, stores, handles, serves, supplies or conveys for sale food shall ensure that—

- (a) the food is stored and, during conveyance thereof, kept in compliance with the conditions of storage set out in the label on or attached to a package containing the food; and
- (b) in the case of perishable food other than food to which paragraph (a) applies, it is stored and, during conveyance thereof, kept at such temperature as will as far as practicable preserve it from deterioration; and
- (c) in the case of potentially hazardous food, intended for consumption without further processing, save where otherwise prescribed by this regulation and while actually being prepared or served, it is stored or displayed in such manner as will ensure that the temperature of the food at all times—
  - (i) does not exceed 5°C; or

- (ii) is not less than 60°C; and
- (d) hot food storage or display units or refrigerated storage or display units of a suitable type and in sufficient quantity are provided to ensure maintenance of potentially hazardous food at the prescribed temperature while it is being stored, displayed or conveyed; and
- (e) each hot food storage or display unit or, as the case requires, refrigerated storage or display unit so provided is equipped with an indicating or a recording thermometer accurate to 1°C having thereon a numerical scale located so as to facilitate measuring the working temperature of the unit.

**(2)** Notwithstanding subsection (1)—

- (a) potentially hazardous food that has been prepared or stored at a temperature not exceeding 5°C shall, if so required, be heated or, as the case may be, reheated by means of such suitable appliance and in such manner as will ensure that the food is heated or reheated to 60°C as rapidly as possible, and in any case during a period not exceeding 1 hour;
- (b) potentially hazardous food that has been prepared or stored at a temperature of not less than 60°C shall, if so required, be cooled to 5°C as rapidly as possible and in any case during a period not exceeding 4 hours.

## **Frozen foods**

**46.(1)** Section 45 shall not apply in the case of frozen foods.

**(2)** A person who prepares for sale frozen food shall ensure that—

- (a) the freezing process is carried out with appropriate equipment and in such a manner as to minimise physical, biochemical and microbiological changes in the food; and
- (b) upon completion of the freezing process, the temperature of the frozen food is not higher than –15°C.

**(3)** A person who sells or stores, handles or conveys for sale frozen food shall ensure that the temperature of the frozen food is not higher than –15°C at any time other than—

- (a) as a consequence of defrosting cycles of any room or appliance, other than a frozen food retail cabinet, used for the storage of frozen food as prescribed by subsection (4);
- (b) during transfer and for a period of 2 hours thereafter from a delivery to a room or appliance used for the storage of frozen food as prescribed by subsection (5);
- (c) during transfer to a frozen food retail cabinet as prescribed by subsection (5); or
- (d) while exposed for sale by retail in a frozen food retail cabinet as prescribed by subsections (7) to (9).

(4) A person who stores for sale frozen food in any room or appliance, other than a frozen food retail cabinet, shall ensure that as a consequence of defrosting cycles of the room or appliance the temperature of the frozen food—

- (a) is not higher than  $-15^{\circ}\text{C}$  for longer than 2 hours in any period of 24 hours; and
- (b) is not at any time higher than  $-12^{\circ}\text{C}$ .

(4A) A person shall not remove frozen food for sale from any room or appliance, other than a frozen food retail cabinet, used for the storage of frozen food when the temperature of the frozen food is higher than  $-15^{\circ}\text{C}$ .

(5) A person who receives for sale frozen food shall ensure that—

- (a) the frozen food is placed in a suitable room or appliance for the storage of frozen food or in a frozen food retail cabinet as soon as practicable after the time of its receipt; and
- (b) the temperature of the frozen food does not rise above  $-12^{\circ}\text{C}$  at any time between its receipt and its placement in a suitable room or appliance for the storage of frozen food or in a frozen food retail cabinet.

(6) A person shall not store or expose for sale frozen food in any room or appliance that is not fully enclosed and thermally insulated from the environment external thereto other than a frozen food retail cabinet as prescribed by subsection (7).

(7) Frozen food may be exposed for retail sale in a frozen food retail cabinet—

- (a) that complies in all respects with AS 1731–1983, Frozen food retail cabinets; and
- (b) that is operated in a situation in which the ambient temperature does not exceed that set out in clause 1.3 of AS 1731–1983, Frozen food retail cabinets: in respect of the climate class of the cabinet marked on a plate attached thereto in accordance with clause 2.4.2 of AS 1731–1983, Frozen food retail cabinets.

(8) A person who exposes for sale frozen food in a frozen food retail cabinet shall ensure that—

- (a) frozen food is not located therein so that any part thereof lies outside the load limit marked on the cabinet; and
- (b) food that is not frozen or frozen food that has a temperature higher than  $-12^{\circ}\text{C}$  is not placed therein.

(9) A person shall not, in, at or on any premises, other place or vehicle in which the ambient temperature at any time exceeds or may exceed  $32^{\circ}\text{C}$ , use for the storage or exposure for sale of frozen food a frozen food retail cabinet or like appliance that has not been approved by the local government for that use therein, thereat or thereon.

## **PART 7—APPLIANCES, UTENSILS AND TABLEWARE**

### **Restriction as to use of certain appliances**

**47.(1)** A person while engaged in the sale or preparation, packing, storing, handling, serving, supplying or conveying for sale of food—

- (a) shall not use an appliance other than 1 constructed of such materials and in such manner as to render it easily cleaned; and
- (b) shall ensure that all appliances and means provided in, at or on the food store or food vehicle concerned for the protection of food from contamination are at all times properly used and applied for that purpose.

(2) A person shall not wilfully damage, destroy, remove or render inoperative any appliance or means provided for the protection of food from contamination.

(3) A person shall not—

- (a) represent as approved; or
- (b) sell as approved;

an appliance in respect of which there is not in existence an approval in writing given by the chief health officer, current at the material time.

(4) A person engaged in selling or serving ice cream or ice confection shall keep or cause to be kept each server, scoop or similar appliance used in connection with such sale—

- (a) in clean running water; or
- (b) in a suitable sanitising solution that shall be changed as often as is necessary and in any case at least twice daily.

### **Provision of cleaning equipment**

**48.(1)** A proprietor of a food store or a food vehicle in, at or on which eating utensils or drinking utensils are used shall provide in sufficient number and capacity as are necessary and use as prescribed in the store or vehicle—

- (a) glass washing machines; or
- (b) dish washing machines; or
- (c) double bowl sinks; or
- (d) tubs consisting of 2 compartments.

(2) Each glass washing machine or dish washing machine that is provided in accordance with subsection (1)—

- (a) shall—
  - (i) be conspicuously branded or marked with its name or trade name, its model identification and the name and address of its manufacturer; and
  - (ii) be automatic in its washing and rinsing actions; and

- (iii) be capable of completely washing in 1 operation eating utensils and drinking utensils; and
- (iv) rinse the eating utensils and drinking utensils for not less than 10 seconds with—
  - (A) water at a temperature of not less than 50°C containing not less than 50 milligrams per kilogram of sodium hypochlorite; or
  - (B) water at a temperature of not less than 75°C; and
- (v) be equipped with or have incorporated therein a water heating device or be supplied with water from an individual hot water source in either case such as to ensure that water is heated to a temperature sufficient to deliver water at the point of rinsing complying with the requirements of subparagraph (iv)(A) or, as the case requires, subparagraph (iv)(B); and
- (vi) be fitted with—
  - (A) a thermometer that is clearly visible to the operator so fixed as to register the temperature of the water at the time washing and rinsing operations are in progress; or
  - (B) an automatic pilot light that is clearly visible to the operator and that will indicate when the water in the heating device has reached the temperature required by subparagraph (v); and

(b) shall not include as part of its mechanism a brush.

**(3)** One bowl of each double bowl sink or 1 compartment of each 2 compartment tub provided in accordance with subsection (1) shall be supplied with sufficient soap or detergent for effectively washing utensils therein and the other bowl or compartment shall be supplied with hot water at a temperature of not less than 75°C for the final rinsing of such utensils.

**(3A)** Thermometers accurate to 1°C shall be provided and kept in a position adjacent to the sinks or tubs to permit frequent checks of the water temperature in all cases where the cleaning of utensils is carried out in double bowl sinks or 2 compartment tubs.

**(4)** A washing machine fitted for the purposes of this section shall,

unless it was ordered or acquired before the commencement of this regulation, be fitted with control devices of such construction and adjustment as will ensure that—

- (a) the machine will not operate until the rinsing water in the heating device is at a temperature required by subsection (2)(a)(v); and
- (b) the time of exposure of the eating utensils and drinking utensils in the machine to the rinsing water is not less than 10 seconds.

(5) All utensils after rinsing shall be dried by evaporation.

(6) This section shall not apply in the case of a food store or a food vehicle in, at or on which the only eating or drinking utensils used are single service appliances.

### **Prohibition as to use of faulty or dirty tableware**

**49.** A person engaged in, at or on a food store or a food vehicle in the sale or the preparation, handling, displaying or serving for sale of food—

- (a) shall not—
  - (i) use or have in his or her possession for use or put upon a table or counter or before a person tableware that is cracked, chipped, broken, or is otherwise unsound or unclean; or
  - (ii) put or cause or permit to be put upon a table or before a person a table napkin or serviette that—
    - (A) is unclean; or
    - (B) being a single service appliance, has been used by another person; or
    - (C) being a re-usable appliance, has been used by another person since it was last laundered; or
  - (iii) serve a beverage for sale in a glass or other drinking vessel that has not been effectively cleaned before that serving and after any previous serving of a beverage therein;
- (b) shall—
  - (i) clean or cause to be cleaned all eating utensils and drinking utensils after each use and before each subsequent use

thereof for the service or consumption of food by means of an appliance specified in section 48; and

- (ii) cause all table linen, placemats or other covering used on tables to be kept clean at all times; and
- (iii) ensure that single service appliances only are used where a washing appliance specified in section 48 is not provided; and
- (iv) destroy or dispose of or cause to be destroyed or disposed of forthwith single service appliances after they have been used once only.

### **Provision of food preparation sinks**

**50.(1)** A proprietor of a food store or a food vehicle in, at or on which the preparation of food is performed shall where so required provide in sufficient number and capacity as are necessary for use in or in connection with that activity sinks provided with an adequate supply of water.

**(2)** Sinks fitted for the purposes of subsection (1) shall be separate from and in addition to sinks or tubs specified in section 48.

## **PART 8—PACKING MATERIALS, METALS AND CONTAMINANTS IN PACKAGES AND APPLIANCES**

### **Use and storage of packing materials**

**51.** A person shall not in the packing of food for sale use or cause or permit to be used any package or packing material—

- (a) that is not clean and free from foreign matter and cracks and chips; or
- (b) that is not kept and stored until its use in such manner as will effectively protect it from dust, vermin or any other source of contamination; or

- (c) that is not free from a substance capable of imparting any unwholesome or deleterious property to the food.

### **Duty to wrap meat, fish and other foods**

**52.(1)** A person who sells by retail meat, fish or any food that is ordinarily consumed in the same state in which it is sold shall ensure that each piece of such food is delivered to the purchaser completely wrapped or otherwise packed in paper or other suitable material that—

- (a) is clean; and
- (b) has not been used previously for any purpose; and
- (c) is free from writing or printing so placed thereon as to come or be likely to come in contact with the food.

**(2)** A person shall not use or cause or permit to be used as a second or subsequent wrapping or other package for a food specified in subsection (1) paper or other material that does not comply in all respects with that subsection.

**(3)** Subsection (1) shall not apply in the case of—

- (a) bread delivered to a person at the person's place of residence in a clean basket covered with clean, washable material; or
- (b) food sold for immediate consumption in the food store or food vehicle in, at, on or from which it is sold; or
- (c) fresh whole fruit and vegetables.

### **Prohibition of use of certain packages for food**

**53.(1)** A person shall not use or cause or permit to be used for the purpose of storing or conveying wheat, oats, maize, potatoes or food for consumption by man any bag, sack, carton or other package that at any time has contained bone dust, superphosphate or other fertiliser or manure or any other contaminating matter.

**(2)** Except where it is otherwise expressly provided a person shall not, in the sale or the preparation, packing, storing, handling, serving, supplying or conveying for sale of food—

- (a) use any package or appliance that yields to food coming into contact with it any poisonous, injurious or foreign substance or contaminating matter;
- (b) cause food to be in contact with or use any package or appliance that consists wholly or partly of antimony, arsenic, cadmium, copper, lead, mercury, zinc or other poisonous metal or a compound of any of them.

### **Use of previously used materials or packages**

**54.(1)** A person shall not—

- (a) pack or cause or permit to be packed for sale food in a package made wholly or partly of paper, cardboard, polystyrene or other absorbent material; or
- (b) use or cause or permit to be used in or in connection with closing or sealing a package containing food for sale any cork, crown seal, screw cap, gasket, washer, wad or similar appliance; or
- (c) except where it has been cleaned in accordance with this regulation, use or cause or permit to be used as a package for food for sale a package;

that is secondhand or has been previously used.

(2) Subsection (1) shall not apply in the case of the packing of fruits and vegetables that have an inedible skin or are ordinarily cleaned prior to consumption by man.

## **PART 9—MAINTENANCE OF FOOD STORES, FOOD VEHICLES AND APPLIANCES**

### **Maintenance**

**55.** A person who uses a food store or a food vehicle or a place therein, thereat or thereon shall—

- (a) maintain—

- (i) that store or vehicle or place—
  - (A) in a clean, serviceable and sanitary condition, free from objectionable odour and in a state of good repair; and
  - (B) free from animals and vermin; and
- (ii) fittings, fixtures and appliances therein, thereat or thereon in a clean and sanitary condition and in a state of good repair and efficient operation; and
- (iii) adequate facilities therein, thereat or thereon, including the supply of hot water, for the cleaning thereof and of fittings, fixtures and appliances therein, thereat or thereon; and
- (iv) buildings and structures and all parts thereof in such condition as will prevent as far as practicable the ingress of animals, vermin, dust, dirt, smoke and other contaminants; and
- (b) so keep, store and arrange all materials therein, thereat or thereon as to preclude harbourage of vermin; and
- (c) exclude animals from any area therein, thereat or thereon used for or in connection with the sale or the preparation, packing, storing, handling, serving, supplying or conveying for sale of food; and
- (d) do and take all such practicable acts, steps and things as are necessary for the eradication therefrom of animals and vermin.

## **PART 10—LICENCES AND REGISTRATIONS WITH RESPECT TO FOOD STORES, OTHER PLACES AND FOOD VEHICLES**

### **Licensing provisions**

**56.(1)** This part does not apply to a person conducting a business at a place if—

- (a) the only unpackaged food dealt with at the place is dairy produce and the business is conducted under any of the following licences

under the *Dairy Industry Regulation 1993*—

- (i) a producer's licence;
  - (ii) a processor's licence;
  - (iii) a carrier's licence;
  - (iv) a vendor's licence; or
- (b) the only unpackaged food dealt with at the place is fish and the business is conducted under a commercial fisher licence under the *Fisheries Regulation 1995*; or
- (c) the only unpackaged food dealt with at the place is meat and the business is conducted under an accreditation under the *Meat Industry Act 1993*.

**(1A)** The exemptions provided by this part do not apply to any part of premises used as a canteen where food is prepared, served, or sold to the public or the employees of the holder of any such licence or registration.

**(2)** Subject to the provisions of the Act and this regulation, the local government may grant and issue licences to conduct the business of 1 or more of the several classes or descriptions specified in the schedule.

**(3)** A person who desires to apply for a licence shall make application in the approved form to the local government and accompany the person's application with the application fee and licence fee fixed by the local government.

**(3A)** Upon receipt of the application, the local government shall cause to be made by an authorised officer such investigation, inquiry and inspection as the authorised officer considers necessary with respect thereto.

**(3B)** Upon the investigation, inquiry and inspection, the authorised officer shall report thereon to the local government and may make in that report such recommendations with respect to the application as the authorised officer considers necessary, having regard to the fitness of the applicant to hold the licence and the public health.

**(3C)** The local government shall consider each application made under subsection (3) and the report made under subsection (3B) and may grant or refuse the application, having regard to the fitness of the applicant to hold the licence and the public health.

**(3D)** The local government—

- (a) shall, where an application for a licence is granted, issue to the applicant a licence;
- (b) shall, where an application for a licence is refused, notify the applicant in writing of the refusal and the reasons therefor and shall refund to the applicant the licence fee paid by the applicant.

**(4)** A licence under this section shall—

- (a) be in the approved form; and
- (b) be in force for the prescribed period; and
- (c) be subject to—
  - (i) such terms and conditions as are prescribed generally or in a particular case or, so far as not prescribed, as the local government in a particular case thinks fit endorsed thereon or attached thereto; and
  - (ii) the payment of such fees or other charges (if any) and to such conditions as to the payment thereof as the local government determines; and
- (d) authorise the holder thereof to do all such acts and things as are necessary in or in connection with the conduct in, at or on a food store or other place or a food vehicle registered under this regulation of the classes or descriptions of businesses in respect of which the licence is granted.

**(5)** A licence issued pursuant to this regulation shall take effect from the date of issue thereof and unless sooner surrendered, cancelled, revoked or suspended shall remain in force until—

- (a) 30 June next following the date of issue; or
- (b) 12 months less 1 day after the date of issue, as determined by the local government.

**(6)** A person who desires to renew a licence shall, not less than 42 days before the date of expiration of the licence, make application to the local government in the approved form for the renewal thereof and accompany the person's application with the application fee and renewal fee fixed by the local government.

**(6A)** Upon receipt of the application, the local government shall cause to be made by an authorised officer such investigation, inquiry and inspection as the authorised officer considers necessary with respect thereto, having regard to the fitness of the applicant to continue to hold the licence and the public health.

**(6B)** Upon the investigation, inquiry and inspection, the authorised officer shall report thereon to the local government and may make in that report such recommendations with respect to the application as the authorised officer considers necessary, having regard to the fitness of the applicant to continue to hold the licence and the public health.

**(6C)** The local government shall consider each application made under subsection (6) and the report made under subsection (6B) and may grant or refuse the renewal of the licence, having regard to the fitness of the applicant to continue to hold the licence and the public health.

**(6D)** A renewal of a licence shall be subject to the same terms and conditions for the time being applicable to the licence and the local government may vary or amend those terms and conditions during the currency of the renewal of the licence.

**(6E)** Where the local government grants a renewal of a licence, it shall cause to be issued a certificate of renewal of licence in the approved form.

**(6F)** A renewal of a licence granted under this section unless sooner surrendered, cancelled, revoked or suspended shall remain in force for 1 year from and including the date of its grant.

**(6G)** Where an application for renewal of a licence is refused, the local government shall notify the applicant in writing of the refusal and the reasons therefor and shall refund to the applicant the renewal fee paid by the applicant.

**(6H)** In all other respects and subject to necessary adaptations, subsection (4) shall apply to a renewal of a licence.

**(7)** A person, at any time during the currency of a licence or any renewal thereof, may surrender his or her licence by forwarding the licence or renewal thereof to the local government together with a notice in writing to that effect.

**(8)** In this section—  
“at” includes in or on.

**“dairy produce”** has the meaning given by the *Dairy Industry Act 1993*.

**“dealt with”** means prepared, handled, stored, served or sold.

**“fish”** has the meaning given by the *Fisheries Act 1994*.

**“meat”** has the meaning given by the *Meat Industry Act 1993*.

**“place”** includes premises, a vehicle and part of premises or a vehicle.

### **Cancellation, revocation or suspension of licence**

**57.(1)** The local government, at any time during the currency of a licence or a renewal thereof, by notice in writing to the holder thereof—

- (a) may cancel or revoke;
- (b) may suspend for such period as it thinks fit, not exceeding the balance of the term thereof;

that licence if—

- (c) it was issued in error or granted in consequence of a false or fraudulent document, statement or representation; or
- (d) the holder—
  - (i) is convicted of not fewer than 2 offences against the Act or regulation made thereunder, including this regulation, within a period of 2 years prior to the date of such cancellation, revocation or suspension; or
  - (ii) fails to comply with any term or condition thereof; or
- (e) there has been a substantial change of circumstances since the grant thereof; or
- (f) for any other reason the local government is of opinion that the holder is not a fit and proper person to hold it or that it is in the public interest to do so.

**(2)** Where a licence is suspended, it shall be of no force or effect during the period of suspension and thereafter shall remain in force only for the period during which it would have remained in force but for the suspension.

**(3)** Where a licence is cancelled or revoked, it shall be of no force or effect on and from the date of that cancellation or revocation, and the holder

thereof shall within 7 days after demand duly made upon the holder in that behalf deliver that licence up to the local government.

(4) A cancellation, revocation or suspension of a licence under this section shall not confer upon the holder thereof a right to compensation.

### **Registration of premises, other places or vehicles**

**58.(1)** The local government may grant to a person who is the holder of a current licence, registration with respect to any premises, other place or vehicle in, at or on which a business of 1 or more of the several classes or descriptions specified in the schedule is or is to be conducted.

(2) A person who desires to register any premises, other place or vehicle under this section shall make application in the approved form to the local government in whose area the premises are situated or the vehicle is or is to be used and accompany that application with the application and registration fee fixed by the local government.

(2A) An applicant for the registration of premises or some other place under this section shall submit with the applicant's application a number of copies as required by the local government of specifications and drawings showing plans and elevations to a scale not smaller than 1:100 and, where necessary, further detailed drawings including sections that facilitate adequate assessment of the subject matter of the application.

(2B) Where the application is made in respect of a vehicle the requirements set forth in subsection (2A) shall, with all necessary adaptations, apply.

(2C) A person shall not, except with the approval in writing of the local government first had and obtained or at the direction thereof, alter or modify in any manner a part of any premises, other place or vehicle the subject of an application for registration so as to render that part different in any respect from that part as described or indicated in the specifications and drawings submitted in accordance with subsection (2A).

(2D) Specifications and drawings submitted to the local government for the purposes of subsection (2A) shall become and be the property of the local government.

(2E) However, the local government shall, upon the determination of an application for the registration of premises, other place or vehicle, return to

the applicant 1 copy of those specifications and drawings endorsed by the local government in accordance with the decision made by it thereon.

**(2F)** Upon receipt of an application made for the purposes of subsection (2), the local government shall cause to be made by an authorised officer such investigation, inquiry and inspection as the authorised officer considers necessary with respect thereto.

**(2G)** Upon the investigation, inquiry and inspection, the authorised officer shall report thereon to the local government and may make in that report such recommendations with respect to the application as the authorised officer considers necessary, having regard to the suitability of the premises, other place or vehicle for use as a food store or food vehicle and the public health.

**(2H)** The local government shall consider each application made for the purposes of subsection (2) and the report made for the purposes of subsection (2F) and may—

- (a) grant the application;
- (b) in a case to which subsections (4) and (4A) apply, grant provisional registration and defer further consideration of the application;
- (c) where it considers that the premises, other place or vehicle is not suitable for use as a food store or food vehicle or that the public health may be endangered, refuse the application.

**(2I)** The local government—

- (a) shall, where an application made for the purposes of subsection (2) is granted, issue in respect thereof a certificate of registration;
- (b) shall, where it desires to grant provisional registration, do so in accordance with subsections (4) and (4A);
- (c) shall, where an application made for the purposes of subsection (2) is refused, notify the applicant in writing of the refusal and the reasons therefor and shall refund to the applicant the registration fee paid by the applicant.

**(3)** A certificate of registration shall—

- (a) be in the approved form; and

- (b) be in force for the prescribed period; and
- (c) be subject to—
  - (i) such terms and conditions as are prescribed generally or in a particular case or, so far as not prescribed, as the local government in a particular case thinks fit endorsed thereon or attached thereto; and
  - (ii) the payment of such fees or other charges (if any) and to such conditions as to the payment thereof as the local government determines; and
- (d) authorise the use of the premises, other place or vehicle in respect of which the registration is granted for such purposes as are specified therein.

(4) The local government, in a case where it is of the opinion that the premises, other place or vehicle the subject of an application for registration, do or does not comply in all respects with part 2 or part 6, may grant provisional registration with respect to the premises, other place or vehicle and issue in respect thereof a certificate of provisional registration.

(4A) A certificate of provisional registration shall—

- (a) be in the approved form; and
- (b) be in force for such period as the local government determines but not exceeding in any case 6 months; and
- (c) be subject to such terms and conditions as the local government determines, endorsed on or attached to the certificate; and
- (d) authorise the use of the premises, other place or vehicle in respect of which the provisional registration is granted for such purposes as are specified therein and during the currency thereof.

(5) A registration, other than a provisional registration, shall take effect from the date the registration was granted and unless sooner surrendered, cancelled or revoked or suspended shall remain in force until—

- (a) 30 June next following the date of registration; or
- (b) 12 months less 1 day after the date of registration;

as determined by the local government.

**(6)** A person who desires to renew a registration shall, not less than 42 days before the date of expiration of the registration, make application to the local government in the approved form for the renewal thereof and shall accompany the person's application with the application fee and renewal fee fixed by the local government.

**(6A)** Upon receipt of the application, the local government shall cause to be made by an authorised officer such investigation, inquiry and inspection as the authorised officer considers necessary with respect thereto.

**(6B)** Upon the investigation, inquiry and inspection, the authorised officer shall report thereon to the local government and may make in that report such recommendation with respect to the application as the authorised officer considers necessary.

**(6C)** The local government shall consider each application made under subsection (6) and the report made under subsection (6B) and may grant or refuse the renewal of the registration, having regard to the suitability of the premises, other place or vehicle as a food store or food vehicle and the public health.

**(6D)** A renewal of a registration shall be subject to the terms and conditions for the time being applicable to the registration and the local government may vary or amend those terms and conditions during the currency of the renewal of the registration.

**(6E)** In all other respects and subject to necessary adaptations, subsection (3) shall apply to a renewal of a registration.

**(6F)** Where the local government grants a renewal of a registration, it shall cause to be issued a certificate of renewal of registration in the approved form.

**(6G)** A renewal of a registration shall, unless sooner surrendered, cancelled, revoked or suspended, remain in force for 1 year from and including the date of its grant.

**(6H)** Where an application for renewal of a registration is refused, the local government shall notify the applicant in writing of the refusal and the reasons therefor and shall refund to the applicant the renewal fee paid by the applicant.

**(7)** A person may, at any time during the currency of a registration,

surrender that registration by forwarding it to the local government together with a notice to that effect.

### **Transfer of registration or renewal**

**59.(1)** The holder of a certificate of registration or renewal thereof who desires to transfer to another person that registration during the currency thereof shall make application to the local government in the approved form and accompany the holder's application with the certificate of registration or renewal and the application fee fixed by the local government.

**(1A)** The local government shall consider each application made under subsection (1) and shall, unless the proposed transferee is not the holder of a current licence, grant that application.

**(2)** Where an application under this section is granted, the local government shall cause an appropriate endorsement in respect of the transfer to be made on the certificate of registration or renewal in question and shall deliver the certificate so endorsed to the transferee.

**(3)** Where an application under this section is refused, the local government shall notify the applicant and the proposed transferee in writing of the refusal and the reasons therefor and shall refund to the applicant the transfer fee paid by the applicant and return to the applicant the certificate of registration or renewal.

### **Cancellation, revocation or suspension of registration**

**60.(1)** The local government, at any time during the currency of a registration or a renewal thereof, by notice in writing to the holder thereof—

- (a) may cancel or revoke; or
- (b) may suspend for such period as it thinks fit, not exceeding the balance of the term thereof;

that registration if—

- (c) it was issued in error or granted in consequence of a false or fraudulent document, statement or representation; or
- (d) the local government is satisfied that the premises, other place or vehicle in respect of which the registration is in force have or has

ceased to comply in every respect with the Act and regulations made thereunder, including this regulation; or

- (e) there has been a substantial change in circumstances since the grant thereof; or
- (f) for any other reason if the local government is of the opinion that the premises, other place or vehicle have or has ceased to be fit and proper for the purposes for which the registration was granted or that it is in the public interest to do so.

(2) A cancellation, revocation or suspension of a registration under this section shall not confer upon the holder thereof a right to compensation.

(3) Where a registration is suspended, the certificate with respect thereto shall be of no force or effect during the period of suspension and thereafter shall remain in force only for the period during which it would have remained in force but for the suspension.

(4) Where a registration is cancelled or revoked, the certificate with respect thereto shall be of no force or effect on and from the date of such cancellation or revocation and the holder thereof shall within 7 days after demand duly made upon the holder in that behalf deliver up to the local government that certificate.

### **Register and other records to be kept**

**61.** The local government shall establish and at all times thereafter maintain a register and other records setting forth and containing particulars of—

- (a) applications for licences and registrations, renewals of licences, renewals and transfers of registrations; and
- (b) grants or refusals of licences and renewals thereof, of registrations and renewals and transfers thereof; and
- (c) the terms and conditions applicable to licences and registrations and renewals thereof and certificates issued with respect to licences and registrations; and
- (d) notices of surrender of licences and registrations; and
- (e) surrenders, cancellations, revocations and suspensions of licences

and registrations; and

- (f) reports furnished to it with respect to applications, cancellations, revocations and suspensions; and
- (g) such other matters as it from time to time determines.

### **Duplicates**

**62.** The local government may, upon application duly made in that behalf and upon payment of the appropriate fee fixed by the local government, issue to the holder of a licence or renewal thereof or of a certificate of registration or renewal thereof a duplicate of that licence or renewal or that certificate of registration or renewal in a case where the applicant has declared that the original thereof has been lost, destroyed, stolen or defaced.

### **Offences**

**63.** A person, other than a person conducting a business under the authority and during the currency of a licence with respect to that business and a certificate of registration with respect to the premises, other place or vehicle in, at, or on which that business is conducted granted and issued by the local government prior to the commencement of this regulation, and not subsequently suspended or cancelled by it, shall not conduct a business of a class or description specified in the schedule unless—

- (a) the person is the holder of a licence to conduct that business; and
- (b) the premises, other place or vehicle in, at or on which that business is conducted are or is registered in accordance with this regulation for the conduct of that business and the person is the holder of a certificate of registration with respect thereto.

## **PART 11—GENERAL PROVISIONS**

### **Prohibition as to possession or use of unsound food**

**64.** A person in, at or on a food store or a food vehicle shall not—

- (a) have in possession—
    - (i) for sale; or
    - (ii) for use in the preparation of food for sale; or
  - (b) use or supply for use in the preparation of food for sale;
- food that—
- (c) is mouldy, fermented or otherwise deteriorated; or
  - (d) is damaged, perished, contaminated or otherwise unwholesome; or
  - (e) is contained in cans or other hermetically sealed containers that are in a blown, leaking or rusted condition or have damaged seams; or
  - (f) exhibits any sign of being in a condition specified in paragraph (c) or (d) or is of abnormal appearance, flavour or odour.

### **Prohibition as to use of certain premises in dealings with food**

#### **65. A person—**

- (a) shall not in the sale or the preparation, packing, storing, handling, serving, supplying or conveying for sale of food at any time use for or in connection with any of those purposes any premises, other place or vehicle or part thereof—
  - (i) that is at any time used as a sleeping apartment or is in direct communication with a sleeping apartment; or
  - (ii) in which there is a bed or any bedding or that is in direct communication with a place in which there is a bed or any bedding; or
  - (iii) that is at any time used as a lavatory, air lock or change room or is in direct communication with a sanitary convenience; or
  - (iv) that is at any time used as a place in which an animal is kept or allowed to be or is in direct communication with a place in which an animal is kept or allowed to be; or
  - (v) in which work is being or has been carried out that would be

liable to contaminate or injuriously affect the wholesomeness, quality or purity of food; or

- (vi) in which there is an untrapped opening communicating directly with a drain or sewer;
- (b) except with the approval in writing of the local government first had and obtained, shall not conduct in, at or on a food store or a food vehicle a trade or business of another kind.

### **Restriction of domestic operations**

**66.** A person shall not prepare, pack, store, handle, serve or supply for sale food in a kitchen, room or place that is used also for the preparation, packing, storing, handling, serving, supplying or consuming of food for domestic use or consumption unless—

- (a) such food for domestic use or consumption; and
- (b) the kitchen, room or place and fittings, fixtures and appliances used in or in connection therewith;

comply with the Act and regulations made thereunder, including this regulation.

### **Duty of proprietor in case of fire, flood or other emergency**

**67.** The proprietor of a food store or a food vehicle which has been affected by fire, flood, extended interruption of electricity supply, or any similar occurrence which has created reasonable probability that any food intended for sale in the store or the vehicle may have become hazardous to health shall—

- (a) forthwith upon the occurrence—
  - (i) suspend the sale and the preparation or packing for sale of the food in question; and
  - (ii) notify the local government thereof; and
- (b) not resume the sale or the preparation or packing for sale of the food in question until the proprietor has obtained the permission of an authorised officer so to do.

**Restriction on sale of certain ice cream and ice confections**

**68.** A person shall not sell ice cream or ice confection that, having been frozen and subsequently having broken down or melted, has been frozen again.

**Prohibition as to use or sale of certain ice**

**69.** A person—

- (a) for the purpose of cooling or keeping cool food for sale, shall not use ice other than ice that complies with the standard for ice prescribed by the National Health and Medical Research Council Food Standards Code as amended; and
- (b) shall not sell for consumption by a person ice that has been used for a purpose specified in paragraph (a).

**Prohibition of use of certain water**

**70.** A person shall not use in or in connection with the preparation of food for sale water other than water that complies with the standard for potable water prescribed by the National Health and Medical Research Council Food Standards Code as amended.

**Service of notice**

**71.** An authorised officer may give to a person who in the authorised officer's opinion has contravened or failed to comply with any provision of the Act or this regulation notice in writing requiring that person within a time specified in the notice to do such acts or things as the authorised officer considers necessary to rectify the act or omission constituting the contravention of or failure to comply with the Act or this regulation.

**Penalties**

**72.(1)** A person who contravenes or fails to comply with a provision of this regulation commits an offence against this regulation.

**(2)** A person who—

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- (a) fails to do that which the person is directed or required to do;
- (b) does that which the person is forbidden to do;

by a person acting under the authority of this regulation commits an offence against this regulation.

**(3)** A person who commits an offence against this regulation is liable to a penalty of 50 penalty units.

## **SCHEDULE**

### **CLASSES AND DESCRIPTIONS OF BUSINESSES**

<b>Class or description</b>	<b>Scope of businesses within the class or description</b>
Baker and pastrycook	Preparation with or without packing of bread, biscuits, cake, pastry or other flour products.
Cafe or restaurant	Preparation, service, and consumption of meals or light refreshments. Includes a cafeteria, tea room or coffee lounge by whatever name called, furnished or fitted with tables, counters, chairs, benches or like facilities designed or adapted for use in the service and consumption of food.
Cannery	Preparation of food including processing by heat in an appropriate manner before or after hermetically sealing in a container so as to prevent spoiling.
Cordial and soft drink factory	Preparation or packing of cordials, soft drinks, fruit juices, fruit juice products, brewed soft drinks, mineral or carbonated waters.
Food manufacturer or packer	Preparation or packing of food of 1 or more than 1 specified class or description not included in another class or description of business set out in this schedule. Does not include the packing of food at the time of sale and in the presence of the purchaser.

## SCHEDULE (continued)

Food shop	Preparation, storage, handling, serving or sale of unpackaged food. Does not include the classes or descriptions—  (a) baker and pastrycook; or (b) cafe or restaurant; or (c) cordial and soft drink factory; or (d) takeaway food bar.
Takeaway food bar	Preparation and sale of meals or light refreshments in a state ready for immediate consumption. Includes a snack bar or the like by whatever name called, not furnished or fitted with tables, counters, chairs, benches or like facilities, designed or adapted for use in the consumption of food.

## **ENDNOTES**

### **1 Index to endnotes**

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### **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 26 August 1998. Future amendments of the Food Hygiene Regulation 1989 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	to SL No. 70 of 1996	8 October 1996
1A	to SL No. 73 of 1998	14 May 1998

### 5 Tables in earlier reprints

#### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 6 List of legislation

### **Food Hygiene Regulation 1989**

made by the Governor in Council on 30 March 1989  
 pubd gaz 1 April 1989 pp 1853–900  
 commenced on date of publication  
 exp 30 March 1999 (see SIA s 54)

as amended by—

### **Food Hygiene (Amendment) Regulation 1991**

pubd gaz 9 March 1991 pp 1172–3  
 commenced on date of publication

### **Food Hygiene Amendment Regulation (No. 1) 1996 SL No. 70**

notfd gaz 19 April 1996 pp 1681–2  
 commenced on date of notification

### **Food Hygiene Amendment Regulation (No. 1) 1998 SL No. 73**

notfd gaz 9 April 1998 pp 1530–2  
 commenced on date of notification

## 7 List of annotations

### **Repeal**

s 2 om R1 (see RA s 40)

### **Arrangement**

s 3 om R1 (see RA s 36)

### **Interpretation**

s 4 amd 1996 SL No. 70 s 3  
 def “**approved**” amd 1996 SL No. 70 s 3(2)  
 def “**bed and breakfast business**” ins 1998 SL No. 73 s 3  
 def “**food store exemption**” ins 1998 SL No. 73 s 3  
 def “**food store requirements**” ins 1998 SL No. 73 s 3  
 def “**host farm business**” ins 1998 SL No. 73 s 3  
 def “**the Act**” om 1996 SL No. 70 s 3(1)  
 def “**the Local Authority**” om 1996 SL No. 70 s 3(1)

### **Meaning of “bed and breakfast business”**

s 4AA ins 1998 SL No. 73 s 4

### **Meaning of “host farm business”**

s 4AB ins 1998 SL No. 73 s 4

### **Application of Australian Standards**

s 4A ins 1996 SL No. 70 s 4

### **Forms**

s 5 om 1996 SL No. 70 s 5

**Ventilation and exhaust equipment**

s 14            amd 1996 SL No. 70 s 6

**Offences**

s 25            amd 1998 SL No. 73 s 5

**PART 2A—FOOD STORE EXEMPTIONS**

pt hdg        ins 1998 SL No. 73 s 6

**Division 1—Applications**

div hdg       ins 1998 SL No. 73 s 6

**Application for exemption**

s 25A        ins 1998 SL No. 73 s 6

**Decision on application**

s 25B        ins 1998 SL No. 73 s 6

**Division 2—Suspension or cancellation of exemptions**

div hdg       ins 1998 SL No. 73 s 6

**Grounds for suspension or cancellation**

s 25C        ins 1998 SL No. 73 s 6

**Procedure for suspension or cancellation**

s 25D        ins 1998 SL No. 73 s 6

**Procedure for immediate suspension**

s 25E        ins 1998 SL No. 73 s 6

**Division 3—Amendment of exemptions**

div hdg       ins 1998 SL No. 73 s 6

**Procedure for amendment**

s 25F        ins 1998 SL No. 73 s 6

**Division 4—Appeals**

div hdg       ins 1998 SL No. 73 s 6

**Decisions open to appeal**

s 25G        ins 1998 SL No. 73 s 6

**Starting an appeal**

s 25H        ins 1998 SL No. 73 s 6

**Time for starting an appeal**

s 25I        ins 1998 SL No. 73 s 6

**Stay of operation of decisions**

s 25J        ins 1998 SL No. 73 s 6

**Hearing procedures**

s 25K        ins 1998 SL No. 73 s 6

**Powers of court on appeal**

s 25L        ins 1998 SL No. 73 s 6

**Appeal to District Court**

**s 25M** ins 1998 SL No. 73 s 6

**Cloths used to wipe appliances or food**

**s 34** sub 1996 SL No. 70 s 7

**Prohibition as to affected persons**

**s 38** amd 1996 SL No. 70 s 8

**Powers of chief health officer or medical officer of health**

**prov hdg** amd 1996 SL No. 70 s 9

**s 39** amd 1996 SL No. 70 s 9

**Restriction as to use of certain appliances**

**s 47** amd 1996 SL No. 70 s 10

**Licensing provisions**

**s 56** amd reg pubd gaz 9 March 1991 pp 1172–3; 1996 SL No. 70 s 11

**Registration of premises, other places or vehicles**

**s 58** amd 1996 SL No. 70 s 12

**Transfer of registration or renewal**

**s 59** amd 1996 SL No. 70 s 13

**SCHEDULE 1**

amd reg pubd gaz 9 March 1991 pp 1172–3  
om 1996 SL No. 70 s 14

**SCHEDULE—CLASSES AND DESCRIPTIONS OF BUSINESSES**

**hdg** (prev sch 2) amd R1 (see RA s 5(d))