

1995—No. 93

FOOD ACT 1989—REGULATION

(Relating to food hygiene and food irradiation)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Food Act 1989, has been pleased to make the Regulation set forth hereunder.

Ron Phillips
Minister for Health.

Commencement

1. This Regulation commences on 3 March 1995.

Amendment

2. The Food (General) Regulation 1992 is amended:
 - (a) by omitting from clause 11 (1) and (2) the word “handled” wherever occurring and by inserting instead the words “prepared, preserved, packed, decorated or served”;
 - (b) by omitting clause 11 (3);
 - (c) by omitting clause 12 (2) (c) and by inserting instead the following paragraph:
 - (c) must be connected to:
 - (i) a holding tank that can hold all waste water from the premises or vehicle; or
 - (ii) some other appropriate waste disposal system; and
 - (d) by omitting clause 13 (1) and by inserting instead the following subclause:
 - (1) Any premises or vehicle in which food is prepared for sale to customers:
 - (a) for consumption on the same premises or vehicle; or

- (b) for consumption on some other premises or vehicle (being the premises or vehicle on which it is sold or otherwise provided),
must be provided with a dish washing machine, a glass washing machine (if appropriate), a double bowl sink or a tub containing 2 compartments.
- (e) by omitting from clause 13 (4) (b) the words “in the wash tank is to be at least 66°C but not more than 71°C” and by inserting instead the words “(measured at the outlet of the wash spray assembly) is to be at least 55°C”;
- (f) by omitting from clause 13 (4) (c) the matter “66°C” and by inserting instead the matter “60°C”;
- (g) by omitting from clause 13 (4) (e) the words “that are legible,” and by inserting instead the words “or separate pilot lights, that are visible”;
- (h) by omitting from clause 13 (5) the words “Subclause (4) does” and by inserting instead the words “The provisions of subclause (4) (a), (b) and (c) do not”;
- (i) by omitting clause 30 and by inserting instead the following clause:

Persons suffering from certain conditions

30. (1) A person who is suffering from:

- (a) an illness which may be transmitted to other persons through food (for example, viral or bacterial gastroenteritis, campylobacter infection, cholera, hepatitis A, salmonella infection, typhoid fever or paratyphoid fever); or
- (b) boils, abscesses or other purulent lesions,

must not prepare, pack, decorate or serve food for sale or handle a package containing food or a receptacle, utensil, appliance, article or other thing used to prepare, pack, decorate or serve food for sale.

Maximum penalty: 25 penalty units.

(2) Subclause (1) does not apply to an activity carried out by a person if the Director-General has certified in writing that the person may carry out that activity and the person complies with any conditions contained in the certificate.

- (j) by inserting in clause 33 (3) (c) after the matter “clause 13 (4)” the words “and to which an appropriate amount of detergent or another suitable cleaning agent has been added”;

- (k) by inserting after clause 36 (3) the following subclause:
(3A) Subclause (3) does not apply to premises at which the smoking or use of tobacco is not permitted anywhere in the premises.
- (l) by inserting after clause 59 (2) the following subclause:
(3) Subclause (2) does not apply to a vehicle used for the carrying of suspended carcasses of butcher's meat (within the meaning of Part 8) for sale.
- (m) by omitting clause 67 (4) and by inserting instead the following subclause:
(4) A person must not sell from a vehicle by retail sale butcher's meat or pre-packed meat that is in the vehicle or has been transported by the vehicle.
Maximum penalty: 25 penalty units.
- (n) by inserting at the end of clause 78 the following subclauses:
(7) Subclauses (2)–(6) do not apply to the storage of food for the purposes of a private catered function in which the food is prepared and served in the form of a self-service buffet or smorgasbord.
(8) A person who, because of subclause (7), causes food to be stored otherwise than in accordance with subclauses (3)–(6):
(a) must not allow the food to be so stored for more than 90 minutes; and
(b) must ensure that all food remaining at the end of the period for which it is so stored is destroyed or disposed of otherwise than by way of human consumption.
Maximum penalty: 25 penalty units.
- (o) by inserting after clause 86 the following clause:
Irradiation of food
87. (1) A person must not:
(a) expose food to ionising radiation; or
(b) manufacture, produce, pack or deliver for sale, or give away for human consumption, food which has been intentionally exposed to ionising radiation,
unless the Director-General has approved, in writing, the irradiation of the food and the person complies with any applicable conditions of the approval.
Maximum penalty: 25 penalty units.

(2) A person must not manufacture, produce, pack or deliver for sale, or give away for human consumption, food which has been accidentally exposed to ionising radiation.

Maximum penalty: 25 penalty units.

(3) In this clause:

“ionising radiation” means electromagnetic or particulate radiation capable of producing ions directly or indirectly in passage through matter, but does not include electromagnetic radiation of a wavelength greater than 100 nanometres.

EXPLANATORY NOTE

The objects of this Regulation are to amend requirements relating to vehicles and premises in which food is handled for sale or sold, to control the handling of food for sale by persons suffering from certain illnesses and conditions, to control the irradiation of food for sale and to make other minor amendments to requirements relating to food hygiene.

In particular, the Regulation:

- (a) applies the construction requirements for vehicles to vehicles used for preparing, preserving, packing, decorating or serving food for sale but not to vehicles used to convey or deliver food for sale;
- (b) extends requirements for washing facilities for utensils to vehicles or premises where food is prepared for sale to customers on other vehicles or premises from which it is sold;
- (c) lowers the minimum temperature at which the wash tank of a dishwasher used to wash utensils must operate and changes other technical requirements for dishwashers;
- (d) limits the current prohibition on persons suffering from a notifiable illness handling food for sale or utensils etc. used to handle food to a prohibition on persons suffering from diseases which may be transmitted by food or from boils, abscesses or lesions, while enabling the Director-General of the Department of Health to certify that the prohibition does not apply to an individual;
- (e) removes the requirement for premises on which self-service food is sold to display a no smoking sign, if smoking or the use of tobacco is not permitted on the premises;
- (f) makes it clear that requirements relating to the closure of vehicles carrying food do not apply to vehicles used to carry suspended carcasses of butcher's meat for sale;
- (g) omits the offence of storing butcher's meat or pre-packed meat for sale in a vehicle;
- (h) excludes food served at temporary buffets from storage requirements providing certain conditions are complied with;

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- (i) makes it an offence to expose food to ionising radiation or to manufacture, produce, pack or deliver for sale, or give away for human consumption, food which has been intentionally exposed to ionising radiation, unless the Director-General of the Department of Health has approved the activity in writing;
- (j) makes it an offence to manufacture, produce, pack or deliver for sale, or give away for human consumption, food which has been accidentally exposed to ionising radiation.

The Regulation is made under the Food Act 1989, including section 90 (the general regulation-making power).
