

HE303\*

Health Act 1911

**Health (ANZ Food Standards Code Adoption)  
Regulations 2001**

Made by the Lieutenant-Governor and deputy of the Governor in  
Executive Council on the advice of the Food Advisory Committee.

## Part 1 — Preliminary

### 1. Citation

These regulations may be cited as the *Health (ANZ Food Standards Code Adoption) Regulations 2001*.

### 2. Interpretation

In these regulations —

“**adopted Code**” means the Australia New Zealand Food Standards Code as adopted under regulation 4;

“**Australia New Zealand Food Standards Code**” has the same meaning as in section 3 of the *Australia New Zealand Food Authority Act 1991* of the Commonwealth;

“**Part VIII**” means Part VIII of the Act.

### 3. Repeal

The *Health (Adoption of Food Standards Code) Regulations 1992* are repealed.

## Part 2 — Food standards adopted

### 4. The Code adopted

The Australia New Zealand Food Standards Code, as in force from time to time and as amended by Part 3, is adopted and forms part of these regulations.

### 5. Public inspection of code

Copies of the following instruments or documents must be kept at the office of the Environmental Health Services of the Health Department of Western Australia, Grace Vaughan House, 227 Stubbs Terrace, Shenton Park —

- (a) the adopted Code;
- (b) any instrument or document incorporated by reference into the adopted Code, including any standard, rule, code, specification or method of any association, body or institution incorporated into the adopted Code;
- (c) any amendment or replacement of an instrument or document referred to in paragraph (b).

### 6. Effect of *Health (Food Hygiene) Regulations 1993*

- (1) Chapter 3 of Volume 2 of the adopted Code is to be read with the *Health (Food Hygiene) Regulations 1993*.
- (2) If there is any inconsistency between Chapter 3 of Volume 2 of the adopted Code and the *Health (Food Hygiene) Regulations 1993*, the regulations prevail to the extent of the inconsistency.

**7. Compliance notices**

- (1) If there are reasonable grounds for believing that a person has done or omitted to do anything in contravention of Part VIII or of the adopted Code, then the Executive Director, Public Health, or the local government of the district in which the contravention is believed to have occurred, may require the person to do anything necessary to rectify the situation.
- (2) A requirement must be in writing, and takes effect when it is served on the person.
- (3) A person who, without reasonable excuse, contravenes a requirement commits an offence.
- (4) A person who commits an offence under subregulation (3) is liable, on conviction, to —
  - (a) a fine of not more than \$2 500 and not less than —
    - (i) \$250 for a first offence;
    - (ii) \$500 for a second offence; or
    - (iii) \$1 250 for a third or subsequent offence;and
  - (b) if the offence is a continuing offence, a daily fine of not more than \$250 and not less than \$125.

**8. Exemptions**

- (1) The Executive Director, Public Health may, by notice published in the *Gazette*, exempt a person from the requirement to comply with one or more of the standards set out in the adopted Code.
- (2) The exemption may be made subject to any conditions specified in it.
- (3) The exemption stops being in force if a condition of the exemption is contravened.

**9. Contraventions by food businesses**

A reference in the adopted Code to an obligation imposed on a food business is to be read as a reference to an obligation imposed on the proprietor, within the meaning of the adopted Code, of the food business.

**Part 3 — Amendments of the Code****Division 1 — Volume 1 of the Code amended****10. Volume 1 amended**

The amendments in this Division are to Volume 1 of the Australia New Zealand Food Standards Code.

**11. Preliminary provisions amended**

The preliminary provisions are amended as follows:

- (a) in clause 3(a)(i) by deleting “the Act” and inserting instead —  
“ Part VIII ”;
- (b) in clause 3(a)(ii) by deleting “the Act” and inserting instead —  
“ Part VIII ”;
- (c) in clause 3(c) by inserting after “the purposes of this Code” —  
“ or Part VIII ”;
- (d) in clause 5, in the definition of “approved”, by deleting “relevant authority of a State or Territory” and inserting instead —  
“ Executive Director, Public Health ”;
- (e) in clause 5 by deleting the definitions of “Commonwealth”, “State”, “Territory” and “the Act”.

**12. Standard O8 amended**

- (1) Standard O8 clause 4 is amended after paragraph (b) by deleting the full stop and inserting —  
“  
; and  
(c) have a standard plate count not exceeding 100 non-pathogenic microorganisms when tested in accordance with the current standard method in AS 1766 Food Microbiology Part 4.1.2.  
”.

**Division 2 — Volume 2 of the Code amended****13. Volume 2 amended**

The amendments in this Division are to Volume 2 of the Australia New Zealand Food Standards Code.

**14. Standard 1.1.1 amended**

Standard 1.1.1 is amended by deleting the definition of “Code” and inserting instead —

“ **Code** means the adopted Code. ”.

**15. Standard 1.6.1 amended**

The Schedule to Standard 1.6.1 is amended by deleting the items dealing with mineral water, packaged water and packaged ice and inserting instead the following items —

“

| Column 1<br>Food | Column 2<br>Microorganism            | Column 3<br>n | Column 4<br>c | Column 5<br>m | Column 6<br>M |
|------------------|--------------------------------------|---------------|---------------|---------------|---------------|
| Mineral water    | coliforms/ml                         | 5             | 0             | 0             |               |
|                  | <i>Escherichia coli</i> /100ml       | 5             | 0             | 0             |               |
|                  | <i>Pseudomonas aeruginosa</i> /250ml | 5             | 0             | 0             |               |
| Packaged water   | coliforms/ml                         | 5             | 0             | 0             |               |
|                  | <i>Escherichia coli</i> /100ml       | 5             | 0             | 0             |               |
|                  | <i>Pseudomonas aeruginosa</i> /250ml | 5             | 0             | 0             |               |
| Packaged ice     | coliforms/ml                         | 5             | 0             | 0             |               |
|                  | <i>Escherichia coli</i> /100ml       | 5             | 0             | 0             |               |
|                  | <i>Pseudomonas aeruginosa</i> /250ml | 5             | 0             | 0             |               |

”.

**16. Standard 3.1.1 amended**

Standard 3.1.1 is amended in clause 1 as follows:

- (a) by deleting the definition of “appropriate enforcement agency” and inserting instead —

“

**appropriate enforcement agency** means the Executive Director, Public Health or the relevant local government.

”;

- (b) by deleting the definition of “food premises” and inserting instead the following definition —

“

**food premises** means:

- (a) food premises as defined in section 246G of the Act, or
- (b) food vehicles as defined in section 246G of the Act, except vehicles when used only to transport food.

”;

- (c) in the definition of “food safety standards” by deleting “Australia New Zealand Food Standards Code” and inserting instead —

“ adopted Code ”;

- (d) by inserting after paragraph (b) in the second part of the definition of “primary food production” the following paragraphs —

“

- (ba) extracting milk from an animal, or
- (bb) storing untreated milk, or
- (bc) transporting untreated milk, or

”;

- (e) by deleting the definition of “proprietor” and inserting instead the following definition —

“

**proprietor** of a food business means the proprietor, as defined in section 246G of the Act, of the food premises at or in which the food business is carried on.

”;

- (f) by deleting the definition of “sell” and inserting instead the following definition —

“

**sell** has the same meaning as in section 3 of the Act.

”.

**17. Standard 3.2.3 amended**

Standard 3.2.3 is amended in clause 1 by deleting the definition of “sewage” and inserting instead the following definition —

“

**sewage** has the same meaning as in section 3 of the Act.

”.

By Command of the Lieutenant-Governor and  
deputy of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

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