



Western Australia

## **Food Regulations 2009**

Compare between:

[24 Oct 2009, 00-a0-02] and [21 Sep 2011, 00-b0-02]



Western Australia

Food Act 2008

## Food Regulations 2009

### Part 1 — Preliminary

**1. Citation**

These regulations are the *Food Regulations 2009*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Food Act 2008* section 147(14) comes into operation.

**3. Terms used**

In these regulations —

***abattoir*** means premises used for or in connection with the slaughtering of animals for human consumption, including holding yards and similar places;

***animal food processing premises*** has the meaning given in regulation 17;

***district*** means an area that has been declared to be a district under the *Local Government Act 1995*;

***FSC standard*** means a standard that forms part of the Food Standards Code;

**registered establishment** has the meaning given in the *Export Control Act 1982* (Commonwealth) section 3;

**retail pet meat shop** has the meaning given in regulation 17;

**wild game meat processing establishment** has the meaning given in the wild game standard;

**wild game standard** means the standard adopted under regulation 18(1)(e).

**4. Appropriate enforcement agency: CEO (s. 8)**

(1) In this regulation —

**bivalve mollusc** has the meaning given in FSC standard 4.2.1;

**dairy primary production business** has the meaning given in FSC standard 4.2.4;

**dairy processing business** has the meaning given in FSC standard 4.2.4;

**dairy transport business** has the meaning given in FSC standard 4.2.4;

**manufacturing of seafood** has the meaning given in FSC standard 4.2.1;

**primary production of seafood** has the meaning given in FSC standard 4.2.1;

**public hospital** has the meaning given in the *Hospitals and Health Services Act 1927* section 2(1).

(2) For the definition of **appropriate enforcement agency** in section 8 of the Act, the CEO is the appropriate enforcement agency for the purposes of a provision to the extent to which the provision has effect in relation to a food business that —

(a) is located at a public hospital and prepares food for patients in the hospital; or

(b) is a dairy primary production business, a dairy processing business or a dairy transport business; or

- (c) is engaged in the primary production of seafood, or the manufacturing of seafood, if the seafood involved in that primary production or manufacturing consists of or includes bivalve molluscs; or
- (d) is not in a district.

**5. Appropriate enforcement agency: local government (s. 8)**

For the definition of *appropriate enforcement agency* in section 8 of the Act, a local government is the appropriate enforcement agency for the purposes of a provision —

- (a) if the CEO is not the appropriate enforcement agency for the purposes of the provision under regulation 4; and
- (b) to the extent to which the provision has effect in relation to —
  - (i) a food business that is conducted at premises in the local government's district; or
  - (ii) animal food processing premises in the local government's district; or
  - (iii) a retail pet meat shop in the local government's district.

**6. Food production activities that are not primary food production (s. 11(2))**

For section 11(2) of the Act, any food production activity to which a standard in Chapter 4 of the Food Standards Code applies is prescribed.

## **Part 2 — Adoption of Food Standards Code**

**7. Adoption of Food Standards Code (s. 144(7))**

Under section 144(7) of the Act, the Food Standards Code is adopted as in force from time to time.

**8. FSC standard 4.2.4 clause 15: express provision for goat's milk**

Clause 15 of FSC standard 4.2.4 does not apply to goat's milk.

### **Part 3 — Exempted food businesses**

**9. Term used: potentially hazardous food**

In this Part —

*potentially hazardous food* has the meaning given in FSC standard 3.2.2.

**10. Food businesses conducted as fundraising events (s. 109)**

- (1) For section 109 of the Act, a food business conducted at any premises is an *exempted food business* in respect of those premises if —
- (a) the food business is conducted to raise money solely for purposes that are of a charitable or community nature; and
  - (b) any food handled in the course of conducting the food business —
    - (i) is not potentially hazardous food; or
    - (ii) after being appropriately cooked, is provided by the food business for immediate consumption.
- (2) If —
- (a) a food business conducted at any premises is an exempted food business under subregulation (1); and
  - (b) notification is given by the proprietor of the food business under section 107(1) of the Act in respect of those premises,

the requirement for the notification to be accompanied by a fee under section 107(3) or (4) of the Act does not apply.

**11. Food businesses that sell certain packaged food (s. 109)**

For section 109 of the Act, a food business conducted at any premises is an *exempted food business* in respect of those premises if the food business consists solely of selling food —

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- (a) that is not potentially hazardous food; and
- (b) that cannot be handled in the course of conducting the food business because the food is contained in a closed package.

**12. Food businesses that provide complimentary drinks in conjunction with another kind of business (s. 109)**

For section 109 of the Act, a food business conducted at any premises is an *exempted food business* in respect of those premises if the food business consists solely of providing complimentary drinks in conjunction with another business conducted at those premises that is not a food business.

**13. Food businesses conducted at registered establishments (s. 109)**

For section 109 of the Act, a food business conducted at any premises is an *exempted food business* in respect of those premises if the premises are, or form part of, a registered establishment.



## **Part 4 — Control of pathogens**

**14. Term used: pathogen**

In this Part —

*pathogen* means any of these pathogens —

- (a) *Listeria monocytogenes*;
- (b) all *Salmonella* species;
- (c) all *Shigella* species;
- (d) verotoxigenic E. coli.

**15. CEO to be informed of isolation of pathogens associated with food businesses**

- (1) Subregulation (2) applies to a person if —
  - (a) the person is the proprietor of a food business and is informed of the isolation, or suspected isolation, of a pathogen from food, a person, premises, a vehicle or anything else associated with the food business; or
  - (b) the person is in charge of a laboratory at which a pathogen is isolated, or suspected to have been isolated, from food, a person, premises, a vehicle or anything else associated with a food business.
- (2) The person —
  - (a) must immediately give the CEO oral notice of the isolation, or suspected isolation, referred to in subregulation (1); and
  - (b) within 24 hours after giving the oral notice — must give the CEO written notice, in the approved form, confirming the oral notice.

Penalty: a fine of \$5 000.

**16. CEO may give directions**

- (1) The CEO may give any person an oral or written direction as to the procedures to be followed by the person in respect of a pathogen of which the CEO has been given notice under regulation 15.
- (2) A person must not, without reasonable excuse, fail to comply with a direction given to the person under subregulation (1).  
Penalty: a fine of \$5 000.
- (3) If the CEO gives a person an oral direction under subregulation (1), the CEO must, as soon as is practicable, give the person a written direction confirming the oral direction.
- (4) Without limiting subregulation (1), the procedures in relation to which a direction may be given under that subregulation include —
  - (a) the preparation, packing, storing, handling, conveying, disposal or isolation of food that contains, or is suspected to contain, a pathogen; and
  - (b) the procedures to be undertaken to complete the identification of the micro-organism that is, or is suspected to be, a pathogen.

## **Part 5 — Meat hygiene**

### **Division 1 — Preliminary**

#### **17. Terms used**

In this Part —

***adopted standard*** means a standard adopted under regulation 18(1);

***animal*** does not include a fish, crustacean or mollusc;

***animal food processing premises*** means —

- (a) a pet meat processing establishment; or
- (b) a knackery;

***authorised officer*** means an authorised officer whose appointment under section 122 of the Act authorises the officer to perform functions for the purposes of this Part;

***carcase*** means the whole or part of the body of a slaughtered animal but does not include any part of the body (such as blood, viscera, head or hide) removed or severed during or immediately following slaughter;

***field depot*** has the meaning given in the wild game standard;

***game*** means bird, buffalo, camel, deer, donkey, goat, hare, horse, kangaroo, rabbit, pig, possum or wallaby;

***game meat*** has the meaning given in FSC standard 1.6.2;

***knackery*** means premises at which animals are slaughtered for the production of pet meat;

***meat*** has the meaning given in FSC standard 2.2.1;

***meat standard*** means the standard adopted under regulation 18(1)(a);

***pet meat*** means raw meat or raw game meat that is intended for consumption by animals that are domesticated or kept in captivity;

***pet meat processing establishment*** means premises at which pet meat is processed, identified, handled, packed or stored;

***poultry*** means avian species ordinarily consumed by humans (such as fowls, ducks, geese, turkeys, pigeons, pheasants, quails and guinea fowls) but does not include emus or ostriches;

***processing premises*** means —

- (a) premises where meat is processed for human consumption; or
- (b) premises where smallgoods are manufactured; or
- (c) butchers' premises where the butcher supplies meat and meat products for further processing and sale (whether or not in conjunction with retail sales),

but does not include —

- (d) butchers' premises, or other premises, if the sales from the premises are predominantly retail sales; or
- (e) field depots or wild game meat processing establishments;

***proprietor***, of an abattoir, processing premises or other premises at which a food business is conducted, means the proprietor of the food business conducted at those premises;

***proprietor***, of animal food processing premises, means —

- (a) the person carrying on the business conducted at those premises; or
- (b) if that person cannot be identified — the person in charge of that business;

***retail pet meat shop*** means premises at which pet meat that is not in a closed package is sold by way of retail sale (whether or not pet meat that is in a closed package is also sold).

## **Division 2 — Adoption of certain Australian Standards**

### **18. Adoption of certain Australian Standards (s. 144(6))**

- (1) Under section 144(6) of the Act, these standards are adopted as in force from time to time and with the modifications described in regulation 19 —
  - (a) the *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption* (AS 4696);
  - (b) the *Australian Standard for Hygienic Production of Rabbit Meat for Human Consumption* (AS 4466);
  - (c) the *Australian Standard for the Hygienic Production of Ratite (Emu/Ostrich) Meat for Human Consumption* (AS 5010);
  - (d) the *Australian Standard for Hygienic Production of Crocodile Meat for Human Consumption* (AS 4467);
  - (e) the *Australian Standard for Hygienic Production of Wild Game Meat for Human Consumption* (AS 4464);
  - (f) the *Australian Standard for Construction of Premises and Hygienic Production of Poultry Meat for Human Consumption* (AS 4465);
  - (g) the *Australian Standard for the Hygienic Production of Natural Casings for Human Consumption* (AS 5011);
  - (h) the *Australian Standard for the Hygienic Rendering of Animal Products* (AS 5008).
- (2) The wild game standard is adopted only to the extent to which it applies to game.
- (3) The CEO is to make copies of the adopted standards available for public inspection during normal business hours at the offices of the Department at Grace Vaughan House, 227 Stubbs Terrace, Shenton Park.
- (4) In subregulation (3) —

**Department** means the department of the Public Service principally assisting in the administration of the Act.

**19. Modification of adopted standards**

- (1) A reference in an adopted standard to the Controlling Authority is to be read as a reference to the CEO.
- (2) A reference in an adopted standard to an inspector or a meat safety inspector is to be read as a reference to an authorised officer.
- (3) A reference in the meat standard to a meat transport vehicle or a meat carrying compartment is to be read as not including a reference to a vehicle, or any part of a vehicle, used in the conduct of a food business for the purpose of transporting wrapped meat from retail premises to a customer who purchased the meat by way of retail sale.
- (4) The CEO, in the CEO's capacity as the Controlling Authority referred to the meat standard, wild game standard or a standard adopted under regulation 18(1)(b), (c) or (d), is not to approve a quality assurance programme or arrangement under the standard in respect of any premises unless satisfied that at least one authorised officer will be present when any animals are slaughtered for human consumption at those premises.

**Division 3 — Inspection and branding**

**20. Application of Division to primary producers**

- (1) In this regulation —  
**primary producer** means a person who carries on a farming or grazing business on land that is —
  - (a) zoned for rural purposes under a local planning scheme under the *Planning and Development Act 2005*; and
  - (b) used solely or principally for farming or grazing purposes or for both of those purposes.

- (2) This Division does not apply in relation to an animal that is to be slaughtered —
  - (a) by or for a primary producer; and
  - (b) on the land on which the primary producer carries on the farming or grazing business; and
  - (c) for consumption by the primary producer or the primary producer's family or employees.

**21. Inspection of animals and carcasses at abattoirs**

- (1) Subregulation (2) applies if an adopted standard requires an animal to be inspected before it is slaughtered.
- (2) The proprietor of an abattoir must ensure that, before an animal is slaughtered, it is inspected by an authorised officer in accordance with the adopted standard.  
Penalty: a fine of \$5 000.
- (3) Subregulation (4) applies if an adopted standard requires the carcass to be inspected after an animal is slaughtered.
- (4) The proprietor of an abattoir must ensure that, after an animal is slaughtered, the carcass is inspected by an authorised officer in accordance with the adopted standard.  
Penalty: a fine of \$5 000.
- (5) This regulation does not apply to —
  - (a) the proprietor of an abattoir in the district of Kellerberrin or Kondinin; or
  - (b) the proprietor of an abattoir that is a registered establishment.

**22. Branding carcasses if fit for human consumption**

- (1) The proprietor of an abattoir at which a carcass is inspected and passed as fit for human consumption must ensure the carcass is branded in accordance with regulation 24 by the use of an

appropriate brand approved by the CEO for the purposes of this regulation.

Penalty: a fine of \$5 000.

- (2) A brand approved by the CEO to brand a carcass for the purposes of this regulation is to include a means of identifying the premises at which the animal was slaughtered.
- (3) Subregulation (1) does not apply in relation to —
  - (a) a carcass of poultry; or
  - (b) a carcass of an animal slaughtered in the district of Kellerberrin or Kondinin.

**23. Branding carcasses if fit for consumption by animals**

- (1) The proprietor of animal food processing premises at which a carcass is inspected and passed as fit for consumption by animals must ensure that the carcass is branded in accordance with regulation 24 by the use of an appropriate brand approved by the CEO for the purposes of this regulation.

Penalty: a fine of \$5 000.

- (2) A brand approved by the CEO to brand a carcass for the purposes of this regulation is to include a means of identifying the premises at which the animal was slaughtered.
- (3) Subregulation (1) does not apply in relation to a carcass of poultry.

**24. How carcasses are to be branded**

- (1) This regulation applies to a carcass that is to be branded under regulation 22 or 23.
- (2) Except for rabbits, the carcass is to be branded on each side.
- (3) For a bovine, the carcass is to be branded —
  - (a) on the outside of the buttock; and
  - (b) on the outside of the ribs; and



- (c) on the shoulder.
- (4) For a sheep, goat or deer, the carcase is to be branded —
  - (a) on the outside of the leg; and
  - (b) on the shoulder.
- (5) For a pig, the carcase is to be branded —
  - (a) on the outside of the leg; and
  - (b) on the outside of the loin; and
  - (c) on the shoulder; and
  - (d) on the outside of the cheek.
- (6) For game other than a rabbit, goat, deer or pig, the carcase is to be branded —
  - (a) on the outside of the buttock; and
  - (b) on the shoulder.
- (7) For a rabbit, the carcase is to be branded on one side of the neck.
- (8) A brand applied to a carcase under this regulation is to be —
  - (a) coloured red for a carcase passed as fit for human consumption or blue for a carcase passed as fit for consumption by animals; and
  - (b) made from a substance listed in a Schedule to FSC standard 1.3.1.

**25. Branding carcasses if unfit for human consumption or unfit for consumption by animals**

- (1) The proprietor of an abattoir must ensure that a carcase, other than a carcase of poultry, that is rejected, or a portion of which is rejected, as unfit for human consumption is branded in accordance with subregulation (3).

Penalty: a fine of \$5 000.

- (2) The proprietor of animal food processing premises must ensure that a carcase, other than a carcase of poultry, that is rejected, or a portion of which is rejected, as unfit for consumption by animals is branded in accordance with subregulation (3).  
Penalty: a fine of \$5 000.
- (3) The carcase is to be branded on the shoulders, loins and legs, or on the portion of the carcase that is rejected, with a brand approved by the CEO for the purposes of this regulation.
- (4) A brand approved by the CEO to brand a carcase for the purposes of this regulation is to include a means of identifying the premises at which the animal was slaughtered.
- (5) A brand applied to a carcase under this regulation is to be coloured blue and made from a substance listed in a Schedule to FSC standard 1.3.1.

**26. Offences relating to brands**

- (1) A person other than an authorised officer or a person acting on the direction of an authorised officer must not brand a carcase for the purposes of regulation 22.  
Penalty: a fine of \$5 000.
- (2) Subregulation (1) does not apply to a carcase branded at a registered establishment.
- (3) A person must not, for a purpose relating to fitness for consumption, brand a carcase or cause a carcase to be branded except in accordance with this Division.  
Penalty: a fine of \$5 000.
- (4) A person must not remove from a carcase before it is sold by way of retail sale a brand applied to the carcase under this Division.  
Penalty: a fine of \$5 000.

**27. Restrictions on sale of carcases**

- (1) Unless a carcase is branded in accordance with this Division, a person must not —
- (a) sell the carcase; or
  - (b) offer or expose the carcase for sale; or
  - (c) possess the carcase for the purpose of sale.

Penalty: a fine of \$5 000.

- (2) Subregulation (1) does not apply to a carcase intended for human consumption that —
- (a) under regulation 22(3)(a) is not required to be branded; or
  - (b) under regulation 22(3)(b) is not required to be branded and is sold, offered or exposed for sale, or possessed for the purpose of sale in the district of Kellerberrin or Kondinin.

**Division 4 — Pet meat**

**Subdivision 1 — Preliminary**

**28. Term used: proprietor**

In this Division —

*proprietor*, of a retail pet meat shop, means —

- (a) the person carrying on the business conducted at the retail pet meat shop; or
- (b) if that person cannot be identified — the person in charge of that business.

**Subdivision 2 — Staining of pet meat**

**29. Term used: dressing**

In this Subdivision —

*dressing*, of an animal, means the process by which a dead animal becomes a carcass, which includes the removal, as appropriate, of the head, feet, hide, skin, hair, feathers, viscera, genital organs and urinary tract.

**30. Requirement for pet meat to be stained**

- (1) The proprietor of animal food processing premises must ensure that any pet meat produced at those premises —
- (a) is subjected to a heat treatment process approved by the appropriate enforcement agency; or
  - (b) is stained in accordance with regulation 31.

Penalty: a fine of \$5 000.

- (2) Subregulation (1) does not apply to pet meat produced at animal food processing premises if, immediately after the dressing of the animal from which the pet meat is produced, the pet meat is placed in a closed package —
- (a) that complies with the requirements for a closed package in regulation 33(1); and
  - (b) that has a mass not greater than 1 kg.

**31. How pet meat is to be stained**

For the purposes of regulation 30(1)(b), pet meat is to be stained with a blue dye made from a substance listed in a Schedule to FSC standard 1.3.1 —

- (a) after the dressing of the animal from which the pet meat is produced; and
- (b) in such a manner that the staining remains visible if the pet meat is broken up for sale.

**32. Removal of stain from pet meat prohibited**

A person must not remove, or attempt to remove, the stain applied to pet meat in accordance with regulation 31.

Penalty: a fine of \$5 000.

**Subdivision 3 — Requirements relating to packaged and unpackaged pet meat**

**33. Pet meat sold by food businesses to be packaged**

- (1) The proprietor of a food business must ensure that pet meat is not sold from premises at which the business is conducted unless the pet meat is in a closed package —
- (a) that is not damaged; and
  - (b) that is made of an impervious material; and
  - (c) that is sealed in such a way that —
    - (i) the package cannot be opened and resealed without it being evident that the package has been opened and resealed; and
    - (ii) liquid cannot escape from the package;
- and
- (d) that has “Pet Meat — Not for Human Consumption” prominently displayed on it in letters not less than 5 mm in height.

Penalty: a fine of \$5 000.

- (2) The proprietor of a food business must ensure that, if both food and packages of pet meat are stored or displayed at premises at which the business is conducted, an impervious barrier separates the food and the packages of pet meat.

Penalty: a fine of \$5 000.

**34. Unpackaged pet meat to be sold only at animal food processing premises or retail pet meat shops**

A person must not sell pet meat that is not in a closed package except at animal food processing premises, or a retail pet meat shop, in respect of which notification has been given under regulation 40.

Penalty: a fine of \$5 000.

**35. Unpackaged pet meat to be stored at animal food processing premises and retail pet meat shops in marked containers**

- (1) The proprietor of animal food processing premises, or a retail pet meat shop, must ensure that any pet meat —
- (a) that is not in a closed package; and
  - (b) that is stored at the premises or shop for the purpose of sale,

is stored in a container that complies with subregulation (2).

Penalty: a fine of \$5 000.

- (2) The container is to have displayed on it —
- (a) in the case of animal food processing premises — the address of the premises and the name of the business conducted at those premises; and
  - (b) in the case of a retail pet meat shop — the address of the animal food processing premises from which the pet meat was supplied and the name of the business conducted at those premises; and
  - (c) in either case — “Pet Meat — Not for Human Consumption” in letters not less than 10 mm in height.

**36. Unpackaged pet meat and food not to be processed, handled or sold at same food business premises**

- (1) The proprietor of a food business must ensure that no pet meat other than pet meat that is in a closed package is processed, handled, stored or sold in or from the premises in or from which food is processed, handled, stored or sold.

Penalty: a fine of \$5 000.

- (2) Subregulation (1) does not apply to the handling or storage of pet meat in an abattoir if the requirements stated in clauses 17.1 to 17.9 and 17.12 to 17.14 of the meat standard are, to the extent applicable, complied with in relation to the handling or storage of that pet meat.

- (3) Subregulation (1) does not apply to the handling or storage of pet meat in a wild game meat processing establishment if the requirements stated in Section 13 (Animal Food and Pharmaceutical Material) of the wild game standard are, to the extent applicable, complied with in relation to the handling or storage of that pet meat.

**Subdivision 4 — Other requirements**

**37. Proprietor of animal food processing premises to establish and maintain system for tracing pet meat**

The proprietor of animal food processing premises —

- (a) must establish and maintain a system that enables, to the extent reasonably possible, any pet meat supplied from those premises —
  - (i) to be identified as having been supplied from those premises; and
  - (ii) to be traced by the proprietor to the person who supplied to those premises the carcasses from which the pet meat was produced; and
  - (iii) to be recalled by the proprietor;
- and
- (b) must have a written plan that documents that system.

Penalty: a fine of \$5 000.

**38. Meat and game meat for human consumption not to be stored in animal food processing premises**

The proprietor of animal food processing premises must ensure that no meat or game meat, for human consumption, is stored at those premises.

Penalty: a fine of \$5 000.

**39. Pet meat not to be sold as food**

- (1) In this regulation —
- proprietor*, of a business, in relation to premises at which the business is conducted, means —
- (a) the person carrying on the business conducted at those premises; or
  - (b) if that person cannot be identified — the person in charge of that business.
- (2) The proprietor of a business must ensure that no pet meat branded as fit for consumption by animals is sold as food from premises at which the business is conducted.
- Penalty: a fine of \$5 000.

**Subdivision 5 — Notification of conduct of business at animal food processing premises and retail pet meat shops**

**40. Notification of conduct of business at animal food processing premises and retail pet meat shops**

The proprietor of animal food processing premises, or of a retail pet meat shop, must not conduct business at those premises or that shop unless the proprietor has given written notification, in the approved form, to the appropriate enforcement agency that sets out —

- (a) the contact details for the premises or shop, including the name of the business conducted at the premises or shop, the address of the premises or shop and the name and address of the proprietor; and
- (b) a description of the business that is conducted at the premises or shop.

Penalty: a fine of \$5 000.



### **Division 5 — Statements and inspection fees**

#### **41. Statements and inspection fees**

- (1) The proprietor of an abattoir at which animals or carcasses are inspected as required under this Part must lodge with the appropriate enforcement agency a signed statement, in a form approved by and at the times determined by the enforcement agency, setting out the information required by the enforcement agency about animals slaughtered at the abattoir.

Penalty: a fine of \$5 000.

- (2) The proprietor of an abattoir at which animals or carcasses are inspected as required under this Part must pay to the appropriate enforcement agency, in accordance with subregulation (3), the appropriate fee set out in Schedule 1 for each inspection.

Penalty: a fine of \$5 000.

- (3) Fees under subregulation (2) —

- (a) are payable weekly, fortnightly or monthly, as determined by the appropriate enforcement agency; and
- (b) are to be paid within 7 days after the end of the week, fortnight or month in which the inspections are carried out.

- (4) If the appropriate enforcement agency does not make a determination for the purposes of subregulation (3) in relation to a fee, the fee is payable monthly.

#### **42. Application of inspection fees**

- (1) A local government to which a fee is paid under regulation 41 is to credit the amount of the payment to an account —

- (a) established and maintained by the local government for the purposes of this subregulation; and
- (b) to be called the [*name of local government*] Meat Inspection Account.

- (2) Any funds standing to the credit of an account referred to in subregulation (1)(b) are to be applied by the local government only to the payment of the costs of inspections carried out by authorised officers under Division 3 at premises in the district of the local government.
- (3) An account maintained by a local government under the *Health Act 1911* section 246F(4)(b) immediately before the commencement of this regulation may be used by the local government for the purposes of subregulation (1).

**43. Local governments may require security**

- (1) A local government may require a person to provide security, in a form approved by the local government, for the payment of fees by the person to the local government under regulation 41.
- (2) If security is to be provided under subregulation (1) in the form of a contract of insurance, the local government may require that the contract provides for the local government to be a joint insured or a beneficiary.
- (3) A person who has provided security to a local government under subregulation (1) may apply in writing to the local government for the security to be discharged.

**44. Application of security to recover unpaid fees**

- (1) If any fees —
  - (a) are due and payable by a person under regulation 41 to a local government; and
  - (b) have not been paid within 30 days after notice requiring the fees to be paid is served on the person by the local government,

the local government may use any security provided by the person under regulation 43(1) to recover the amount of the unpaid fees.

- (2) Subregulation (1) does not limit the means by which unpaid fees that are due and payable to a local government under regulation 41 may be recovered.

**45. Withdrawal of inspection services**

- (1) A local government may decide not to provide authorised officers to carry out inspections at an abattoir at which inspections are required under this Part until the proprietor of the abattoir —
- (a) pays any fees due and payable under the Act or these regulations to the local government by the proprietor; or
  - (b) complies with any order or direction lawfully given to the proprietor under the Act or these regulations; or
  - (c) provides any security that the local government has required the proprietor to provide under regulation 43(1).
- (2) A local government is not to make a decision under subregulation (1)(a) or (c) unless the local government —
- (a) has given written notice of the local government's intention to make the decision to the proprietor of the abattoir; and
  - (b) has stated in the notice that the proprietor has a period (which is to be at least 7 days after the notice is given) to make submissions to the local government in relation to that intention; and
  - (c) has had regard to any submissions made within that period.

**Division 6 — Premises used in meat production**

**46. Abattoirs and processing premises to comply with requirements of adopted standards**

- (1) The proprietor of an abattoir must ensure that the abattoir complies with the requirements of any adopted standard that apply to the abattoir.

Penalty: a fine of \$5 000.

- (2) The proprietor of processing premises must ensure that the premises comply with the requirements of any adopted standard that apply to the premises.

Penalty: a fine of \$5 000.

**47. Slaughtering and processing to comply with requirements of adopted standards**

- (1) The proprietor of an abattoir must ensure that the slaughtering of any animal at the abattoir complies with the requirements of any adopted standard that apply to that slaughtering.

Penalty: a fine of \$5 000.

- (2) Despite subregulation (1), the proprietor of an abattoir in the district of Kellerberrin or Kondinin is not required to comply with clauses 10.1, 10.2, 10.3, 10.5 and 10.11 of the meat standard.

- (3) The proprietor of processing premises must ensure that the processing of meat or manufacturing of smallgoods at the premises complies with the requirements of any adopted standard that apply to that processing or manufacturing.

Penalty: a fine of \$5 000.

**Division 7 — Premises used in game meat production**

**48. Field depots to comply with requirements of wild game standard**

- (1) The proprietor of a field depot must ensure that the field depot complies with the requirements of the wild game standard that apply to the field depot.

Penalty: a fine of \$5 000.

- (2) The proprietor of a field depot must not cause or permit a carcass of game to be stored at the field depot unless —
- (a) the game was slaughtered and the carcass is tagged in accordance with the wild game standard; and
  - (b) any other requirement of that standard relating to the storage of a carcass of game is complied with.

Penalty: a fine of \$5 000.

**49. Wild game meat processing establishments to comply with requirements of wild game standard**

- (1) In this regulation —  
*requirements of the wild game standard* means the requirements of that standard that relate to game.

- (2) The proprietor of a wild game meat processing establishment must ensure that the establishment complies with the requirements of the wild game standard that apply to the establishment.

Penalty: a fine of \$5 000.

- (3) The proprietor of a wild game meat processing establishment must ensure that the food business conducted at the establishment complies with the requirements of the wild game standard that apply to that food business.

Penalty: a fine of \$5 000.

**Division 8 — Transporting meat and game meat**

**50. Vehicles transporting meat or game meat**

The proprietor of a food business in which a food transport vehicle is used for the transport of meat or game meat must ensure that the vehicle complies with, and is operated in accordance with, the requirements of any adopted standard that apply to, or to the operation of, the vehicle.

Penalty: a fine of \$5 000.

## **Part 6 — Miscellaneous**

**51. Enforcement agency may make list of food businesses publicly available**

An enforcement agency may make a list of food businesses maintained by the agency under section 115(a) or (b) of the Act, or any part of such a list, publicly available.

**52. Prescribed fees**

The fee specified in Schedule 2 column 3 opposite a provision of the Act specified in Schedule 2 column 2 is the prescribed fee for that provision of the Act.

**53. Prescribed offences and modified penalties (s. 126)**

For section 126 of the Act —

- (a) the offences specified in Schedule 3 column 2 are prescribed offences; and
- (b) the amount of money specified in Schedule 3 column 3 opposite an offence specified in Schedule 3 column 2 is the modified penalty for that offence if committed by an individual; and
- (c) the amount of money specified in Schedule 3 column 4 opposite an offence specified in Schedule 3 column 2 is the modified penalty for that offence if committed by a body corporate.

**54. Prescribed forms (s. 126(3) and (7))**

- (1) For section 126(3) of the Act, the prescribed form of an infringement notice is set out in Schedule 4.
- (2) For section 126(7) of the Act, the prescribed form of a notice to withdraw an infringement notice is set out in Schedule 5.

## **Part 7 — Transitional provisions**

### **55. Terms used**

In this Part —

**commencement day** means the day on which this Part comes into operation;

**Health Act** means the *Health Act 1911* as in force immediately before the commencement day.

### **56. Environmental health officers**

(1) In this regulation —

**environmental health officer** means a person who holds office as an environmental health officer —

- (a) having been appointed as an environmental health officer by a local government for the purposes of the Health Act; or
- (b) having been appointed as an environmental health officer by 2 or more local governments under the Health Act section 30; or
- (c) having been designated as an environmental health officer under the *Health Legislation Administration Act 1984*;

**Executive Director, Public Health** has the meaning given in the Health Act section 3(1).

(2) A person holding office, immediately before the commencement day, as an environmental health officer is to be taken to have been appointed as an authorised officer under section 122 of the Act —

- (a) if subregulation (1)(a) applies — by the relevant local government; or
- (b) if subregulation (1)(b) applies — by each of the relevant local governments; or



(c) if subregulation (1)(c) applies — by the CEO.

**57. Certificates of authority**

(1) A certificate of authority (however described) issued by a local government or the Executive Director, Public Health to an environmental health officer who is to be taken to be an authorised officer under regulation 56(2) has effect as a certificate of authority provided to the officer under section 123 of the Act until —

- (a) a certificate of authority is provided to the officer under section 123 of the Act; or
- (b) 31 December 2009,

whichever occurs first.

(2) A certificate of authority (however described) issued jointly by 2 or more local governments (*authorising local governments*) to an environmental health officer who is to be taken to be an authorised officer under regulation 56(2) has effect as a certificate of authority provided to the officer under section 123 of the Act by an authorising local government until —

- (a) a certificate of authority is provided to the officer under section 123 of the Act by the authorising local government; or
- (b) 31 December 2009,

whichever occurs first.

**58. Eating-houses**

(1) In this regulation —

*eating-house* has the meaning given in the Health Act section 160;

*registered* or *registration*, in relation to an eating-house, has the same meaning as in the Health Act section 162.

(2) If —

- (a) an application has been made to a local government or the Executive Director, Public Health for the registration of an eating-house in respect of any premises; and
- (b) the application was pending immediately before the commencement day,

the local government or the CEO, as the case requires, is to treat the application as an application for the registration of a food business in respect of those premises under section 110 of the Act.

- (3) The food business is to be taken to have been registered in respect of the premises under section 110 of the Act until the application is granted or refused.
- (4) If, immediately before the commencement day, the business conducted at any premises was registered as an eating-house by a local government or the Executive Director, Public Health in respect of those premises, the business is to be taken to have been registered in respect of the premises by the local government or the CEO, as the case requires, under section 110 of the Act.

**59. Premises where smallgoods are manufactured**

- (1) If —
  - (a) an application has been made to a local government by a person licensed under the *Health (Food Hygiene) Regulations 1993* regulation 9A for the registration of premises under regulation 9B of those regulations; and
  - (b) the application was pending immediately before the commencement day,

the local government is to treat the application as an application for the registration of a food business in respect of those premises under section 110 of the Act.

- (2) The food business is to be taken to have been registered in respect of the premises under section 110 of the Act until the application is granted or refused.
- (3) If, immediately before the commencement day, premises were registered by a local government under the *Health (Food Hygiene) Regulations 1993* regulation 9B, the food business conducted at the premises is to be taken to have been registered in respect of those premises by the local government under section 110 of the Act.

**60. Other food businesses**

- (1) If —
  - (a) on the commencement day a food business is being conducted at any premises; and
  - (b) transitional arrangements for the food business are not otherwise provided for in another provision of this Part,the food business is to be taken to have been registered in respect of those premises by the appropriate enforcement agency until —
  - (c) the proprietor of the food business applies to the appropriate enforcement agency for the registration of the food business in respect of those premises under section 110 of the Act; and
  - (d) the application is granted or refused.
- (2) Subregulation (1) ceases to have effect on 31 December 2009 in respect of the food business if the proprietor of the food business has not made the application before that day.

**61. Pet meat premises**

- (1) If —
  - (a) an application has been made to a local government for the registration of premises under the *Health (Pet Meat) Regulations 1990* Part 8; and

- (b) the application was pending immediately before the commencement day,

the local government is to treat the application as notification given to the local government in relation to the business conducted at the premises for the purposes of regulation 40.

- (2) If a business is conducted at premises that, immediately before the commencement day, were registered by a local government under the *Health (Pet Meat) Regulations 1990* Part 8, notification is to be taken to have been given to the local government in relation to the business conducted at the premises for the purposes of regulation 40.

**62. Approved laboratories**

- (1) In this regulation —

*corresponding provision* means a provision of a law of another State or a Territory that corresponds to section 82 of the Act.

- (2) A laboratory that, immediately before the commencement day, was approved under a corresponding provision is to be taken to have been approved by the CEO under section 82 of the Act until —

- (a) the CEO grants or refuses an application for approval of the laboratory under section 82 of the Act; or
- (b) the day 12 months after the commencement day,

whichever occurs first.

**63. Approved analysts**

- (1) In this regulation —

*corresponding provision* means a provision of a law of another State or a Territory that corresponds to section 88 of the Act.

- (2) An individual who, immediately before the commencement day —

- (a) was an analyst as defined in the Health Act section 246G(1); or
- (b) was approved under a corresponding provision,

is to be taken to have been approved by the CEO under section 88 of the Act until —

- (c) the CEO grants or refuses an application by the individual for approval under section 88 of the Act; or
- (d) the day 12 months after the commencement day,

whichever occurs first.

**Schedule 1 — Inspection fees**

[r. 41]

	Local government	Fee per animal (\$)		
		Pigs	Bovines (70 kg & under) and other animals	Bovines (over 70 kg)
1.	Bunbury .....	<del>2.25</del> <u>0</u>	<del>0.70</del> <u>0.65</u>	<del>3.25</del> <u>2.90</u>
2.	Canning .....	—	1.38	—
3.	Coolgardie .....	9.90	3.85	—
4.	Corrigin .....	5.88	1.65	9.00
5.	Esperance .....	<del>3.30</del> <u>.20</u>	<del>0.66</del> <u>0.52</u>	<del>5.28</del> <u>4.11</u>
6.	Gingin .....	—	0.33	4.23
7.	Greenough .....	6.50	1.85	10.20
8.	Harvey .....	—	1.19	7.60
9.	Northam .....	—	0.85	7.59
10.	Rockingham .....	—	0.60	—
11.	Tammin .....	—	1.00	—
12.	Wyndham/East Kimberley ..	—	0.55	4.40
13.	Waroona .....	1.38	0.85	—

*[Schedule 1 amended in Gazette 20 Sep 2011 p. 3799.]*

## Schedule 2 — Prescribed fees

[r. 52]

<b>Item</b>	<b>Provision of <i>Food Act 2008</i></b>	<b>Prescribed fee</b>
1.	s. 82(3)(b)	\$140
2.	s. 88(3)(b)	\$140
3.	s. 94(3)(b)	\$140
4.	s. 107(3)	\$50
5.	s. 110(3)(c)	\$140

**Schedule 3 — Prescribed offences and modified penalties**

[r. 53]

<b>Item</b>	<b>Offence under <i>Food Act 2008</i></b>	<b>Modified penalty (individual)</b>	<b>Modified penalty (body corporate)</b>
1.	s. 19(2)	\$500	\$1 000
2.	s. 19(3)	\$500	\$1 000
3.	s. 22(1)	\$250	\$1 000
4.	s. 22(2)	\$500	\$1 000
5.	s. 22(3)	\$500	\$1 000
6.	s. 22(4)	\$500	\$1 000
7.	s. 68	\$500	\$1 000
8.	s. 84	\$150	-
9.	s. 90	\$150	-
10.	s. 96(1)	\$150	-
11.	s. 99(2)	\$500	\$1 000
12.	s. 106(1)	\$500	-
13.	s. 106(2)	\$500	-
14.	s. 106(3)	\$500	-
15.	s. 107(1)	\$250	\$1 000
16.	s. 109(1)	\$500	\$1 000
17.	s. 113	\$500	\$1 000
<b>Item</b>	<b>Offence under <i>Food Regulations 2009</i></b>	<b>Modified penalty (individual)</b>	<b>Modified penalty (body corporate)</b>
18.	r. 15(2)	\$500	\$1 000
19.	r. 16(2)	\$500	\$1 000
20.	r. 21(2)	\$500	\$1 000
21.	r. 21(4)	\$500	\$1 000
22.	r. 22(1)	\$500	\$1 000
23.	r. 23(1)	\$500	\$1 000
24.	r. 25(1)	\$500	\$1 000
25.	r. 25(2)	\$500	\$1 000
26.	r. 26(1)	\$500	\$1 000



<b>Item</b>	<b>Offence under <i>Food Regulations 2009</i></b>	<b>Modified penalty (individual)</b>	<b>Modified penalty (body corporate)</b>
27.	r. 26(3)	\$500	\$1 000
28.	r. 26(4)	\$500	\$1 000
29.	r. 27(1)	\$500	\$1 000
30.	r. 30(1)	\$500	\$1 000
31.	r. 32	\$500	\$1 000
32.	r. 33(1)	\$500	\$1 000
33.	r. 33(2)	\$500	\$1 000
34.	r. 34	\$500	\$1 000
35.	r. 35(1)	\$500	\$1 000
36.	r. 36(1)	\$500	\$1 000
37.	r. 37	\$500	\$1 000
38.	r. 38	\$500	\$1 000
39.	r. 39(2)	\$500	\$1 000
40.	r. 40	\$500	\$1 000
41.	r. 41(1)	\$500	\$1 000
42.	r. 41(2)	\$500	\$1 000
43.	r. 46(1)	\$500	\$1 000
44.	r. 46(2)	\$500	\$1 000
45.	r. 47(1)	\$500	\$1 000
46.	r. 47(3)	\$500	\$1 000
47.	r. 48(1)	\$500	\$1 000
48.	r. 48(2)	\$500	\$1 000
49.	r. 49(2)	\$500	\$1 000
50.	r. 49(3)	\$500	\$1 000
51.	r. 50	\$500	\$1 000

**Schedule 4 — Infringement notice**

[r. 54(1)]

<i>Food Act 2008 s. 126(3) and Food Regulations 2009 r. 54(1)</i>		Notice No.	
<b>Infringement Notice</b>			
<b>Alleged offender</b>	Family name or body corporate name and ACN		
	Other names		
	Address	No.	Street name
			Postcode
<b>Alleged offence</b>  <i>[*delete whichever is not applicable]</i>	Description of offence		
	*Food Act 2008 s. _____		
	*Food Regulations 2009 r. _____		
	The modified penalty for the offence is \$		
Where and when offence committed			
<b>Designated officer issuing notice</b>	Name and title of officer and name of enforcement agency		
	Signature		
	Date of notice		
<b>Notice to alleged offender</b>	<p>It is alleged that you have committed the above offence. If you do not wish to be prosecuted for the alleged offence in a court, you may pay the modified penalty within 28 days after the date of this notice.</p> <p><b>How to pay</b></p> <p><b>By post</b> Send the “Cashier’s Copy” of this notice and a cheque or money order payable to [<i>relevant details</i>] to [<i>details of relevant enforcement agency</i>].</p> <p><b>In person</b> Take the “Cashier’s Copy” of this notice and pay the cashier at [<i>details of relevant enforcement agency</i>].</p> <p><b>If you do not pay</b> the modified penalty within 28 days, you may be prosecuted for the alleged offence in a court or enforcement action may be taken under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>. Under that Act your driver’s licence or vehicle licence may be suspended.</p> <p><b>If you need more time</b> to pay the modified penalty, you can apply for an extension of time by writing to [<i>details of relevant enforcement agency</i>].</p>		

**If you want this matter to be dealt with by prosecution in court**, sign the “Cashier’s Copy” of this notice here

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and post it to [*details of relevant enforcement agency*] within 28 days after the date of this notice.

**Schedule 5 — Notice to withdraw infringement notice**

[r. 54(2)]

<i>Food Act 2008 s. 126(7) and Food Regulations 2009 r. 54(2)</i>		Notice No.	
<b>Withdrawal of infringement notice</b>			
<b>Alleged offender</b>	Family name or body corporate name and ACN		
	Other names		
	Address	No.	Street name
<b>Infringement notice</b>	Infringement notice No.		
	Date of issue		
<b>Alleged offence</b>	Description of offence _____		
	<i>[*delete whichever is not applicable]</i> *Food Act 2008 s. _____ *Food Regulations 2009 r. _____		
<b>Designated officer withdrawing notice</b>	Name and title of officer and name of enforcement agency		
	Signature		
	Date of notice		
<b>Withdrawal of infringement notice</b>	The above infringement notice issued against you has been withdrawn.		
	<i>[*delete whichever is not applicable]</i> If you have already paid the modified penalty for the alleged offence you are entitled to a refund. *Your refund is enclosed. <i>or</i> *If you have paid the modified penalty but a refund is not enclosed, to claim your refund sign this notice and post it to [details of relevant enforcement agency]. Signature		

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**Notes**

<sup>1</sup> This is a compilation of the *Food Regulation 2009*. The following table contains information about those regulations.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Food Regulations 2009</i>	23 Oct 2009 p. 4095-142	r. 1 and 2: 23 Oct 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Oct 2009 (see r. 2(b) and <i>Gazette</i> 23 Oct 2009 p. 4157)
<a href="#"><u>Food Amendment Regulations 2011</u></a>	<a href="#"><u>20 Sep 2011</u></a> <a href="#"><u>p. 3799</u></a>	<a href="#"><u>r. 1 and 2: 20 Sep 2011</u></a> <a href="#"><u>(see r. 2(a));</u></a> <a href="#"><u>Regulations other than r. 1 and 2:</u></a> <a href="#"><u>21 Sep 2011 (see r. 2(b))</u></a>