

Western Australia

Health Act 1911

Health (Food Hygiene) Regulations 1993

Health (Food Hygiene) Regulations 1993

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Health (Food Hygiene) Regulations 1993

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Health (Food Hygiene) Regulations 1993*¹.

2. Application

These regulations apply to the area or areas set out in Schedule 1.

[Regulation 2 amended in Gazette 15 Oct 1993 p. 5523.]

3. Interpretation

- (1) In these regulations, unless the contrary intention appears —
Advisory Committee means the Food Advisory Committee referred to in section 246H of the Act;

approved means approved in writing by the Executive Director, Public Health or, as the case requires, local government;

certificate of registration means a certificate of registration, or a certificate of renewal of registration, issued under regulation 9B and in force at the material time;

clean and sanitary condition in relation to food premises means —

- (a) sewage and offensive matter are disposed of hygienically;

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- (b) food contact surfaces are effectively cleaned; and
- (c) internal structural surfaces are free from visible grease and dirt;

contaminate includes adulterate;

effective cleaning means —

- (a) removing all loose debris; and
- (b) pre-wash cleaning in warm water,

followed by —

- (c) a cleaning process consisting of —
 - (i) washing in hot water at 60°C with detergent;
 - (ii) rinsing in clean water;
 - (iii) washing again, using very hot fresh water above 75°C, or a bactericidal solution in water at 50°C; and
 - (iv) allowing to air dry;

frozen food means food that has been frozen 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” published by the Standards Association of Australia ²;

local government has the same meaning as in the *Local Government Act 1995*;

manufactured smallgoods means uncooked meat or meat products which are —

- (a) minced, chopped or comminuted;
- (b) subjected to fermentation; and
- (c) when processed, intended for consumption without cooking;

perishable food means food that is likely to spoil if not stored in a particular way;

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;

potentially hazardous food means food that is capable of supporting rapid growth of infectious or toxigenic micro-organisms;

registration means a registration, or a renewal of a registration, granted under regulation 9B and in force at the material time;

safe temperature, in relation to potentially hazardous food, means a temperature of 5°C or below, or 60°C or above;

sanitize means to clean surfaces of equipment and utensils by a bactericidal process that is effective in destroying micro-organisms including pathogens;

single service appliance means an appliance —

- (a) constructed wholly or in part from paper, paper-board, moulded pulp, foil, wood, plastic, synthetic or other readily destructible materials;
- (b) intended and recognized by the public as being for one usage only, then to be discarded;

smallgoods manufacturer's licence or **licence** means a licence, or a renewal of a licence, issued under regulation 9A and in force at the material time;

tableware means any vessel, utensil or other thing ordinarily used in or in connection with serving, supplying or consuming food;

vermin includes rodents, insects and spiders;

water means potable water as described in the "Guidelines for drinking water quality in Australia" prepared by the National Health and Medical Research Council and the Australian Water Resources Council, and published by the Australian Government Publishing Service.

- (2) In these regulations a reference to a food by a name prescribed for a food described in the *Health (ANZ Food Standards Code*

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Adoption) Regulations 2001, is taken to be a reference to a food as so described.

- (3) In these regulations, a reference to an “Australian Standard” is a reference to that Standard as amended from time to time.

*[Regulation 3 amended in Gazette 30 Jan 1996 p. 358;
29 Jun 2001 p. 3125-6; 8 Feb 2005 p. 662.]*

Part 2 — Food premises and food vehicles

Division 1 — Classification of food premises and food vehicles

4. Classification of food premises and food vehicles — Schedule 3

- (1) A person who —
- (a) in premises, stores, keeps, prepares, manufactures, processes, cooks, serves or otherwise deals with food for subsequent sale to the public, either directly or indirectly; or
 - (b) in a vehicle, keeps, prepares, packs, stores, handles, serves, supplies or conveys food for sale to the public,

where the premises or vehicle are not classified under Schedule 3, commits an offence.

- (2) A person who wishes to do any of the things referred to in subregulation (1) may apply to the Executive Director, Public Health, or the local government, in the approved manner, for classification of the premises or the vehicle as food premises or a food vehicle.

[Regulation 4 amended in Gazette 29 Jun 2001 p. 3126.]

Division 2 — Design etc. of food premises and food vehicles

5. Design etc. of food premises and transitional provisions

- (1) A proprietor of food premises must ensure that the design, construction, layout, drainage, equipment, maintenance, cleanliness, ventilation, lighting and use of water in the food premises (including any parts of the food premises in which apparatus and utensils are cleaned, or in which refuse is disposed of or stored) complies with Schedule 4.
- (2) Subject to Schedule 4 clause 24 a proprietor who contravenes subregulation (1) commits an offence.

6. Design etc. of food vehicle and transitional provisions

- (1) A proprietor of a food vehicle must ensure that the design, construction, layout, drainage, equipment, maintenance, cleanliness, ventilation, lighting and the water used in the vehicle, (including any part of the food vehicle in which appliances are cleaned or in which refuse is disposed of or stored), with appropriate modifications, complies with Schedule 4.
- (2) Subject to Schedule 4 clause 24 a proprietor who contravenes subregulation (1) commits an offence.

Division 3 — Maintenance and hygiene of food premises and food vehicles

7. Maintenance

- (1) Subject to subregulation (2) a proprietor of food premises or a food vehicle must maintain —
 - (a) the food premises or food vehicle in which or from which the business is conducted —
 - (i) in a clean and sanitary condition;
 - (ii) free from objectionable odours;
 - (iii) in a state of good repair; and
 - (iv) free from vermin and other animals;
 - (b) all appliances in the premises —
 - (i) in a clean and sanitary condition; and
 - (ii) in a state of good repair;
 - (c) in respect of food premises, adequate facilities including the supply of hot water for cleaning appliances; and
 - (d) in respect of a food vehicle, access to adequate facilities including the supply of hot water for cleaning appliances.

- (2) Notwithstanding subregulation (1)(a)(iv) a guide dog for the blind or a hearing dog for the deaf may enter food premises when accompanied by its owner but must not enter any area of those premises where food is prepared.
- (3) A proprietor who contravenes subregulation (1) commits an offence.

8. Storage of food

- (1) A proprietor must ensure that food in food premises or in a food vehicle is stored in a manner to prevent infestation by vermin.
- (2) A proprietor who contravenes subregulation (1) commits an offence.

9. Eradication of vermin etc.

- (1) A proprietor of food premises or a food vehicle must take or cause to be taken any effective action necessary to prevent the entry of and to eradicate vermin.
- (2) A proprietor who contravenes subregulation (1) commits an offence.

Division 4 — Licensing of persons producing manufactured smallgoods

[Heading inserted in Gazette 30 Jan 1996 p. 358.]

9A. Persons producing manufactured smallgoods to be licensed

- (1) A person who, after 2 months have elapsed since the coming into operation of the *Health (Food Hygiene) Amendment Regulations 1996*¹, conducts a business which produces manufactured smallgoods and who does not hold a smallgoods manufacturer's licence issued in accordance with this regulation commits an offence.

- (2) An application for a licence under this regulation shall be made to the local government in the form of Form 3 of Schedule 2, accompanied by the fee set out in item 1 of Schedule 5.
- (3) The local government shall consider each application made under subregulation (2) and may grant or refuse the application, having regard to the suitability of the applicant to hold the licence, to whether the applicant has had relevant experience or training, and to the interests of public health, and may take into account criteria considered appropriate by the Executive Director, Public Health, including the applicant's record of compliance with public health requirements and an approved food safety plan.
- (4) The local government shall —
 - (a) where an application for a licence is granted, issue to the applicant a licence in the form of Form 4 of Schedule 2;
 - (b) where an application for a licence is refused, notify the applicant in writing of the reasons for the refusal and refund the fee.
- (5) A licence under this regulation shall —
 - (a) take effect on and from the day it is granted and, unless sooner surrendered, cancelled, revoked or suspended, continue in force until the following 30 June;
 - (b) be subject to these regulations and to any terms or conditions endorsed on the licence by the local government; and
 - (c) authorise the holder to carry out any act necessary or in connection with the conduct (in any premises registered under regulation 9B) of the business in respect of which the licence is granted.
- (6) The renewal of a licence —
 - (a) may be granted by the local government, without application;

- (b) if not renewed by the local government without application, may be applied for in the same manner, and be accompanied by the same fee, as an initial application; and
- (c) shall remain in force, unless sooner surrendered, cancelled, revoked or suspended, for the period 1 July to 30 June.

[Regulation 9A inserted in Gazette 30 Jan 1996 p. 358-9; amended in Gazette 29 Jun 2001 p. 3126.]

**Division 5 — Registration of premises used for producing
manufactured smallgoods**

[Heading inserted in Gazette 30 Jan 1996 p. 359.]

9B. Registration of premises

- (1) A person who, after 2 months have elapsed since the coming into operation of the *Health (Food Hygiene) Amendment Regulations 1996*¹, conducts a business producing manufactured smallgoods in premises which are not registered in accordance with this regulation commits an offence.
- (2) Where a person is the holder of a current smallgoods manufacturer's licence, the local government may grant registration of the premises in which that person conducts, or proposes to conduct, a business producing manufactured smallgoods.
- (3) An application for registration shall be made to the local government in the form of Form 5 of Schedule 2, accompanied by the fee set out in item 2 of Schedule 5.
- (4) Where the local government is satisfied that the premises comply with these regulations the local government shall register the premises and grant the proprietor a certificate of registration in the form of Form 6 of Schedule 2.

Health (Food Hygiene) Regulations 1993

Part 2 Food premises and food vehicles

Division 5 Registration of premises used for producing manufactured smallgoods

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- (5) A certificate of registration shall —
- (a) take effect on and from the day it is granted and, unless sooner surrendered, cancelled, revoked or suspended, continue in force until the following 30 June;
 - (b) be subject to these regulations and to any terms or conditions endorsed on the certificate of registration by the local government; and
 - (c) authorise the holder to conduct in the registered premises the business for which the smallgoods manufacturer's licence held by that person was granted.
- (6) The renewal of a registration —
- (a) may be granted by the local government, without application;
 - (b) if not renewed by the local government without application, may be applied for in the same manner, and be accompanied by the same fee, as an initial application; and
 - (c) shall remain in force, unless sooner surrendered, cancelled, revoked or suspended, for the period 1 July to 30 June.

*[Regulation 9B inserted in Gazette 30 Jan 1996 p. 359-60;
amended in Gazette 29 Jun 2001 p. 3127.]*

Part 3 — Protection of food and appliances

Division 1 — Contamination

10. Food premises etc. not to be used for other purposes

- (1) A person must not use food premises, food vehicles or appliances that are, or have been, used for any other purpose that may contaminate or adversely affect the quality or purity of food.
- (2) A person who contravenes subregulation (1) commits an offence.

11. Protection of food

- (1) A proprietor of food premises or a food vehicle must ensure that —
 - (a) all food is adequately protected at all times from contamination by persons, dust, vermin, animals, offensive fumes, foul odours or any other thing;
 - (b) all food, other than fruit and vegetables, that is ordinarily consumed in the same state in which it is sold and that is not wholly enclosed in a package is adequately protected from contamination from any source by means of a suitable case or cover or other effective means;
 - (c) all appliances are covered or enclosed and kept covered or enclosed except whilst food is placed into or removed from them, so that the food is protected from contamination;
 - (d) drinking straws, cutlery and other appliances or devices used in serving, supplying or consuming food are kept prior to use in a manner which will protect them from contamination;

- (e) all appliances and articles provided for the protection of food from contamination are properly used and applied only for the purpose for which they are provided;
 - (f) straw, sawdust, wood shavings, wood chips or similar materials are not spread or used or permitted to be spread or used upon the floor of those premises or that vehicle;
 - (g) a preparation containing a poison or other noxious substance is not kept, spread or used or permitted to be kept, spread or used in those premises or that vehicle in such manner as to expose food to the risk of contamination; and
 - (h) floors, walls or ceilings of the premises or vehicle are not cleaned by a method likely to contaminate food.
- (2) A proprietor who contravenes subregulation (1) commits an offence.

Division 2 — Contamination from raw food

12. Prevention of cross contamination

- (1) A proprietor of food premises or a food vehicle must —
- (a) ensure that food in food premises or in a food vehicle cannot be contaminated by contact with or drip from raw food, food for animals, fish bait or any other substance or thing;
 - (b) keep, store or display food in a manner which will ensure that food that is ready to eat 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;
 - (c) ensure that an appliance used for the preparation of raw food is not subsequently used for the preparation of food which is ready to eat without first effectively cleaning the appliance; and

- (d) not store or transport any package, container or appliance so that any outer surface comes into contact with food.
- (2) A proprietor who contravenes subregulation (1) commits an offence.

13. Returned or recalled food

- (1) A proprietor of food premises or a food vehicle must not —
 - (a) receive into stock in food premises or a food vehicle; or
 - (b) sell,

food which has been returned by a purchaser which may have deteriorated or become contaminated.

- (2) A proprietor 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 must —
 - (a) keep the 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.
- (3) A proprietor who contravenes this regulation commits an offence.

14. Delivery and return of bread

- (1) Subject to subregulation (2), a proprietor of food premises or a food vehicle must not sell bread which has been previously delivered to any person for sale.
- (2) Subregulation (1) does not apply to any bread taken by a bread carter on his or her round which remains unsold at the end of the round and is then re-delivered by the bread carter to the bakehouse.

- (3) A proprietor who contravenes subregulation (1) commits an offence.

15. Re-service of certain food prohibited

- (1) Subject to subregulation (2) a proprietor must not serve or allow to be served to a person food that has been served to another person.
- (2) Subregulation (1) does not apply to —
- (a) sugar, salt and condiments that have been put on a table or counter provided that they are contained and continue to be contained in a protective receptacle;
 - (b) food mistakenly served to a person when the error is corrected immediately; or
 - (c) food that has been completely packaged when served and that has remained completely packaged.
- (3) A proprietor who contravenes subregulation (1) commits an offence.

16. Interference with food package

- (1) A person must not in food premises or a food vehicle open or otherwise interfere with a package of food intended for sale in that package.
- (2) A person who contravenes subregulation (1) commits an offence.

17. Use of unclean labels, notices, etc.

- (1) A person in food premises or in a food vehicle must not —
- (a) place 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 thing that —
 - (i) is unclean;
 - (ii) is likely to contaminate food; or

- (iii) has been in contact with any part of the body of a person other than the person's hands;
 - or
 - (b) apply a label to food (other than raw meat or raw fish) by piercing the food with an object.
- (2) A person who contravenes subregulation (1) commits an offence.

Division 3 — Restrictions on display, delivery, etc.

18. Exposure of food in certain places restricted

- (1) A person must not display, store or expose, outside food premises, a food vehicle or in a doorway, street, lane, footpath, yard or other open place any food —
- (a) that is not protected from any contamination, including vermin and dust, by being completely enclosed in a display case having close fitting doors or by other equally effective means; or
 - (b) that is less than 750 mm above floor or ground level whichever is the higher.
- (2) A person must not deposit or allow to be deposited in any doorway, street, lane, footpath, yard or other open place —
- (a) any food; or
 - (b) a tray or similar appliance used or intended to be used to convey bread, cakes, pastry, pies or other food that is ordinarily consumed in the same state as that in which it is sold.
- (3) This regulation does not apply to fruit and vegetables sold from roadside stalls.
- (4) A person who contravenes subregulation (1) or (2) commits an offence.

19. Certain uses of food premises etc. restricted

- (1) A proprietor of food premises or a food vehicle must ensure that used clothing, used bedding, used footwear or used printed matter are not, for the purposes of trade, received in food premises or a food vehicle.
- (2) Subregulation (1) does not apply to the receipt of clothing for cleaning including dry-cleaning in a part of food premises or a food vehicle that is separate from a part of the premises or vehicle where food is sold or prepared, packed, stored, handled, served or supplied.
- (3) A person who is engaged in or in connection with selling or preparing, packing, storing, handling, serving or supplying food must not handle clothing to which subregulation (2) applies.
- (4) A proprietor who contravenes subregulation (1) and a person who contravenes subregulation (3) commits an offence.

20. Use of cloths, towels, etc.

- (1) A proprietor of food premises or a food vehicle must ensure that any cloth, towel or thing used in food premises or a food vehicle for the purpose of —
 - (a) drying or wiping an appliance; or
 - (b) wiping or polishing fruit or other food intended for sale,is —
 - (c) used solely for a purpose specified in paragraph (a) or (b), as the case may be; and
 - (d) maintained in a clean condition.
- (2) A proprietor who contravenes subregulation (1) commits an offence.

Division 4 — Smorgasbord meals

21. Definition of smorgasbord

In this Division —

smorgasbord means food displayed for sale to which the public has access, that forms a meal or part of a meal for consumption on the premises, and may include self service of that food.

22. Requirements for smorgasbord meals

- (1) Subject to regulation 23, a proprietor must ensure that all smorgasbord meals comply with the following —
 - (a) all potentially hazardous food displayed during smorgasbord meals must be held at a safe temperature;
 - (b) subject to regulation 23(1) food to which paragraph (a) does not apply —
 - (i) must not remain on display for longer than 4 hours; and
 - (ii) must not be re-served;
 - (c) all food displayed must be protected from airborne contamination by an approved barrier;
 - (d) smorgasbord meal operations must be adequately supervised for the duration of the meal;
 - (e) all dishes or other items of food displayed must have separate clean utensils provided for serving the food;
 - (f) a person when serving food during a smorgasbord meal, must use the utensils provided under paragraph (e);
 - (g) a person must not touch any food displayed during a smorgasbord meal, other than fresh unprepared fruit, with his or her hands; and
 - (h) a sign must be installed in view of the customers which prohibits customers from smoking while serving food at the smorgasbord.

- (2) A proprietor who contravenes subregulation (1) commits an offence.

23. Exemption

- (1) Regulation 22(1)(b) does not apply to whole fruits, vegetables and food packaged in containers which protect the food from contamination when served at a smorgasbord meal.
- (2) Regulation 22(1)(a), (b), (c) and (h) do not apply to a smorgasbord meal, which is not available to the general public and in which the food is available for no more than 1½ hours.

Part 4 — Personal hygiene and conduct of workers and persons in food premises or food vehicles

24. Cleanliness of persons

- (1) A person who is engaged in the sale or the preparation, packing, storing, handling, serving, supplying or conveying of food must —
 - (a) thoroughly cleanse his or her hands by washing them with soap or detergent and water immediately —
 - (i) before commencing work or resuming work after a break;
 - (ii) after visiting a toilet facility;
 - (iii) after smoking; and
 - (iv) after handling a handkerchief or nasal tissue;
 - (b) while so engaged, ensure that his or her personal clothing, footwear, hands, fingernails and body are clean;
 - (c) when handling food which is not totally enclosed in a package (other than whole fresh fruits and vegetables) —
 - (i) wear clean protective clothing to prevent food from coming into contact with any portion of his or her ordinary clothing; and
 - (ii) at all times cover his or her lower torso with clean protective clothing;
 - (d) when in food preparation and packing areas —
 - (i) wear clean hair covering, appropriate for the nature of the food handling activity, to prevent hair from coming into contact with food or food contact surfaces; and

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- (ii) at all times cover his or her upper and lower torso with clean protective clothing;
 - (e) at all times wear footwear which encloses his or her feet.
- (2) A person who contravenes subregulation (1) commits an offence.

25. Certain acts prohibited

- (1) A person, in food premises or a food vehicle must not —
 - (a) expectorate;
 - (b) smoke or use tobacco or other similar preparation;
 - (c) sit or lie on a table, workbench or other food contact surface; or
 - (d) defecate or urinate except in an approved facility.
- (2) Subregulation (1) does not prohibit the smoking or use of tobacco or other similar preparation in a part of food premises or a food vehicle which is set apart for the consumption of food.
- (3) A person who contravenes subregulation (1) commits an offence.

26. Unnecessary contact with food prohibited

- (1) A person who is engaged in the sale or the preparation, packing, storing, handling, serving, supplying or conveying of food must at all times —
 - (a) take all reasonable precautions to prevent unnecessary contact with food; and
 - (b) ensure that food does not come into contact with his or her bare hands except —
 - (i) food that is subsequently cooked;
 - (ii) raw fruits and vegetables that are ordinarily cleaned or cooked before use; and
 - (iii) where, in the process of preparing food, it is not practicable to avoid such contact.

- (2) A person engaged in the sale or the preparation, packing, storing, handling, serving, supplying or conveying of food must not —
- (a) wipe his or her hands upon his or her personal clothing or on anything other than a clean towel;
 - (b) apply a hand or finger to his or her mouth, nose, hair, scalp, eye, ear or any part of his or her torso;
 - (c) carry in the pocket of any article of clothing any cutlery, utensil or other appliance used for eating or drinking;
 - (d) blow into or onto any bag, wrapper or other package or packing material used or intended to be used as a package for food; or
 - (e) put any food appliance in or near his or her mouth.
- (3) A person who contravenes this regulation commits an offence.

27. Certain persons excluded from food premises

- (1) A person who —
- (a) is affected with a disease that may be transmitted by contamination of food;
 - (b) is a carrier of a disease referred to in paragraph (a); or
 - (c) has on a part of his or her body —
 - (i) any boil, infected wound or sore; or
 - (ii) a bandage or dressing other than one that is waterproofed,
- must not engage in any activity on food premises or in a food vehicle that might cause —
- (d) the contamination of food or food contact surfaces by the person; or
 - (e) the transmission of disease to any other person.

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- (2) A proprietor of food premises or a food vehicle —
- (a) must not knowingly permit a person referred to in subregulation (1)(a) or (b) to work or resume work in food premises or a food vehicle until the person obtains and produces to the proprietor, a certificate from a medical practitioner verifying that the person has recovered;
 - (b) must keep or cause to be kept a record of all absences from work of persons, due to an illness or disability to which subregulation (1) applies, setting out —
 - (i) the name of the employee;
 - (ii) the date on which the employee ceased working;
 - (iii) the date on which the employee resumed working;
 - (iv) the nature of the illness of the employee (if known); and
 - (v) in relation to a person to whom subregulation (1)(a) or (b) applies and on any other occasion when a medical certificate is supplied the name of the medical practitioner who signed the certificate referred to in paragraph (a) and the date of the certificate;and
 - (c) must ensure that any information contained in the record referred to in paragraph (b) is not disclosed to any person except an environmental health officer or medical officer.
- (3) A person who contravenes subregulation (1) and a proprietor who contravenes subregulation (2) commits an offence.

28. Duties of proprietor with respect to affected persons

- (1) A proprietor who suspects that an employee working in food premises or a food vehicle is a person to whom

regulation 27(1)(a) or (b) applies must request the employee to obtain a medical certificate verifying that the employee is no longer affected by a disease that may be transmitted by contamination of food.

- (2) Where a person fails to comply with a request under subregulation (1) the proprietor must notify the Executive Director, Public Health of the proprietor's suspicion forthwith.
- (3) A proprietor who contravenes this regulation commits an offence.

29. Powers of Executive Director, Public Health or a medical officer

The Executive Director, Public Health or a medical officer upon being satisfied that there are reasonable grounds for believing that in food premises or in a food vehicle, food is, or is likely to be contaminated by a person working (whether for reward or not) in the premises or vehicle, may direct that all or any of the following measures and precautions be taken and observed, namely that the person in question —

- (a) be excluded from food premises or a food vehicle until otherwise directed; and
- (b) undergo a medical examination including the taking of specimens for laboratory testing as the Executive Director, Public Health or a medical officer requires.

30. Certain actions prohibited when transporting food

- (1) A proprietor of a food vehicle must not convey, or allow to be conveyed, any food in or on a vehicle, a compartment, van type body, case, cabinet or other receptacle —
 - (a) that is not clean and free from offensive odours, vermin or other source of contamination; or
 - (b) on which a door or lid is not securely closed.

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- (2) A proprietor must not permit a door or lid referred to in subregulation (1) to remain open for a period any longer than that which is necessary for loading or unloading food.
- (3) A proprietor who contravenes this regulation commits an offence.

31. Animals in food vehicles

- (1) A proprietor of a food vehicle must not permit an animal to enter or remain in a food vehicle.
- (2) A proprietor who contravenes subregulation (1) commits an offence.

Part 5 — Perishable, potentially hazardous and frozen food

32. Storing of certain food

- (1) Subject to subregulation (2), a proprietor of food premises or a food vehicle who sells, prepares, packs, stores, handles, serves, supplies or conveys food must ensure that —
 - (a) perishable food is kept at a temperature which will, as far as practicable, preserve it from deterioration;
 - (b) potentially hazardous food is stored or displayed at a safe temperature that —
 - (i) does not exceed 5°C; or
 - (ii) is not less than 60°C;and
 - (c) any 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 $\pm 1^{\circ}\text{C}$ with a numerical scale located to measure the operating temperature of the unit and placed so that the operating temperature can be easily verified.
- (2) Notwithstanding subregulation (1) —
 - (a) potentially hazardous food that has been prepared or stored at a temperature not exceeding 5°C must, if so required, be heated by means of a suitable appliance and in such a manner as will ensure that the food is heated to a safe temperature as rapidly as possible, and in any case during a period not exceeding one hour; and
 - (b) potentially hazardous food that has been prepared or stored at a temperature of not less than 60°C must, if so required, be cooled to a safe temperature as rapidly as possible and in any case during a period not exceeding 4 hours.

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- (3) This regulation does not apply to frozen foods referred to in regulation 33.
- (4) A proprietor who fails to comply with subregulation (1) commits an offence.

33. Frozen foods

- (1) For the purposes of this regulation —
AS 1731-1983 means Australian Standard AS 1731-1983 “Frozen Food Retail Cabinets” published by the Standards Association of Australia².
- (2) A proprietor of food premises who prepares frozen food must 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 proprietor of food premises who sells, stores, handles or conveys frozen food must ensure that the temperature of the frozen food —
 - (a) is not higher than -15°C for longer than 2 hours in any period of 24 hours; and
 - (b) is not higher than -12°C at any time before it is defrosted for use or disposal.
- (4) Frozen food must be exposed for retail sale in a frozen food retail cabinet that complies in all respects with AS 1731-1983.
- (5) A proprietor of food premises who exposes frozen food in a frozen food retail cabinet must ensure that —
 - (a) frozen food is packed so that any part of it lies below the load limit marked on the cabinet; and

- (b) food that is not frozen or frozen food that has a temperature higher than -12°C is not placed in the cabinet.

- (6) A proprietor who contravenes this regulation commits an offence.

34. Local government may require monitoring equipment to be installed

- (1) A local government may require a proprietor to install monitoring equipment for recording the operating temperature in food premises or a food vehicle to which this Part applies.
- (2) A proprietor who fails to install monitoring equipment referred to in subregulation (1) when so required commits an offence.

[Regulation 34 amended in Gazette 29 Jun 2001 p. 3127.]

Part 6 — Appliances and tableware

35. Restriction of use of certain appliances

- (1) A proprietor of food premises or a food vehicle must ensure that a person while engaged in the sale or the preparation, packing, storing, handling, serving, supplying or conveying of food in food premises or a food vehicle —
 - (a) does not use an appliance other than one constructed of such materials and in such manner as to render it easily cleaned;
 - (b) ensures that all appliances and all facilities provided on the premises or in the vehicle for the protection of food from contamination are at all times properly used and applied for that purpose; and
 - (c) does not wilfully damage, destroy, remove or render inoperative any appliance or facility provided for the protection of food from contamination.
- (2) A person must not sell an appliance unless it is the subject of a current approval in writing given by the Executive Director, Public Health.
- (3) A person who contravenes this regulation commits an offence.

36. Appliances for serving ice-cream etc.

- (1) A proprietor of food premises or a food vehicle must ensure that a person engaged in selling or serving ice-cream, frozen confection or ice confection in food premises or a food vehicle must keep or cause to be kept each server, scoop or similar appliance, used in connection with the sale —
 - (a) in clean running water; or
 - (b) in a suitable germicidal solution that must be changed as often as necessary to ensure the appliances are clean and in any case at least twice daily.
- (2) A person who contravenes this regulation commits an offence.

37. Use of faulty or dirty tableware prohibited

- (1) A proprietor must ensure that a person engaged in food premises or a food vehicle in the sale or the preparation, handling, displaying or serving of food —
 - (a) does not use or possess for use or put before a person tableware that is cracked, chipped, broken, scored or otherwise unsound;
 - (b) does not put upon a table or before a person a table napkin or serviette that —
 - (i) is unclean;
 - (ii) being a single service appliance, has previously been used; or
 - (iii) being a re-useable appliance, has been used by another person since it was last laundered;
 - (c) does not permit any glass or other receptacle containing food to be re-served to any person until the glass or receptacle is thoroughly cleaned;
 - (d) ensures that all table linen, place mats or other covering used on tables are cleaned after each use;
 - (e) ensures that single service appliances only are used where cleaning equipment referred to in Schedule 4 Part 3 Division 4 Clause 7 is not provided; and
 - (f) destroys or disposes of all single service appliances after they have been used forthwith.
- (2) A proprietor and any person who contravenes subregulation (1) commits an offence.

Part 7 — Packing materials, metals and contaminants in packages and appliances

38. Use and storage of packing materials

- (1) A proprietor of food premises must ensure that a person does not in the packing of food use or allow to be used any package or packing material unless it is —
 - (a) clean and free from foreign matter, cracks and chips;
 - (b) kept and stored until its use in such manner as will effectively protect it —
 - (i) from flies, dust, insects, animals and contamination from any source; and
 - (ii) from being handled or contaminated by customers;and
 - (c) free from a substance capable of imparting any unwholesome or deleterious property to food.
- (2) A proprietor or a person who contravenes subregulation (1) commits an offence.

39. Duty to wrap certain foods

- (1) A proprietor or any person who sells food that is ordinarily consumed in the same state in which it is sold must ensure that all such food is delivered to the purchaser completely wrapped or otherwise packed in paper or other suitable material which —
 - (a) is clean;
 - (b) has not been used previously for any purpose; and
 - (c) is free from writing or printing which is likely to contaminate the food.
- (2) Subregulation (1) applies to the material in which the food is directly wrapped or otherwise packed and also to any material used for the second or subsequent wrapping or packaging.

- (3) A proprietor of food premises must not —
 - (a) pack or allow food to be packed in a package made wholly or partly of paper, cardboard, polystyrene or other absorbent material; or
 - (b) use or allow to be used in or in connection with the closing or sealing of a package containing food any cork, crown seal, screw cap, gasket, washer, wad or similar appliance,
which has been used previously.
- (4) Subregulations (1) and (3) do not apply to —
 - (a) material which has been recycled in the manner approved by the Executive Director, Public Health;
 - (b) returnable glass drink bottles;
 - (c) bread;
 - (d) food sold for immediate consumption on the food premises from which it is sold; or
 - (e) fruit and vegetables.
- (5) A proprietor who contravenes this regulation, or any person who contravenes subregulation (1), commits an offence.

40. Use of certain packages for food prohibited

- (1) A proprietor of food premises or a food vehicle must not use or allow 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 fertilizer or manure or pesticide or other material likely to contaminate.
- (2) A proprietor who contravenes subregulation (1) commits an offence.

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41. Application of British Standard 6748:1986 to surfaces of appliances — permissible levels of concentration of certain metals

- (1) A proprietor must not use or allow to be used —
- (a) in or in connection with the sale or the preparation, packing, storing, handling, serving, supplying or conveying of food, any appliance made of glazed ceramic ware that has a surface that does not comply with British Standard 6748:1986 — “Limits of metal release from ceramic ware, glassware, glass ceramic ware and vitreous enamel ware”;
 - (b) as a food or drink container, any appliance made from material other than ceramic ware, that has a surface, that is ordinarily in contact with the food or drink, any part of which, when treated with 20 g/L citric acid test solution for 24 hours at a temperature of $20^{\circ}\text{C} \pm 1^{\circ}\text{C}$, causes the test solution to contain more than the concentration specified below of any of the metals so specified —

antimony	0.15 mg/L
cadmium	0.05 mg/L
copper	5.0 mg/L
lead	0.2 mg/L
zinc	5.0 mg/L.
- (2) In subregulation (1), a reference to “British Standard 6748:1986” is a reference to that Standard as amended from time to time, and any standard or part of a standard which is, from time to time, substituted for that Standard.
- (3) A proprietor who contravenes subregulation (1) commits an offence.

42. Use of certain packages or appliances prohibited

- (1) A proprietor of food premises must not use or allow to be used in the sale or the preparation, packing, storing, handling,

serving, supplying or conveying of food any package or
appliance —

- (a) consisting of plastics that contain —
 - (i) acrylonitrile monomer in a proportion greater than 10 mg/kg; or
 - (ii) vinyl chloride monomer in a proportion greater than 1 mg/kg;or
 - (b) consisting of metal foil —
 - (i) made from any metal other than aluminium or tin; or
 - (ii) made from aluminium or tin and containing a proportion of lead greater than 10 mg/kg.
- (2) Except where it is otherwise expressly prescribed, a proprietor must not in the sale or preparation, packing, storing, handling, serving, supplying or conveying of food —
- (a) use or allow to be used 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, lead, mercury or other poisonous metal or a compound of any of those substances; or
 - (c) use or allow to be used any package or appliance made of tin plate that is soldered internally except when —
 - (i) it is completely lacquered internally; or
 - (ii) a component part is sealed by soldering and the internal surface of that part is completely lacquered.
- (3) A proprietor of food premises must not use or allow to be used for or in connection with the sale or the preparation, packing, storing, handling, serving, supplying or conveying of food,

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polyethylene film that yields to that food butylated hydroxyanisole or butylated hydroxytoluene or a mixture thereof in proportion greater than 2 mg/kg of the food.

- (4) A proprietor who contravenes this regulation commits an offence.

Part 8 — Control of pathogens

43. Power to direct establishment and maintenance or retention of services of laboratory

- (1) The Executive Director, Public Health may, by notice in writing to the proprietor of food premises, direct the proprietor to —
 - (a) establish within the time specified in the notice and thereafter maintain, or retain the services of, a laboratory with equipment and staff adequate and suitable for the purpose of undertaking the functions and duties specified in this regulation;
 - (b) cause to be taken samples of food or ingredients or specimens from food, ingredients, premises, fittings, fixtures or appliances or any substance or thing used in or in connection with the sale or the preparation, packing, storing, handling, serving, supplying or conveying of food in such number, whether or not per batch or otherwise *pro rata*, and as often as is specified in the notice; and
 - (c) cause samples and specimens so taken to be analysed by such methods as are, and with such frequency as is, specified in the notice.
- (2) A notice under subregulation (1) remains in force for the period specified in the notice by the Executive Director, Public Health.
- (3) A proprietor who fails to comply with a direction given under this regulation commits an offence.

44. Procedure upon receipt of notice of isolation of pathogens

- (1) This regulation applies to the pathogens set out in the Table to this subregulation.

Table

Listeria monocytogenes
All *Salmonella* species
All *Shigella* species
verotoxigenic *E. coli*

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- (2) A person who in food premises, a food vehicle or laboratory —
- (a) isolates or receives notice of the isolation of a pathogen; or
 - (b) suspects the presence of a pathogen, in or from food or any source in food premises or a food vehicle,

must forthwith give to the Executive Director, Public Health verbal notice of the isolation or suspicion and within 24 hours give written notice in the form of Form 1 in Schedule 2.

- (3) The Executive Director, Public Health may give to any person written directions or verbal directions followed by confirmation in writing as soon as practicable as to the procedure to be followed by that person in respect of the pathogen and that person must comply with all directions so given.
- (4) Without limiting the operation of subregulation (3), written or verbal directions given by the Executive Director, Public Health may include directions with respect to —
- (a) the preparation, packing, storing, handling, conveying, disposal or isolation of the food containing or suspected of containing a pathogen; and
 - (b) the procedures to be undertaken to complete identification of the micro-organism being or suspected of being a pathogen.
- (5) A person who contravenes subregulation (2) or (3) commits an offence.

[Regulation 44 amended in Gazette 30 Jan 1996 p. 360.]

Part 9 — Outdoor cooking

45. Definition of “outdoor cooking facility”

For the purposes of this Part *outdoor cooking facility* means any outdoor appliance used or provided by a proprietor of food premises for the cooking and sale of food in conjunction with —

- (a) food premises; or
- (b) temporary functions, shows, fairs or similar events,

where food is not prepared at the site, but does not include an appliance used or provided for the cooking of meals included as part of an outdoor camping tour.

46. Operation of an outdoor cooking facility

- (1) A proprietor must not operate an outdoor cooking facility without approval from the local government.
- (2) The proprietor of an outdoor cooking facility must ensure that —
 - (a) the facility is sited in a manner that will as far as practicable protect food from insects, airborne contaminants or other forms of contamination;
 - (b) if the facility is fixed or regularly used it is sited on a paved area; and
 - (c) the facility is evenly graded to drain and capable of being easily cleaned.
- (3) The proprietor of an outdoor cooking facility must ensure that all utensils, fittings, fixtures, equipment and appliances used in outdoor cooking are durable, smooth, impervious, non-toxic, easily cleaned and designed to adequately protect all food from contamination.
- (4) A proprietor who contravenes this regulation commits an offence.

[Regulation 46 amended in Gazette 29 Jun 2001 p. 3127.]

47. Hygiene and waste disposal for outdoor cooking facility

- (1) The proprietor of an outdoor cooking facility must ensure that hand washing facilities are provided for persons using it.
- (2) Where an outdoor cooking facility is fixed or regularly used the proprietor must provide a hand basin with a piped water supply, soap and hand drying facilities.
- (3) The proprietor of an outdoor cooking facility must ensure that washable waste disposal receptacles with tight fitting lids are provided.
- (4) A proprietor who contravenes this regulation commits an offence.

48. Appliances etc. must be cleaned

- (1) A proprietor of an outdoor cooking facility must ensure that all equipment and appliances associated with an outdoor cooking facility are thoroughly cleaned and are as far as practicable kept clean and protected from contamination when not in use.
- (2) A proprietor who contravenes subregulation (1) commits an offence.

49. Delayed service of food prohibited

- (1) The proprietor of an outdoor cooking facility must ensure that the serving, preparation and carving of food is conducted in approved food premises unless food from the facility is served to a customer immediately after cooking.
- (2) A proprietor who contravenes subregulation (1) commits an offence.

50. Food handling provisions apply to outdoor cooking facilities

Unless the contrary intention appears the provisions of these regulations in relation to food handling apply to outdoor cooking facilities.

Part 10 — Mobile food service facility

51. Definition

For the purposes of this Part —

mobile food service facility means a facility, with or without wheels, which is used by a food vendor for the carriage or conveyance of food offered to the public and which is —

- (a) hand drawn or hand supported;
- (b) towed; or
- (c) temporarily positioned,

but does not include a food vehicle.

52. Types of products which may be sold

- (1) Products which may be sold by a food vendor from a mobile food service facility are specified in the Table to this subregulation.

Table

Type	Description of products
Type 1	Pre-packed foods such as soft drinks, ice-cream, peanuts, potato chips, sweets;
Type 2	Bulk foods which are sold by the vendor but which are used in conjunction with and in close proximity to approved food premises;
Type 3	Hot dogs, popcorn, fairy floss, chips, hot potatoes, doughnuts or any other food approved by the Executive Director, Public Health.

- (2) Food comprised of multiple ingredients and complex forms of cooking may be served from a mobile food service facility —
 - (a) when the food is prepared in food premises, approved by the Executive Director, Public Health or the local government, adjacent to the facility; and

- (b) the facility is approved by the Executive Director, Public Health or by the local government.

[Regulation 52 amended in Gazette 29 Jun 2001 p. 3127.]

53. Requirements for mobile food service facilities from which various classes of product are sold

- (1) Mobile food service facilities from which the types of food referred to in regulation 52(1) may be sold are divided into categories for the purposes of this regulation, as specified in the Table to this regulation and the proprietor of the facility must ensure that it complies with the requirements specified in the Table for that category.

Table

Category	Description of criteria required for each category
Category I	A simple mobile food service facility for the sale of Type 1 products must be constructed of smooth, impervious material and be designed for easy cleaning. Provisions for temperature control of ice-cream or drinks may be attained with crushed ice.
Category II	In addition to the requirements for Category I facilities, a mobile food service facility from which Type 2 products are sold must have — <ul style="list-style-type: none">(a) an overhead cover with a minimum standard of canvas awning;(b) a hand basin, connected to an effluent receiving tank, with running water, soap, disposable towels, nail brush and a receptacle for used hand towels;(c) food containers with close fitting, self closing lids or, containers by which food is dispensed by the food vendor through a chute or gate;(d) containers with rounded edges, free of cracks and designed so as to be easily cleaned;

- (e) where practicable, a barrier erected on 3 sides of the dispensing area constructed of smooth, impervious material, such as perspex, to prevent contamination of the product by human breath or wind borne contaminants or impurities; and
- (f) a sink connected to an effluent receiving tank for cleaning food handling utensils.

Category III In addition to the requirements for Category II facilities a mobile food service facility from which Type 3 products are sold must have —

- (a) hot water provided to the hand basin;
- (b) hot water provided to the sink; and
- (c) a washable rubbish disposal bin with a tight fitting lid for refuse disposal.

- (2) A proprietor of a mobile food service facility who contravenes subregulation (1) commits an offence.

54. Operation of mobile food service facilities

- (1) A person must not operate a mobile food service facility without prior approval of the local government.
- (2) A proprietor of a mobile food service facility must ensure that —
 - (a) all food to be sold from the facility is prepared in approved food premises;
 - (b) all food to be sold from the facility is protected in sealed packages or containers while in transit from the place of preparation to the facility;
 - (c) all food to be sold from the facility is protected from contamination at all times;
 - (d) all food products kept at the facility are at all times maintained at a safe temperature; and
 - (e) single service articles for the service of bulk or cooked products are provided.

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- (3) A person who contravenes this regulation commits an offence.
[Regulation 54 amended in Gazette 29 Jun 2001 p. 3128.]

Part 11 — Miscellaneous

55. Possession or use of unsound food prohibited

- (1) A proprietor of food premises or a food vehicle must not —
 - (a) possess food —
 - (i) for sale; or
 - (ii) for use in the preparation of food for sale;
 - (b) use food or supply food for use in the preparation of food for sale; or
 - (c) sell food,if it —
 - (d) is mouldy, fermented or otherwise deteriorated;
 - (e) is damaged, perished or otherwise contaminated;
 - (f) is contained in packages or cans that are in a blown, excessively dented, leaking or rusted condition, or otherwise damaged so that the contents may be damaged, deteriorated, perished or contaminated; or
 - (g) exhibits any sign of being in a condition specified in paragraph (d) or (e).
- (2) A proprietor who contravenes subregulation (1) commits an offence.

56. Use of certain premises when dealing with food prohibited

- (1) A proprietor must not in the sale or the preparation, packing, storing, handling, serving, supplying or conveying of food at any time use any premises, other place or vehicle —
 - (a) that is used as a sleeping compartment or is in direct communication with a sleeping compartment;
 - (b) 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;

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- (c) that is used as a lavatory, air lock or change-room or is in direct communication with a room that contains a lavatory;
 - (d) in which work or an activity is being or has been carried out that would be liable to contaminate or affect the quality of the food; or
 - (e) in which there is an untrapped opening connected directly with a drain or sewer.
- (2) A proprietor must not conduct in food premises or a food vehicle a trade, business or activity of any other kind that is likely to contaminate food.
- (3) A proprietor who contravenes this regulation commits an offence.

57. Handling etc. of food for sale in residential premises prohibited

- (1) Subject to subregulations (2), (3) and (4) a person must not in residential premises, prepare, pack, store, handle, serve, or supply for sale, any food unless granted approval to do so under this regulation.
- (2) Notwithstanding subregulation (1) a person may undertake —
 - (a) cake decorating;
 - (b) the preparation of food for a single fund raising event arranged by a community or charitable organization;
 - (c) the preparation of food for guests using farm stay or home stay accommodation; or
 - (d) any other food handling or food preparation activity approved by the Executive Director, Public Health,in residential premises.
- (3) A person who seeks to undertake any of the activities referred to in subregulation (1), other than those referred to in subregulation (2)(a), (b) and (c), must apply to the Executive

Director, Public Health, in writing, for a direction as to whether the activity may be conducted in residential premises.

- (4) Where the Executive Director, Public Health directs that the activity may be conducted in residential premises a person who seeks to undertake the activity must apply to the local government in the form of Form 2 in Schedule 2 for approval to do so and the local government may grant or refuse the application.
- (5) A person who contravenes this regulation commits an offence.
[Regulation 57 inserted in Gazette 4 Mar 1994 p. 847-8; amended in Gazette 29 Jun 2001 p. 3128.]

58. Duty of proprietor in case of fire, flood or other emergency

- (1) The proprietor of food premises or a food vehicle which has been affected by fire, flood, extended power shortage or any similar occurrence which has created a reasonable probability that any food in the premises or the vehicle may have become damaged, deteriorated or contaminated must immediately —
 - (a) suspend the sale and the preparation or packing of the food in question; and
 - (b) notify the local government.
- (2) A proprietor must not resume the sale or the preparation or packing of the food in question without the approval of an environmental health officer to do so.
- (3) A proprietor who contravenes this regulation commits an offence.

[Regulation 58 amended in Gazette 29 Jun 2001 p. 3128.]

59. Denaturing of waste liquor etc. in certain circumstances

- (1) In this regulation, unless the contrary intention appears —
liquor means beer, ale, stout, wine, cider or spirits;

waste liquor means —

- (a) liquor that is derived from —
 - (i) the purging of supply lines; or
 - (ii) the spill, drip or overflow from any tap, vessel or other receptacle;
 - (b) any unconsumed liquor which has previously been supplied to a customer in a glass or other receptacle and has been abandoned by the customer; and
 - (c) liquor that is contained in or derived from a receptacle of a kind commonly referred to as a drip tray.
- (2) The licensee of premises, in respect of which a licence to sell liquor granted under the *Liquor Licensing Act 1988* is in force, who sells liquor in any form other than in sealed packages —
- (a) must not permit any waste liquor to be on those premises unless it contains a blue dye in sufficient quantity to impart and maintain at all times a distinct colour not characteristic of the colour of the liquor;
 - (b) must cause every vessel on the premises into which waste liquor is received, placed or allowed to run or discharge, to contain a blue dye as specified in paragraph (a); and
 - (c) must not substitute for any drip tray on the premises a glass, jug or other receptacle normally used for serving or holding liquor.
- (3) A person must not sell any waste liquor.
- (4) A person who contravenes subregulation (2) or (3) commits an offence.

60. Restriction on sale of certain ice-cream, ice confection and frozen confection

- (1) A proprietor of food premises or a food vehicle must not sell or allow to be sold ice-cream, ice confection or frozen confection

that, having been frozen and subsequently having run down or melted, has been frozen again.

- (2) A proprietor who contravenes subregulation (1) commits an offence.

[61. Deleted in Gazette 29 Jun 2001 p. 3128.]

62. Australian Standards for certain industries

A proprietor must ensure that plant and equipment used in relation to any of the industries listed in column 1 of the Table to this regulation are cleaned and sanitized in accordance with the Australian Standard specified for that industry in column 2 of the Table.

Table

Column 1 Industry	Column 2 Australian Standard
Seafood Industry	AS 2995 — 1987 Cleaning and Sanitizing of Plant and Equipment in the Seafood Industry
Egg Processing Industry	AS 2996 — 1987 Cleaning and Sanitizing of Plant and equipment in the Egg Handling and Processing Industry
Meat Processing Industry	AS 2997 — 1987 Cleaning and Sanitizing of Plant and equipment in the Meat Processing Industry
Poultry Processing Industry	AS 2998 — 1987 Cleaning and Sanitizing of Plant and equipment in the Poultry Meat Processing Industry

63. Code of Practice — Self-service “take-away” salads

- (1) A proprietor must ensure that the “Code of Practice for the Safe Storage and Service of Self-Service Take-away Salads” prepared by the Health Department of Western Australia³ is

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complied with when salads are sold by self-service and not consumed on the premises by the customer.

- (2) A proprietor who fails to comply with subregulation (1) commits an offence.

64. National Code for Food Vending Vehicles and Temporary Food Premises

- (1) A proprietor of food premises or a food vehicle must ensure that Part B of the National Code for Food Vending Vehicles and Temporary Food Premises, developed by the NSW Food Surveillance Committee of the Australian Institute of Environmental Health, is complied with where the proprietor operates temporary food premises as described in categories (a) and (b) in the Preamble to that Part.
- (2) Where there is conflict or inconsistency between these regulations and the Code referred to in subregulation (1), these regulations prevail to the extent of the conflict or inconsistency.
- (3) A proprietor who contravenes subregulation (1) commits an offence.

65. Penalties

A person who commits an offence under these regulations is liable to a penalty of —

- (a) not more than \$2 500 and not less than —
- (i) in the case of a first such offence, \$250;
 - (ii) in the case of a second such offence, \$500; and
 - (iii) in the case of a third or subsequent such offence, \$1 250;
- and
- (b) if that offence is a continuing offence, a daily penalty which is not more than \$250 and not less than \$125.

66. Advisory Committee attendance fees

- (1) The Chairman of the Advisory Committee, or, in his or her absence, the deputy chairman, is to be paid —
 - (a) \$330 for a full day's attendance (4 hours or longer); or
 - (b) \$220 for a half-day's attendance (less than 4 hours).
- (2) Each other member or deputy member of the Advisory Committee is to be paid —
 - (a) \$220 for a full day's attendance (4 hours or longer); or
 - (b) \$150 for a half-day's attendance (less than 4 hours).
- (3) However, an attendance fee is not payable to a member of the Advisory Committee who is —
 - (a) an employee as defined in the *Public Sector Management Act 1994*; or
 - (b) an employee of a department of State or other agency of the Government of the Commonwealth.

[Regulation 66 inserted in Gazette 8 Feb 2005 p. 662.]

Schedule 1

[Regulation 2]

Areas to which these regulations apply

Each district in the State.

[Schedule 1 amended in Gazette 15 Oct 1993 p. 5523.]

Schedule 2

Forms — Arrangement

<u>Form No.</u>	<u>Description of Form</u>	<u>Regulation</u>
Form 1	NOTICE OF SUSPECTED PRESENCE OR ISOLATION OF PATHOGEN	[Regulation 44(2)]
Form 2	APPLICATION FOR APPROVAL OF CERTAIN FOOD HANDLING ACTIVITIES IN RESIDENTIAL PREMISES	[Regulation 57(4)]

[Arrangement amended in Gazette 4 Mar 1994 p. 848.]

HEALTH ACT 1911
HEALTH (FOOD HYGIENE) REGULATIONS 1993

FORM 1

[Regulation 44(2)]

**NOTICE OF SUSPECTED PRESENCE OR ISOLATION OF
PATHOGEN**

TO: Executive Director, Public Health

I, _____ of _____
give notice of —

* (a) the suspicion of the presence

* (b) the isolation by

of the pathogen

Particulars are set out in the Schedule below.

Dated this day of 20 .

.....
Signature and description of
person giving notice

SCHEDULE

1. Name and address of
 food premises or description
 and location of food vehicle:
2. Class or description
 of business:
3. If isolation occurred at a
 laboratory, name of laboratory
 and of supervising officer of
 laboratory or microbiology section:

4. Immediate source of pathogen:
(State whether animal, human,
food, environmental)
5. Primary source of pathogen:
(Indicate if known or suspected)
6. Number of separate isolations:
7. Date(s) of isolation:
8. Date and time of day of verbal
notification to Executive Director,
Public Health:

* Strike out whichever is not applicable.

HEALTH ACT 1911
HEALTH (FOOD HYGIENE) REGULATIONS 1993

FORM 2

[Regulation 57(4)]

**APPLICATION FOR APPROVAL OF CERTAIN FOOD
HANDLING ACTIVITIES IN RESIDENTIAL PREMISES**

To the local government of
(insert name of local government)

I
(full name)

apply to
.....
(describe the food handling activities)

at
(residential address where food handling activities will take place)
.....

I enclose a copy of a direction under regulation 57(3) from the Executive
Director, Public Health.

.....
Signature of Applicant

Dated 20

APPROVAL

*The above application is granted subject to the following terms and conditions

.....
.....
.....

*The above application is refused.

.....
Environmental Health Officer,
local government of

* Strike out whichever is not applicable

*[Form 2 inserted in Gazette 4 Mar 1994 p. 848-9; amended in
Gazette 29 Jun 2001 p. 3128.]*

HEALTH ACT 1911
HEALTH (FOOD HYGIENE) REGULATIONS 1993
FORM 3

[Regulation 9A(2)]

**APPLICATION FOR LICENCE, OR RENEWAL OF LICENCE,
TO CONDUCT A BUSINESS PRODUCING MANUFACTURED
SMALLGOODS**

To:
(insert name and address of local government)

I/We¹
 hereby make application for a licence to conduct a business producing
 manufactured smallgoods of the kind described in the Schedule.

SCHEDULE

Dated 20 .

Applicant(s)

This application must be accompanied by the prescribed fee.

¹ Insert full name, trading name, and business address of applicant(s).

[Form 3 inserted in Gazette 30 Jan 1996 p. 360; amended in Gazette 29 Jun 2001 p. 3128.]

HEALTH ACT 1911
HEALTH (FOOD HYGIENE) REGULATIONS 1993

FORM 4

[Regulation 9A(5)]

**LICENCE TO CONDUCT A BUSINESS PRODUCING
MANUFACTURED SMALLGOODS**

THIS IS TO CERTIFY that on _____, 20____
(here insert the name of the
local government) granted to ¹
a licence to conduct a business producing manufactured smallgoods of the kind
described in the Schedule.

This licence is subject to the following terms and conditions: —

Unless sooner surrendered, cancelled, revoked or suspended this licence
remains in force until 30 June 20____.

SCHEDULE

Dated _____ 20____.

Clerk,
local government
of _____

¹ Insert full name, trading name, and business address of licensee.

*[Form 4 inserted in Gazette 30 Jan 1996 p. 361; amended in Gazette
29 Jun 2001 p. 3128.]*

HEALTH ACT 1911
HEALTH (FOOD HYGIENE) REGULATIONS 1993

FORM 5

[Regulation 9B(3)]

APPLICATION FOR REGISTRATION, OR RENEWAL OF REGISTRATION, OF PREMISES USED FOR PRODUCING MANUFACTURED SMALLGOODS

To:
(name and address of local government)

I/We¹ hereby make
application for the registration of the premises²,
.....
for and in connection with the business of producing manufactured smallgoods
of the kind described in the Schedule.

Number of Smallgoods manufacturer's licence held by the applicant(s):

Dated 20 .

Applicant(s)

SCHEDULE

This application must be accompanied by the prescribed fee, and any specifications and drawings prescribed by the regulations.

- 1 Insert full name, trading name, and business address of applicant(s).
- 2 Insert situation and description of premises.

[Form 5 inserted in Gazette 30 Jan 1996 p. 361; amended in Gazette 29 Jun 2001 p. 3128.]

HEALTH ACT 1911
HEALTH (FOOD HYGIENE) REGULATIONS 1993

FORM 6

[Regulation 9B(4)]

**CERTIFICATE OF REGISTRATION OF PREMISES
PRODUCING MANUFACTURED SMALLGOODS**

THIS IS TO CERTIFY that on _____, 20____
the premises¹
were registered with (*here insert
the name of the local government*) in the name of²
.....
for and in connection with the conduct of a business producing manufactured
smallgoods of the kind described in the Schedule.

This registration is subject to the following terms and conditions —

Unless sooner surrendered, cancelled, revoked or suspended this registration
remains in force until _____ 20____.

Number of Smallgoods manufacturer's licence held by the licensee:

Dated _____ 20____.

Clerk,
local government
of _____

SCHEDULE

¹ Insert situation and description of premises.

² Insert full name, trading name and business address of licensee.

*[Form 6 inserted in Gazette 30 Jan 1996 p. 362; amended in Gazette
29 Jun 2001 p. 3128.]*

Schedule 3

[Regulation 4]

Classification of food premises and food vehicles

1. Class 1

- (1) Food premises and food vehicles in which —
- (a) extensive food preparation or cooking is carried out;
 - (b) the foods by their nature are subject to spoilage, rapid bacterial growth, or require a high level of protection; and
 - (c) the nature of the activity requires specific finishes, equipment, or facilities,
- are classified as Class 1 food premises and food vehicles.
- (2) The businesses listed in the Table to this subclause include, but are not limited to, the types of businesses which may be conducted in Class 1 food premises and food vehicles.

Table
Description of Businesses

Restaurant
Pastry Cooking
Lunch Bar (extensive cooking basic preparation)
Cafe (cooking and preparation from basic food)
Commercial kitchens (caterers)
Fish & Chips (preparation and cooking)
Fishmonger
Butcher
Boning Room
Smallgoods Manufacture
Hotel/Tavern (kitchen)
Fast Food/Takeaway Outlets
Pizza Bar
Market Food Stalls
Hot Bread Shop (baked and sold on premises)

2. Class 2

- (1) Food premises and food vehicles in which preparation, reconstitution, special storage or packaging of food is undertaken and where no direct sale to the public is involved are classified as Class 2 food premises and food vehicles.
- (2) The businesses listed in the Table to this subclause include, but are not limited to, the types of businesses which may be conducted in Class 2 food premises and food vehicles.

Table
Description of Businesses

Poultry processing
Seafood processing
Seafood canning
Fruit Juices/Carbonated drink manufacturing
Preparation of Dairy Products — Milk, Cheese, and Ice-cream
Cannery (vegetables and fruit)
Cold Stores
Frozen Food processing (vegetables only)
Flour milling
Bee Pollen, Honey extraction and packaging
Food Formulators (concentrated food)
Bakeries

3. Class 3

- (1) Food premises and food vehicles in which —
 - (a) limited food preparation is carried out including heating of food for sale;
 - (b) most of the food used is in a prepared form and requires only refrigerated or dry storage; or
 - (c) the nature of the activity demands basic finishes and fixtures,are classified as Class 3 food premises and food vehicles.
- (2) The businesses listed in the Table to this subclause include, but are not limited to, the types of businesses which may be conducted in Class 3 food premises and food vehicles.

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Table
Description of Businesses

Bakery (bread only)
Lunch Bar (sandwich making, heating and serving food)
Cafe and Tea-room (sandwich making, heating and serving food)
Delicatessen/Sandwich Bar (lunches)
School Canteen
Health Food Shop (wholesale and packing)
Warehouse (cold storage)
Grocery Packaging

4. Class 4

- (1) Food premises and food vehicles in which food handling is limited to dispensing without preparation pre-prepared foods or packaged foods are classified as Class 4 food premises and food vehicles.
- (2) The businesses listed in the Table to this subclause include, but are not limited to, the types of businesses which may be conducted in Class 4 food premises and food vehicles.

Table
Description of Businesses

Cake Shop (retail only, no cooking)
Delicatessen
Confectionery, Ice-cream, Drinks (sales only)
Supermarket (grocery only)
Health Food Shop (retail only)

5. Class 5

- (1) Food premises and food vehicles in which the food sold is fruit, vegetables or is wholly contained within protective packages which do not require refrigeration or special storage conditions are classified as Class 5 food premises and food vehicles.
- (2) The businesses listed in the Table to this subclause include, but are not limited to, the types of businesses which may be conducted in Class 5 food premises and food vehicles.

Table
Description of Businesses

Greengrocer/Fruit & Vegetable Market
Warehouse (dry foods)
Liquor Store

Schedule 4

[Regulations 5 and 6]

Design and construction of food premises and food vehicles

Part 1 — Preliminary

1. Interpretation

In this Schedule unless the contrary intention appears —

depth, when used in relation to an appliance, means the horizontal distance from front to back;

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.

Part 2 — General requirements

2. General requirements

- (1) All food premises and food vehicles must be —
 - (a) designed and constructed to —
 - (i) enable food, equipment, appliances and packing materials to be protected from the weather;
 - (ii) enable easy and adequate cleaning;
 - (iii) guard against the entry of birds or vermin; and
 - (iv) exclude, as far as practicable, dirt, dust, smoke, foul odours and any other contaminant;
 - and
 - (b) of sufficient size to enable the requirements of this Schedule to be met having regard to the purposes for which the food premises are or are intended to be used.
- (2) Food premises and food vehicles, other than Class 5 premises, must be enclosed with floors, walls and ceilings so that the food premises and food vehicle are separated from any internal or external area likely to be a source of contamination.

- (3) Where a dining area is included in food premises or a food vehicle the kitchen floor area must be equal to no less than 25% of the total floor area.

Part 3 — Specific requirements

Division 1 — Walls

3. Structure of walls

- (1) The surfaces of walls must be made of materials which are durable and suitable for the nature of the activities conducted in the food premises and food vehicles.
- (2) Internal wall surfaces must —
- (a) be smooth, durable, resistant to corrosion, non-toxic and impervious to water;
 - (b) be free from cracks, crevices and other defects;
 - (c) be finished in a light colour;
 - (d) not have any skirting, picture rail, architrave, cover strip or other moulding fitted to it,
- and in addition to the requirements in paragraphs (a) to (d) must —
- (e) in the food preparation areas where tiles are used in —
 - (i) Class 1 and Class 2 food premises and food vehicles, be tiled to full wall height; and
 - (ii) Class 3 food premises and food vehicles, be tiled to a height of 600 mm above benches, hand basins, sinks and similar work areas.
- (3) Where possible edges must not be formed on a surface as a result of internal wall construction, or if unavoidable must be bevelled at an angle of not less than 45° to the horizontal, or otherwise finished to prevent lodgement of dust, dirt or grease.
- (4) Junctions at angles between adjoining walls must be coved in Classes 1, 2 and 3 food premises and food vehicles.

- (5) Where preformed materials comprise or form part of the internal surfaces of walls —
 - (a) there must not be any voids or crevices;
 - (b) non-corrosive metal H-bars and other mouldings may be used provided that the materials, metal H-bars and other mouldings are well fitted together; and
 - (c) all joints and edges including those formed with H-bars and other mouldings must be sealed.
- (6) Door openings, windows, serving hatches and similar fittings in walls must be finished with all edges rounded to smooth surfaces and all joints sealed.
- (7) Protective fixtures fitted to the edges of an opening referred to in subclause (6) must be integrally installed and sealed.
- (8) A ledge or window sill on or in a wall located in an area where —
 - (a) food is prepared, packed or served must be —
 - (i) splayed downwards at an angle which prevents the ledge or window sill from being used as a shelf; and
 - (ii) finished with all edges rounded to smooth surfaces; and
 - (b) food is prepared, and in which splashing or soiling is likely to occur, must be situated at least 300 mm above the top of any bench or appliance that is in a position below or adjacent to the ledge or window sill.
- (9) Preformed light weight construction materials must be made of rigid, foam-filled sandwich boards and comply with subclauses (1) and (2).
- (10) This clause, other than subclause (1), does not apply to walls in food premises and food vehicles —
 - (a) where the food is completely enclosed within and protected from contamination by a processing plant, an appliance or other approved means; or
 - (b) used as an area for dining or drinking, or for the delivery or service of food incidental to that use except where the walls are adjacent to a sink, wash hand basin, glass washing

appliance, counter, refrigerator or food or water heating appliance.

[Clause 3 amended in Gazette 4 Mar 1994 p. 849.]

Division 2 — Floors

4. Structure of floors

- (1) The surfaces of floors must be made of materials which are durable and suitable for the nature of activities conducted in the food premises and food vehicles and for incidental purposes.
- (2) Floor surfaces must be —
 - (a) smooth to facilitate cleaning, rigid, durable, slip resistant, resistant to corrosion, non-toxic, and impervious to water;
 - (b) free from cracks, crevices and other defects;
 - (c) evenly graded to trapped floor waste outlets connected to a drainage system where cleaning operations or other activities release water or other liquids onto floors; and
 - (d) where preformed materials are used, finished so that —
 - (i) voids or crevices are not formed;
 - (ii) all joints and edges are sealed; and
 - (iii) subject to subclause (4), the preformed materials are continued up the walls and other vertical surfaces adjoining the floors for at least 70 mm above the floor level.
- (3) Subject to subclause (4), the junctions between floors and walls or other vertical surfaces must be —
 - (a) coved to a radius of at least 9.5 mm; and
 - (b) firmly supported.
- (4) Subclauses (2)(d)(iii) and (3) do not apply to —
 - (a) Class 4 or 5 food premises and food vehicles;
 - (b) food premises and food vehicles in which the food is completely enclosed and protected from contamination by a processing plant, an appliance or other approved means; or
 - (c) surfaces which are not wet cleaned.

- (5) This clause, other than subclause (1), does not apply to floors of food premises and food vehicles used as a dining or drinking area or for the delivery or service of food incidental to that use.

Division 3 — Ceilings

5. Structure of ceilings

- (1) The surfaces of ceilings in food handling areas must —
- (a) be smooth, durable, resistant to corrosion, non-toxic, and impervious to water;
 - (b) be free from cracks, crevices and other defects and have a sectional profile which does not permit the accumulation of dust, dirt or grease, and is easily cleaned;
 - (c) be finished in light colours; and
 - (d) subject to subclause (2), not have a cover strip or other moulding fitted to them.
- (2) In Classes 3, 4 and 5 food premises and food vehicles the ceilings in food handling areas may be comprised of preformed materials in the form of rigid panels well fitted and sealed to suspended corrosive resistant metal T-bars and other mouldings.
- (3) Where an access panel cannot be avoided in a food preparation area the access panel must be finished flush with the surrounds and sealed.
- (4) Where food premises contain more than one level, the under surface of a slab and beam concrete floor must —
- (a) be waterproof; and
 - (b) have supporting beams shaped to minimise the collection of dirt, dust or grease and to facilitate cleaning.
- (5) Junctions of walls and ceilings must be sealed.
- (6) This clause other than subclause (1) does not apply to ceilings in food premises and food vehicles —
- (a) where food is completely enclosed and protected from contamination by a processing plant, an appliance or other approved means;

- (b) where packaging of dry foods is the only activity within the premises;
- (c) where food is wholly enclosed in protective packages;
- (d) where only unprocessed fruit and vegetables are stored; or
- (e) where an area is used for dining or drinking or for the delivery or service of food incidental to that use.

Division 4 — Water supply, cleaning equipment and sinks

6. Supply of water

Food premises and food vehicles and all food preparation areas within such premises and vehicles must be provided at all times with an adequate supply of water.

7. Provision of cleaning equipment

- (1) Food premises, and food vehicles where eating utensils or drinking utensils are used, must have —

- (a) glass washing machines;
- (b) dish washing machines;
- (c) double bowl sinks;
- (d) tubs consisting of 2 compartments;
- (e) draining boards; and
- (f) drying and storage facilities,

as required by an environmental health officer in relation to the classification of the food premises or food vehicles.

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

- (a) must be conspicuously branded or marked with its name or trade name, its model identification and the name and address of its manufacturer;
- (b) must be automatic in its washing and rinsing actions;
- (c) must be capable of completely washing in one operation eating utensils and drinking utensils;

- (d) must be equipped with or have incorporated in it a water heater or be supplied with water from a hot water source in either case so as to ensure that water is heated to a temperature sufficient to deliver water at a temperature —
 - (i) of not less than 50°C with a chemical sanitizer providing the equivalent bactericidal effect of a solution containing 50 mg/kg of available chlorine; or
 - (ii) of not less than 75°C;
 - (e) must be fitted with —
 - (i) a thermometer that is clearly visible to the operator and fixed so as to register the temperature of the water at the time washing and rinsing operations are in progress; or
 - (ii) an indicator that is clearly visible to the operator which will indicate when the water in the machine has reached the temperature required by paragraph (d);
 - (f) must display on the machine or in close proximity to it the operating instructions recommended by the manufacturer concerning the use and strength of sanitizers for that machine; and
 - (g) must not include as part of its mechanism a brush.
- (3) Despite subclause (2)(d) a glass washing machine may be installed in which the final rinse cycle uses cold water provided that —
- (a) when removed from the glass washer the glasses are placed in a refrigerated cabinet; and
 - (b) the glass washer is —
 - (i) fitted with a hot water booster capable of maintaining a hot detergent wash temperature of not less than 75°C for not less than 15 seconds; or
 - (ii) connected to either a 50 litre capacity rapid recovery hot water system by a supply pipe not exceeding 3 metres in length or to a recirculatory hot water supply both of which are capable of maintaining a water temperature of 75°C at all times.

- (4) One bowl of each double bowl sink or one compartment of each 2 compartment tub provided in accordance with subclause (1) must be supplied with sufficient soap or detergent for effectively washing utensils and the other bowl or compartment must contain hot water maintained at a temperature of not less than either —
 - (a) 75°C; or
 - (b) not less than 50°C containing a chemical sanitizer providing the equivalent bactericidal effect of a solution containing 50 mg/kg of available chlorine,for the final rinsing of such utensils.
- (5) Glass-free thermometers, accurate to $\pm 1^{\circ}\text{C}$ must 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.
- (6) For the purposes of this clause, a glass or dish washing machine to which this clause applies, other than a machine that has been ordered or acquired before the commencement of these regulations must be —
 - (a) capable of washing and rinsing the eating utensils and drinking utensils;
 - (b) fitted with a temperature control device constructed and adjusted in such a way that the machine will not operate until the rinsing water meets the requirements of subclause (2)(d); and
 - (c) designed so that all utensils after rinsing are dried by evaporation.

8. Provision of food preparation sinks

- (1) Where food is prepared on food premises or in a food vehicle, the appropriate number of sinks must be provided as is necessary for use in connection with that activity and each sink must have an adequate supply of water.
- (2) A sink referred to in subclause (1) must —
 - (a) only be used for the purpose of food preparation; and
 - (b) be separate from and in addition to a sink or tub specified in clause 7(1).

Division 5 — Lighting

9. Lighting requirements

- (1) Food premises and food vehicles must —
 - (a) be provided at all times with natural or artificial lighting suitable for the activities conducted in the premises; and
 - (b) comply with Australian Standard AS 1680-1976 entitled “Interior Lighting and the Visual Environment”, published by the Standards Association of Australia².
- (2) Light fittings in food premises and food vehicles must be constructed so that contamination of food with dirt, dust or any other material falling from the light fitting is prevented.
- (3) Light fittings must be fitted with protective covers to prevent contamination of food with broken glass.

Division 6 — Ventilation and exhaust equipment

10. AS 1668.2-1991

- (1) All kitchens and cooking areas in food premises and food vehicles must be provided with exhaust hoods in compliance with the requirements of Australian Standard AS 1668.2-1991 entitled “The use of mechanical ventilation and air-conditioning in buildings Part 2: Mechanical ventilation for acceptable indoor-air quality”, published by the Standards Association of Australia².
- (2) All filters, hoods and ducts must receive regular cleaning and maintenance, and be kept in a clean condition at all times.

Division 7 — Exclusion of insects

11. Exclusion of insects

- (1) All doorways, windows and other openings in food premises and food vehicles must be protected so that as far as practicable flies and other flying insects are excluded.
- (2) Subclause (1) does not apply to Class 5 food premises.

Division 8 — Pipes, ducts, conduits, wiring, etc.

12. Pipes, ducts, conduits, wiring, etc.

- (1) Where practicable, pipes, ducts, conduits, wirings and similar fittings must be —
 - (a) located on the exterior surface; or
 - (b) concealed in walls, floors or ceilings,of food premises and food vehicles.
- (2) Where compliance with subclause (1) is not practicable —
 - (a) pipes, ducts, conduits, wirings and similar fittings must be fixed in brackets so that there is a clearance of not less than 16 mm between the pipes, ducts, conduits, wirings and similar fittings and adjacent surfaces to facilitate cleaning and inspection;
 - (b) in cases to which paragraph (a) applies, effective means must be provided to prevent the contamination of food or food contact surfaces by condensate, dirt, dust, grease or leaks emanating from the pipes, ducts, conduits, wirings or similar fittings;
 - (c) pipes, ducts, conduits, wirings and similar fittings must not be installed in —
 - (i) the junction of a floor and any vertical surface; and
 - (ii) spaces beneath fixtures, fittings and appliances so as to obstruct access for easy cleaning;and
 - (d) pipes, conduits, ducts, wirings or similar fittings that pass through any surface of the food premises must be sealed or in the case of steam pipes provide adequate space to permit cleaning.
- (3) Exposed drainage pipes or openings for the inspection or cleaning of the drainage pipes must not be installed in food premises and food vehicles.

- (4) Where a food conveyor is located in a duct or other space within or between walls —
 - (a) the duct or space must be easily accessible to facilitate inspection, cleaning and the control of vermin; and
 - (b) the internal surfaces enclosing the duct or space must comply with the requirements specified in Division 1.

Division 9 — Design of fixtures, fittings and appliances

13. Fixtures, fittings and appliances

- (1) Every appliance must be constructed —
 - (a) of materials that are impervious to water, durable, non-toxic and resistant to corrosion;
 - (b) so that no part of the appliance can contaminate the food;
 - (c) so that the appliance is —
 - (i) free from cracks and crevices; and
 - (ii) easily cleaned;
 - and
 - (d) so that vermin are excluded from the appliance.
- (2) Appliances must be situated so that all adjacent walls, floors, ceilings, fixtures and fittings can be easily cleaned.
- (3) Work surfaces subject to high levels of liquid spillage, including draining boards, must be made of stainless steel.
- (4) Notwithstanding subclause (1)(a) the following appliances may be constructed of timber —
 - (a) cupboards, cabinets, shelving units and similar equipment, other than working surfaces;
 - (b) appliances used for transportation and storage of food, other than unpackaged food in direct contact with timber appliances, which are supplied and stored in premises for food manufacturing and reprocessing but are unable to contaminate the packaged food so transported or stored; and
 - (c) appliances for which there is no practicable substitute.

- (5) Surfaces used for food storage or food preparation or appliances referred to in subclause (4) or surfaces subject to regular cleaning must be covered by an approved surfacing material.
- (6) An appliance having a mass greater than 16 kg must be —
 - (a) sealed to the adjacent surface; or
 - (b) mounted on wheels or castors capable of supporting it when loaded,to facilitate easy cleaning.
- (7) Where an appliance is not sealed to an adjacent wall or other vertical surface, including a vertical surface of any other appliance, it must be —
 - (a) located at a distance of at least 150 mm from the vertical surface; and
 - (b) sealed to the floor or a plinth constructed in accordance with subclause (10) or mounted on legs or brackets in accordance with subclause (11).
- (8) An appliance that is located or mounted on a counter, bench, work table or similar surface must be —
 - (a) located or mounted so that a clear space adequate for efficient cleaning and in any case not less than 75 mm is maintained between —
 - (i) the appliance and the surface; and
 - (ii) the appliance and each adjacent wall or other vertical surface;
 - or
 - (b) sealed to the surface and to each adjacent wall or other vertical surface.
- (9) A fixing lug or plate used to secure an appliance to a wall or other vertical surface must be sealed to the wall or vertical surface, and bolts or screws must be flush mounted or countersunk.
- (10) A plinth referred to in subclause (7) must be —
 - (a) built as an integral part of the floor;
 - (b) constructed of solid concrete or masonry;

- (c) finished to a smooth level surface;
 - (d) of a height at least 100 mm above the floor and finished flush with the vertical surface of an appliance;
 - (e) rounded or bull-nosed at exposed edges or corners; and
 - (f) coved at its junction with the floor or any wall or other adjacent surface to a radius of at least 9.5 mm.
- (11) Legs and brackets referred to in subclause (7)(b) must be —
 - (a) made of smooth, corrosion resistant material in which —
 - (i) the ends of tubular material used are closed and sealed; and
 - (ii) brackets with hollow backs are not used;
 - (b) constructed as an integral part of the appliance or securely fixed to it so that dirt, dust or grease cannot lodge on it;
 - (c) easily cleaned; and
 - (d) constructed so that there is a clear space —
 - (i) of no less than 150 mm between the floor and the underside of the appliance for efficient cleaning; and
 - (ii) a clear space of no less than 75 mm between the adjacent wall or other vertical surface and the legs or brackets, as the case may be, and any brace or other member attached to it.
- (12) In addition to the requirements of subclause (11) all brackets must be sealed to contact surfaces so that crevices, voids or inaccessible cavities are not formed.
- (13) Fixtures must not contain a false or separate back or bottom and in particular —
 - (a) fixed shelving units must be sealed to or fixed at least 40 mm clear of adjacent walls or other vertical surfaces;
 - (b) shelves comprising or forming part of a shelving unit must be at least 150 mm above the floor; and
 - (c) the bottom guides of sliding doors must not be greater than 25 mm in length.
- (14) A motor or compressor that forms part of a refrigerator, frozen food cabinet or similar equipment in food premises must, unless it is an

integral part of the equipment be located and mounted so that it cannot contaminate the food.

- (15) Where it is not practicable to comply with subclause (14) a motor or compressor referred to in that subclause must be located and mounted in compliance with the requirements specified in subclauses (1), (2), (4), (6), (7) and (8) with respect to appliances.

[Clause 13 amended in Gazette 4 Mar 1994 p. 849.]

Division 10 — Design and construction of cool rooms

14. Cool rooms

- (1) A cool room must be designed and constructed so that —
- (a) all internal angles between walls or other vertical surfaces and floors are coved to a radius of at least 9.5 mm;
 - (b) when required by a local government, the floors are graded to a trapped floor waste;
 - (c) condensate from evaporative units in a cool room are collected and discharged to a drainage system located outside the cool room;
 - (d) any racks, shelves or similar supports are constructed of corrosion resistant, smooth and easily cleanable non-absorbent materials; and
 - (e) all doors are —
 - (i) fitted with a rubber or similar seal which effectively prevents the escape of cold air or the entry of warm air when the door is closed, and the seal must be kept clean and in good repair; and
 - (ii) capable of being opened from the inside at all times.
- (2) Despite subclause (1)(d), pallets constructed wholly or partly of timber may be used for the transportation and storage of food where the pallets are handled mechanically.
- (3) Every cool room must be equipped with a thermometer or thermograph indicating or recording temperature in the warmest part of the room accurate to $\pm 1^{\circ}\text{C}$ and located so that it is easily readable.

[Clause 14 amended in Gazette 29 Jun 2001 p. 3129.]

Division 11 — Temporary storage of rubbish and refuse

15. Design and maintenance of rubbish and refuse receptacles

- (1) Adequate facilities or receptacles must be provided in food premises and food vehicles for the temporary storage of refuse and recyclable materials and the facilities must be —
 - (a) cleaned before use;
 - (b) kept clean and well maintained;
 - (c) deodorised at least weekly or as directed by an environmental health officer; and
 - (d) kept free from vermin and insects.
- (2) Refuse containing putrescible matter in food premises and food vehicles must be stored in receptacles which —
 - (a) cannot be entered by vermin or insects; and
 - (b) do not create a nuisance.
- (3) The receptacles referred to in subclause (2) must be kept —
 - (a) on an area paved with impervious material situated outside the food premises; or
 - (b) in an approved rubbish or refuse enclosure.
- (4) A paved area referred to in subclause (3)(a) must be graded and drained to the appropriate waste disposal system.
- (5) Where rubbish or refuse receptacles are used in food preparation areas they must be distinguishable by labelling or otherwise from containers used for food.
- (6) Rubbish or refuse enclosures must be provided with an adequate supply of water for cleaning purposes.

Division 12 — Grease traps

16. Provision of grease traps

A grease trap used in connection with food premises must, where practicable, be located outside the food premises and maintained in a clean and sanitary condition.

Part 4 — Sanitary conveniences, hand washing facilities and change rooms

Division 1 — Sanitary conveniences — General requirements

17. Maintenance and supply of hand washing facilities

Food premises must be provided with sanitary conveniences —

- (a) which are cleaned daily and at all times kept and maintained in a clean and sanitary condition;
- (b) which clearly indicate the sex for which each convenience is intended; and
- (c) which are supplied with a wash hand basin.

Division 2 — Hand washing facilities

18. Provision, design and maintenance of hand washing facilities

- (1) Food premises and food vehicles must be provided with wash hand basins —
 - (a) within or adjacent to each toilet facility;
 - (b) in the food preparation area; and
 - (c) in any part of food premises where the nature of the activities performed is such that hands may contaminate food.
- (2) Each wash hand basin —
 - (a) must be of adequate size;
 - (b) must be provided at all times with a piped supply of warm water or of hot water and cold water delivered through a common outlet;
 - (c) must be connected to an approved waste disposal system;
 - (d) must not be installed under counters, cabinets, consoles or similar fixtures and fittings; and
 - (e) at all times must be kept —
 - (i) in a clean and sanitary condition and a state of good repair and efficient working condition;
 - (ii) readily accessible and available for use; and

(iii) supplied with soap or suitable detergent.

- (3) A wash hand basin must not be used for any purpose other than the washing of hands.
- (4) Single use towels, or other approved hand drying facilities, and a waste receptacle, must be provided in close proximity to a wash hand basin.

19. Hand basins in Class 1 or Class 2 food premises where potentially hazardous foods are processed

In Class 1 or Class 2 food premises where potentially hazardous foods are processed, hand basins must be installed which can be operated other than by hand.

Division 3 — Sanitary conveniences — Public

20. Provision of sanitary conveniences for public

- (1) Sanitary conveniences must be provided in food premises for persons using the food premises in accordance with the Building Code of Australia as at 14 June 1993.
- (2) Access to sanitary conveniences must not be through areas where food is prepared, packed, stored or handled.

Division 4 — Sanitary conveniences — Staff

21. Sanitary conveniences — Staff

- (1) Sanitary conveniences for staff must be provided in all food premises in accordance with the Building Code of Australia as at 14 June 1993.
- (2) Staff and public sanitary conveniences may be combined except that staff facilities must be segregated and locked, and at no time be available to the public.

Division 5 — Change rooms

22. Change room facilities must be provided

- (1) Separate male and female change room facilities for the use of persons engaged in food handling must be provided in Class 1 and Class 2 food premises.
- (2) The change rooms must be —
 - (a) at least 3 square metres, with an additional 0.75 square metres for each person in excess of 4, and separated from the food handling area; and
 - (b) provided with locker storage facilities for the storage of clothing, footwear and other personal effects.

Division 6 — Food vehicles

23. Certain requirements for food vehicles

- (1) Food conveyed in a food vehicle must be conveyed in a compartment, van type body, case, cabinet or any other receptacle that is —
 - (a) constructed to convey food of the class or description being conveyed;
 - (b) fully enclosed and provided with close-fitting doors or lids that are capable of being securely closed;
 - (c) effectively sealed off from the driving section of the vehicle;
 - (d) otherwise fitted, equipped and maintained so as to prevent the food from becoming contaminated; and
 - (e) identified as a food vehicle, food case, food cabinet or any other food receptacle by having clearly written on each external side in letters having a letter height of not less than 100 mm the words “FOOD TRANSPORT VEHICLE”, “FOOD CASE”, “FOOD CABINET”, or “FOOD RECEPTACLE” or other words clearly indicating that the vehicle, case, cabinet or receptacle is used for the conveyance of food.
- (2) Subclause (1) does not apply to —
 - (a) raw sugar, raw grains or seeds intended for further processing;

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- (b) whole fresh fruits or vegetables; and
 - (c) non-perishable food contained in a package which affords adequate protection from contamination.
- (3) A food vehicle from which food, other than pre-packed food, whole fresh fruit and whole fresh vegetables, is sold, served or supplied must be —
 - (a) fitted with at least one sink;
 - (b) provided with a wash-hand basin; and
 - (c) either —
 - (i) equipped with a holding tank of sufficient capacity to hold all waste water; or
 - (ii) connected to an appropriate waste disposal system.
- (4) A holding tank referred to in subclause (3)(c)(i) must be fitted with an inspection opening large enough to permit cleaning.

Division 7 — Transitional provisions

24. Transitional provisions

- (1) The requirements of this Schedule apply to a structure or vehicle that, in the opinion of the Executive Director, Public Health or the local government, is constructed or substantially altered or where the activities conducted on the premises undergo substantial changes, after the commencement of these regulations.
- (2) A structure or vehicle that —
 - (a) immediately before the commencement of these regulations —
 - (i) was used as food premises or a food vehicle; and
 - (ii) complied in all respects with the relevant provisions of the *Food Hygiene Regulations 1973*⁴ for that class of premises or vehicle;
 - and
 - (b) after the commencement of these regulations, continues to comply with those provisions,

is deemed not to be in contravention of these regulations by reason only of the fact that the structure or vehicle or part of the structure or vehicle so used does not comply in all respects with this Schedule and may continue to be used as food premises or a food vehicle of the same class or description.

[Clause 24 amended in Gazette 29 Jun 2001 p. 3129.]

Schedule 5

[Regulations 9A and 9B]

Fees			
ITEM	REGULATION	DESCRIPTION OF SERVICE	FEE\$
1.	9A(2)	Application for licence, or renewal of licence, as proprietor of a business producing manufactured smallgoods	54
2.	9B(3)	Application for registration or renewal of registration of premises to be used for producing manufactured smallgoods	54

[Schedule 5 inserted in Gazette 30 Jan 1996 p. 362; amended in Gazette 25 Jun 2004 p. 2240; 31 May 2005 p. 2407; 2 May 2006 p. 1698; 18 May 2007 p. 2249; 4 Apr 2008 p. 1307; 15 May 2009 p. 1625.]

Notes

- ¹ This is a compilation of the *Health (Food Hygiene) Regulations 1993* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Health (Food Hygiene) Regulations 1993</i>	15 Oct 1993 p. 5681-745	15 Oct 1993
<i>Health (Food Hygiene) Amendment Regulations 1993</i>	15 Oct 1993 p. 5523	1 Apr 1994 (see r. 2)
<i>Health (Food Hygiene) Amendment Regulations 1994</i>	4 Mar 1994 p. 847-9	4 Mar 1994
<i>Health (Food Hygiene) Amendment Regulations 1996</i>	30 Jan 1996 p. 357-62	1 Feb 1996 (see r. 2)
<i>Health (Food Hygiene) Amendment Regulations 2001</i>	29 Jun 2001 p. 3125-9	29 Jun 2001
Reprint of the <i>Health (Food Hygiene) Regulations 1993</i> as at 12 Apr 2002 (includes amendments listed above)		
<i>Health (Food Hygiene) Amendment Regulations 2004</i>	25 Jun 2004 p. 2239-40	1 Jul 2004 (see r. 2)
<i>Health (Food Hygiene) Amendment Regulations 2005</i>	8 Feb 2005 p. 661-2	8 Feb 2005
<i>Health (Food Hygiene) Amendment Regulations (No. 2) 2005</i>	31 May 2005 p. 2406-7	1 Jul 2005 (see r. 2)
<i>Health (Food Hygiene) Amendment Regulations 2006</i>	2 May 2006 p. 1698	1 Jul 2006 (see r. 2)
Reprint 2: The <i>Health (Food Hygiene) Regulations 1993</i> as at 10 Nov 2006 (includes amendments listed above)		
<i>Health (Food Hygiene) Amendment Regulations 2007</i>	18 May 2007 p. 2249	1 Jul 2007 (see r. 2)
<i>Health (Food Hygiene) Amendment Regulations 2008</i>	4 Apr 2008 p. 1306-7	r. 1 and 2: 4 Apr 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2008 (see r. 2(b))
<i>Health (Food Hygiene) Amendment Regulations 2009</i>	15 May 2009 p. 1625	r. 1 and 2: 15 May 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2009 (see r. 2(b))

- ² The Standards Association of Australia has changed its corporate status and its name. It is now Standards Australia International Limited (ACN 087 326 690). It also trades as Standards Australia.
- ³ Under the *Alteration of Statutory Designations Order (No. 3) 2001* the former Health Department of Western Australia is now called the Department of Health.
- ⁴ Repealed by the *Health (Food Hygiene) Amendment Regulations 1993*.