

Reprint  
as at 12 November 2018



## Food Regulations 2015 (LI 2015/310)

Rt Hon Dame Sian Elias, Administrator of the Government

### Order in Council

At Wellington this 7th day of December 2015

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to sections 2(1), 8(3), 43, 76, 381, 383, 384, 386 to 392, and 418 of the Food Act 2014, Her Excellency the Administrator of the Government makes the following regulations,—

- (a) acting, in relation to sections 43, 76, 381, 383, 384, and 386 to 392 of that Act, on the recommendation of the Minister for Food Safety, made in accordance with section 379 of that Act; and
- (b) acting, in relation to section 418 of that Act, on the recommendation of the Minister for Food Safety; and
- (c) acting on the advice and with the consent of the Executive Council.

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**These regulations are administered by the Ministry for Primary Industries.**

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## Regulations

### 1 Title

These regulations are the Food Regulations 2015.



## 2 Commencement

These regulations come into force on 1 March 2016.

## 3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

**Act** means the Food Act 2014

**acceptable outcome**, in relation to a verification, means the outcome assigned under regulation 105(2)

**agricultural compound** has the meaning given in section 2(1) of the Agricultural Compounds and Veterinary Medicines Act 1997

**approved laboratory** means a laboratory approved by the chief executive under section 291 of the Act and specified in a notice under section 405 of the Act

**arrive in New Zealand** has the meaning given in section 2(1) of the Biosecurity Act 1993

**clearance for entry** means, in relation to food, clearance for entry of the food into New Zealand under section 109 of the Act

**competent authority** means the government agency or the authority that is charged by the Government with responsibility for ensuring and confirming the safety and suitability of food

**consignment** means food of a particular kind that comprises 1 or more lots imported by the same consignee at the same time and described in a single bill of lading

**country of origin** has the same meaning as country of produce or manufacture as determined under Part 6 of the Customs and Excise Regulations 1996

**critical non-compliance** means any departure from an applicable requirement of the Act that is reasonably likely to result in an adverse effect on human life or public health

**custom food control plan** means a food control plan that is not based on an official template or model

**deemed food control plan** has the meaning given in section 414(1) of the Act  
**equipment**—

- (a) means the whole or any part of a utensil, machine (including a vending machine), fitting, device, instrument, stamp, apparatus, table, article, or other thing that is used or intended for use in relation to the production or processing and handling of food; and
- (b) includes a utensil or machine that is used or intended for use in cleaning or sanitising equipment or facilities

**essential services** means the provision of electricity, process gases, lighting, ventilation, water, waste management, and other services essential to the production or processing and handling of food

**evaluation** means an independent evaluation of the validity of a custom food control plan for the purposes of section 53(3)(b) of the Act

**evaluator** has the meaning given in regulation 8(2)

**existing business** means a food business that is in existence on 29 February 2016 and that operates or continues to operate after that date

**facilities**—

- (a) means storage areas, processing and handling areas, and other facilities used or intended for use in relation to the production or processing and handling of food; and
- (b) includes amenities in a place of food business (for example, washrooms, locker rooms, changing rooms, and lunch rooms)

**final consumer**—

- (a) means a person—
  - (i) who receives food from a food business or who visits a place of food business for the purpose of receiving food; and
  - (ii) who does not intend to sell that food; and
- (b) includes anyone (other than a member of staff or a visitor) who accompanies a person described in paragraph (a) to a place of food business

**frequency criteria** means the criteria for determining the frequency of verification set out in regulation 84

**high regulatory interest food** means food specified in a notice under section 405 of the Act as fitting within that category (*see* regulation 128(2))

**increased regulatory interest food** means food specified in a notice under section 405 of the Act as fitting within that category (*see* regulation 128(3))

**independent verifier** means a verifier that carries out verification functions and activities independently of a verification agency

**ISO 17020** means the international standard ISO/IEC 17020:2012 (as amended from time to time), which sets out conformity assessment requirements for the accreditation of various types of bodies performing inspections

**Joint Border Management System** has the meaning given in section 41A(1) of the Biosecurity Act 1993

**maintenance compound** means any substance used for—

- (a) maintaining, repairing, servicing, cleaning, or sanitising equipment or surfaces that may be a source of contamination of food or food-related accessories; or
- (b) treating water; or

(c) controlling pests

**multi-business food control plan** means a food control plan that applies to more than 1 food business

**multi-site food business** means a food business that operates from more than 1 place

**multi-site food control plan** means a food control plan that applies to a multi-site food business

**new business** means a food business that is not in existence immediately before 29 February 2016 and starts operating on or after 1 March 2016

**official certificate** means a certificate issued by or under the control of the competent authority of the country of origin, and includes a certificate issued by a certifying body that is recognised by the competent authority as a body that may issue certificates of that kind

**operator's verification agency or verifier** means,—

- (a) in relation to a food control plan, the verification agency or verifier confirmed in the application to register the plan or notified to the registration authority in accordance with section 51 of the Act;
- (b) in relation to a food business that is subject to a national programme, the verification agency or verifier confirmed in the application to register the business or notified to the registration authority in accordance with section 81 of the Act

**pest** includes rodents, insects, and other animals that are likely to make food unsafe or unsuitable

**place of food business** means a place—

- (a) where a food business does either or both of the following:
  - (i) produces food;
  - (ii) processes and handles food; and
- (b) that is covered by a food control plan or subject to a national programme

**registration**,—

- (a) in relation to a food control plan, means the date of registration of the food control plan; and
- (b) in relation to a food business subject to a national programme, means the date of registration of the business under the Act

**requirements of the Act** has the meaning given to requirements of this Act in section 8(1) of the Act

**sanitising** means the application of an agent (including any chemical or physical agent) to reduce the number of micro-organisms

**staff**, in relation to a food business, means people who carry out work in any capacity for the business, including work as—

- (a) employees; or
- (b) contractors or subcontractors; or
- (c) employees of a contractor or subcontractor; or
- (d) employees of a labour hire company who have been assigned to work in the food business; or
- (e) apprentices or trainees; or
- (f) people gaining work experience or undertaking a work trial; or
- (g) volunteers

**tariff code** means a code made up of a Tariff item and statistical key, as those terms are defined in the Tariff Act 1988

**template food control plan** means a registered food control plan that is based on an official template or model

**unacceptable outcome**, in relation to a verification, means the outcome assigned under regulation 105(4)

**unscheduled verification** means a verification under regulation 102

**validation information** has the meaning given in regulation 7(2)

**verification decision** means a decision of a verification agency or verifier under regulation 105

**visitor**—

- (a) means a person other than a member of staff who visits a place of food business (for example, a supplier); but
- (b) does not include a final consumer

**waste** includes solids, liquids, and gases that the operator of a food business intends to dispose of because they—

- (a) are unwanted; and
- (b) may become a source of contamination of food or attract pests

**water** includes ice, steam, and seawater.

- (2) References in these regulations to a notice under section 405 of the Act must be treated as including a reference to a notice issued under section 406 of the Act, unless the context otherwise requires.
- (3) A term or an expression defined in the Act and used, but not defined, in these regulations has the same meaning as it has in the Act.

#### 4 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

## **Part 1**

### **Food control plans**

#### **5 Outline**

- (1) This Part provides for—
  - (a) matters that must be contained in a food control plan in addition to those specified in section 42 of the Act; and
  - (b) a requirement for custom food control plans to set out validation information; and
  - (c) the process for evaluating custom food control plans for the purposes of section 53(3)(b) of the Act; and
  - (d) requirements that the operator of a registered food control plan must comply with in order to ensure that food is safe and suitable.
- (2) Under section 50(1) of the Act, the operator of a registered food control plan has a duty to comply with the applicable requirements of the Act, which include the requirements referred to in subclause (1)(d). This is in addition to the other duties set out in section 50 of the Act, which include duties to—
  - (a) ensure that the operations of the food business or food businesses to which the food control plan applies comply with the relevant requirements set out in the food control plan; and
  - (b) ensure that the plan is consistent with the applicable requirements of the Act.
- (3) This regulation is intended only as a guide to the general scheme and effect of this Part.

#### Subpart 1—Contents and evaluation of food control plans

##### *Contents of food control plans*

#### **6 Additional contents of food control plans**

- (1) This regulation provides for matters that—
  - (a) a food control plan must set out for each food business covered by the plan; and
  - (b) are in addition to the matters set out in section 42 of the Act.
- (2) A food control plan must—
  - (a) describe the physical boundaries and layout of each place of food business by providing a diagram or site plan; and
  - (b) describe the activities of the food business that are carried out within those physical boundaries; and
  - (c) describe—

- (i) any activities carried out within those physical boundaries that are not activities of the food business; and
  - (ii) how (if at all) those activities pose a risk to food safety or suitability; and
  - (iii) how any risk to food safety or suitability will be managed to ensure that food safety and suitability are not compromised; and
- (d) describe the activities that are carried out in neighbouring premises that pose a risk to the safety or suitability of food.

#### **7 Custom food control plans must set out validation information**

- (1) A custom food control plan must set out validation information for the purpose of section 42(i) of the Act.
- (2) In this subpart, unless the context otherwise requires, **validation information** means information that demonstrates that—
- (a) the procedures and activities of the food business set out in the food control plan will enable safe and suitable food to be traded; and
  - (b) the practices carried out under the food control plan will enable safe and suitable food to be traded; and
  - (c) the facilities, equipment, and essential services used in relation to those procedures, practices, and activities will enable safe and suitable food to be traded.

#### *Evaluation of custom food control plans*

#### **8 Who may carry out evaluations of custom food control plans**

- (1) The evaluation of a custom food control plan may be carried out only by a recognised person or a recognised agency whose specified functions and activities include evaluation.
- (2) In this subpart, unless the context otherwise requires, **evaluator** means a recognised person or a recognised agency of the kind described in subclause (1).

#### **9 Evaluation process of custom food control plans**

- (1) In evaluating a custom food control plan, an evaluator must assess—
- (a) whether the plan meets the applicable requirements of the Act, including—
    - (i) whether the description set out in the plan for the purpose of section 42(g) of the Act includes all hazards and other factors that are reasonably likely to occur or arise; and
    - (ii) whether the validation information set out in the plan demonstrates the matters described in paragraphs (a) to (c) of regulation 7(2); and

- (b) the accuracy of—
  - (i) the information contained in the plan; and
  - (ii) any other information provided to the evaluator for the purpose of the assessment under paragraph (a)(i) or (ii).
- (2) For the purposes of subclause (1), the evaluator must carry out an onsite assessment of each place of food business covered by the custom food control plan.
- (3) The evaluator may request that the operator provide any information about the food business that the evaluator reasonably requires to carry out the evaluation.

*Exemptions*

- (4) The chief executive may, in a particular case or class of case, exempt 1 or more places of food business from the requirement for an onsite assessment after considering the likely effect of the exemption on the safety and suitability of food.
- (5) An exemption under subclause (4) must be—
  - (a) granted in writing, if it applies to a particular case; or
  - (b) given effect to by a notice under section 405 of the Act, if it applies to a class of case.

**10 Evaluation reports for custom food control plans**

- (1) An evaluator must, after carrying out the evaluation of a custom food control plan, provide the operator of the food business with a report of the evaluation.
- (2) The evaluation report must—
  - (a) state whether the evaluator has determined that the plan is valid in terms of sections 41 and 42 of the Act; and
  - (b) specify any conditions that the evaluator recommends should be imposed on the registration of the plan; and
  - (c) contain the information described in subclause (3).
- (3) The information is—
  - (a) the name of the evaluator; and
  - (b) the name of the food business; and
  - (c) the name of the operator of the food business; and
  - (d) the type of food to which the custom food control plan applies; and
  - (e) a description of the practices and activities carried out under the custom food control plan; and
  - (f) a list of the documents that comprised the custom food control plan at the time it was assessed (including the date or version identification of each document); and

- (g) for any onsite assessment that was carried out, the name and address of the place assessed; and
- (h) for any place that was exempted from an onsite assessment,—
  - (i) a statement that it was exempted; and
  - (ii) the title and date of the document by which the chief executive granted the exemption; and
- (i) the names of any technical experts who provided information used by the evaluator in the evaluation process; and
- (j) copies of any reports produced by those technical experts; and
- (k) information about the competency of those technical experts; and
- (l) the evaluator's views on the matters described in regulation 9(1) and the evaluator's reasons for reaching those views (such as the results of any onsite assessment or the assessment of validation information).

#### **11 Endorsement of evaluation reports of custom food control plans**

- (1) The following documents may be provided in, or in support of, an application to register a custom food control plan only if they are endorsed by the evaluator of the plan:
  - (a) a custom food control plan;
  - (b) a document that purports to contain the information specified in section 53(3)(a)(i) of the Act;
  - (c) an evaluation report.
- (2) An **endorsement** is a signed statement that, as the case may be,—
  - (a) the custom food control plan is as assessed by the evaluator;
  - (b) the document referred to in subclause (1)(b) provides a comprehensive and accurate representation of the plan assessed by the evaluator;
  - (c) the evaluation report is as prepared by the evaluator.
- (3) An evaluator must not endorse a document unless the evaluator is reasonably satisfied that the statement provided is true.

### Subpart 2—Safety and suitability

#### **12 Application of this subpart**

This subpart applies in relation to—

- (a) the operator of a food control plan; and
- (b) the place of food business that is covered by the food control plan; and
- (c) any other matter or thing that the operator is responsible for under the food control plan.



*Places of food business: design, construction, and location*

**13 Places of food business: design, construction, and location**

The operator must ensure that the design, construction, and location of the place of food business enable food to be safe and suitable, including by—

- (a) identifying and managing any risk posed to the safety or suitability of food that relates to the location of the place (for example, previous uses of the location that could result in contamination of food or proximity to activities that could result in contamination of food); and
- (b) ensuring that the place has adequate space for—
  - (i) the activities relating to the production or processing and handling of food to be carried out; and
  - (ii) the fixtures, fittings, and equipment used for those activities to be used as required by these regulations; and
- (c) ensuring that the design of the place enables the movement of staff, visitors, and food to flow in a way that prevents or manages the risk of contamination of food or food-related accessories; and
- (d) ensuring that the design of the place provides easy access for the cleaning and maintenance of the place and of the fixtures, fittings, and equipment used in the place; and
- (e) ensuring, to the extent reasonably practicable, that the place is designed, constructed, and located so as to—
  - (i) exclude dirt, dust, fumes, smoke, and other contaminants; and
  - (ii) prevent pests from entering and remaining in the place; and
- (f) ensuring, to the extent reasonably practicable, that the following materials are not capable of contaminating food:
  - (i) the materials used to construct the place:
  - (ii) the materials used for the surfaces of the fixtures, fittings, and equipment used in the place.

*Good operating practices relating to cleaning, maintenance, waste management, and pest control*

**14 Cleaning**

- (1) The operator must have procedures for cleaning and sanitising facilities, equipment, and the place of food business that are sufficient to enable food to be safe and suitable.
- (2) The operator must ensure that facilities, equipment, and the place of food business are cleaned and sanitised in accordance with the procedures.

**15 Maintenance**

The operator must ensure that facilities, equipment, and the place of food business are—

- (a) maintained in a state of repair and condition that—
  - (i) facilitate cleaning and sanitising; and
  - (ii) enable the facilities, equipment, and place of food business to function as intended; and
  - (iii) prevent or manage the risk of contaminating food; and
- (b) maintained in a way that does not—
  - (i) create or contribute to hazards; or
  - (ii) adversely affect the safety or suitability of food in any other way.

**16 Maintenance compounds**

The operator must ensure that any maintenance compound—

*Type of maintenance compounds*

- (a) is appropriate for any task for which it is used; and

*Use of maintenance compounds*

- (b) is used in accordance with the manufacturer's instructions (if any); and
- (c) is used in a way that does not adversely affect the safety or suitability of food; and

*Storage, transport, and handling of maintenance compounds*

- (d) is stored, transported, and handled—
  - (i) in accordance with the manufacturer's instructions (if any); and
  - (ii) in a way that does not adversely affect the safety or suitability of food; and
- (e) is stored in a container that—
  - (i) is clearly and appropriately labelled; and
  - (ii) is not likely to be mistaken for a container of food; and
  - (iii) is not used for storing food.

**17 Waste management**

- (1) The operator must ensure that waste is collected, stored, and disposed of in a way that prevents the waste from—
  - (a) becoming a source of contamination of food; or
  - (b) being mistaken for food; or
  - (c) attracting or harbouring pests.

- (2) The operator must have procedures for managing waste in a way that enables food to be safe and suitable.
- (3) The operator must ensure that waste is managed in accordance with the procedures.

## **18 Pest control**

- (1) The operator must ensure that—
  - (a) regular inspections for pests and evidence of pests are carried out; and
  - (b) any material or site that could attract pests is removed or destroyed; and
  - (c) corrective action is taken when pests are found or evidence of pests is found, including by—
    - (i) eradicating the pests or evidence of pests (in a way that does not adversely affect the safety or suitability of food); and
    - (ii) disposing of any food that has been contaminated by the pests; and
    - (iii) decontaminating or disposing of any food-related accessory that has been contaminated by the pests.
- (2) The operator must have procedures to control pests so as to enable food to be safe and suitable.
- (3) The operator must ensure that pests are controlled in accordance with the procedures.

### *Facilities, equipment, and essential services*

## **19 Design, construction, and location**

The operator must ensure that facilities, equipment, and essential services are designed, constructed, and located in a way that enables food to be safe and suitable, including by complying with the requirements set out in regulations 20 to 22.

## **20 Operation**

The operator must ensure that facilities, equipment, and essential services are not operated beyond their capacity or capability.

## **21 Water**

The operator must ensure that—

- (a) any water used for producing food, processing and handling food, personal hygiene, cleaning, or any other purpose—
  - (i) is suitable for the purpose for which it is used; and
  - (ii) does not adversely affect the safety or suitability of food; and

- (b) the capacity of the water supply to the place of food business is adequate for the operations of the food business.

## **22 Measuring equipment**

The operator must provide, and ensure the use of, any measuring equipment needed to ensure the safety and suitability of—

- (a) the food produced or processed and handled; and
- (b) any thing that is used in producing or processing and handling the food.

### *Management of food and food-related accessories*

## **23 Receiving and sourcing food**

The operator must ensure that all reasonable steps are taken to assess and confirm that the food received from a supplier, or otherwise sourced by the food business, is safe and suitable.

## **24 Inventory control**

The operator must ensure that, until it is disposed of, food that is not safe or suitable is—

- (a) clearly identified as food that is not to be used; and
- (b) stored in a way that will prevent it from being used or contaminating other food.

## **25 Packaging and other food-related accessories**

The operator must ensure that food-related accessories—

- (a) are able to maintain the safety and suitability of food (to the extent that maintaining the safety and suitability of food is their intended use); and
- (b) do not create or contribute to hazards.

## **26 Identification and tracing of food**

(1) The operator must have procedures for—

- (a) identifying units of food; and
- (b) tracing food so that food can be traced—
  - (i) from the supplier to the food business; and
  - (ii) while it is under the control of the food business; and
  - (iii) from the food business to the next recipient in the supply chain (other than the final consumer).

(2) The operator must ensure that food is identified and traced in accordance with the procedures.

*Exemptions*

- (3) The chief executive may, in a particular case or class of case, exempt 1 or more food businesses from any requirement in subclauses (1) and (2).
- (4) Before granting an exemption, the chief executive must consider—
  - (a) the frequency and scale of the food business's operation; and
  - (b) the potential impact on consumers; and
  - (c) the type of food sold by the operator; and
  - (d) the feasibility, effectiveness, and efficiency of requiring the operator to comply with the requirement; and
  - (e) any other matters that the chief executive considers relevant.
- (5) An exemption must be—
  - (a) granted in writing, if it applies to a particular case; or
  - (b) given effect to by a notice under section 405 of the Act, if it applies to a class of case.

**27 Recall of food or food-related accessory**

- (1) The operator must have procedures for the recall of—
  - (a) food sold by the food business that is not safe or suitable, or whose safety or suitability is in doubt; and
  - (b) any food-related accessory sold by the food business—
    - (i) that has, or for which there is doubt about whether it has, contaminated food or caused food to no longer be safe or suitable; or
    - (ii) for which there is doubt about whether it may contaminate food.
- (2) The operator must recall food and food-related accessories in accordance with the procedures.
- (3) If the operator makes a decision to recall food or a food-related accessory, the operator must report the decision to the chief executive as soon as practicable after making the decision, but no later than 24 hours after making the decision.

*Protection of food during production and processing and handling*

**28 Protection against contamination, etc, generally**

The operator must ensure that food is produced or processed and handled in a way that minimises the contamination and deterioration of food, including by complying with the requirements set out in regulations 29 and 30.

**29 Protection against contamination, etc, by people**

*Personal hygiene*

- (1) The operator must ensure that staff and visitors at the place of food business—

- (a) follow a routine of personal hygiene that is appropriate to maintain the safety and suitability of food; and
- (b) behave in a way that does not compromise the safety or suitability of food.

#### *Sickness*

- (2) The operator must have procedures to ensure that any staff member or visitor at the place of food business who is known to be, or suspected of being, sick does not contaminate food or food-related accessories.
- (3) The operator must ensure that the procedures are complied with.
- (4) For the purposes of subclause (2), **sick** means being infected by or being a carrier of a disease or illness (including a notifiable infectious disease listed in section A of Part 1 of Schedule 1 of the Health Act 1956) that is likely to be transmitted through food.

#### *Clothing*

- (5) The operator must ensure that any staff member or visitor whose presence or actions may contaminate food wears clothing that minimises the risk of contamination.

### **30 Procedures for hazard control**

- (1) The operator must have procedures for controlling hazards during the production and processing and handling of food.
- (2) The procedures must—
  - (a) identify each step or combination of steps in the process of production or processing and handling at which it is essential to prevent or eliminate a hazard or to reduce a hazard to an acceptable level; and
  - (b) set out—
    - (i) the criteria that must be met to ensure that the hazard has been prevented or eliminated or reduced to an acceptable level; and
    - (ii) the reason for each criterion.
- (3) The operator must ensure that hazards are controlled in accordance with the procedures.
- (4) In this regulation, **acceptable level** means a level at which a hazard will not prevent food from being safe or suitable.

#### *Competency and training*

### **31 Competency and training**

The operator must ensure that—

- (a) any staff member or visitor who carries out a task that could adversely affect the safety or suitability of food has the competency required to carry out that task; and
- (b) any competency or skill required by the following people is identified and recorded:
  - (i) the day-to-day manager of the place of food business; and
  - (ii) any staff member or visitor who is responsible for a task specified in the food control plan; and
- (c) staff and visitors understand what they must do while at the place of food business to enable food to be safe and suitable.

*Operator verification, corrective action, and reporting*

**32 Operator verification**

- (1) The operator must have a process for operator verification.
- (2) The process must include regular checks of—
  - (a) places of food business, facilities, and equipment; and
  - (b) staff and visitors; and
  - (c) practices, procedures, and activities.
- (3) The operator must ensure that the process is complied with.

**33 Corrective actions**

- (1) Whenever there is a loss of control, the operator or operator's nominee must—
  - (a) identify the cause and extent of the loss of control; and
  - (b) restore control; and
  - (c) ensure that any food, food-related accessory, place of food business, or other thing affected by the loss of control is disposed of, restored, or otherwise dealt with; and
  - (d) take appropriate action for the purpose of improving the competency or skill of any staff member or visitor involved in the loss of control; and
  - (e) take measures for the purpose of preventing another loss of control; and
  - (f) take any other corrective action that is appropriate, having regard to the nature of the loss of control and its effect on the safety and suitability of food.
- (2) The operator must nominate a suitably skilled person to carry out the corrective actions specified in subclause (1) if the operator's procedures do not provide for the corrective actions required in relation to the loss of control.
- (3) In this regulation,—

**loss of control** means that a food business or an operator—

- (a) has breached any applicable requirements of the Act; or
- (b) is likely to breach any applicable requirements of the Act unless corrective action is taken

**operator's nominee** means the person nominated by the operator in accordance with subclause (2)

**restore control** means to ensure that the food business is operating in a way that will not breach or be likely to breach any applicable requirements of the Act.

### **34 Breach of food control plan must be reported**

- (1) The operator must report to the operator's verification agency or verifier any breach of the food control plan that results in food that—
  - (a) is not, or may not be, safe or suitable; and
  - (b) could cause an adverse or injurious effect on human life or public health.
- (2) The operator must report the breach as soon as practicable after the operator becomes aware of it.

### *Record keeping and documents*

### **35 Records that must be kept**

- (1) The operator must ensure that records are kept that enable any 1 or more of the following persons to ascertain whether the operator is meeting the operator's obligations under the applicable requirements of the Act:
  - (a) the operator;
  - (b) the chief executive;
  - (c) the registration authority that the food control plan is registered with;
  - (d) a food safety officer;
  - (e) the operator's verification agency or verifier.
- (2) Subclause (1) does not limit any requirements of the Act that require the keeping of any other records.

### **36 How long records must be kept**

- (1) The operator must keep each record for a period of at least 4 years after the date on which the record is created.
- (2) In this regulation and regulation 37, **record** means a record that the operator must keep under regulation 35(1) or another requirement of the Act.

### **37 Quality, content, and availability of records**

- (1) The operator must ensure that each record—



- (a) is legible, accurate, and complete; and
  - (b) is dated or marked in a way that identifies the version; and
  - (c) if the record is relevant to a person's responsibilities under the food control plan, is readily accessible to that person.
- (2) The operator must ensure that each record that relates to an activity—
- (a) states the date and, if appropriate, the time at which the activity was performed; and
  - (b) describes the results of the activity; and
  - (c) names or otherwise identifies the person or persons who performed the activity.

### **38 Identification and availability of food control plan documents**

The operator must ensure that each document that forms part of the food control plan—

- (a) is dated or marked in a way that identifies the version; and
- (b) is readily accessible to every person with responsibilities under the food control plan.

## **Part 2 National programmes**

### **39 Outline**

- (1) This Part—
- (a) imposes a national programme on persons and food businesses that are subject to a national programme under Schedule 2 of the Act; and
  - (b) identifies the appropriate registration authority for food businesses that are subject to a national programme, and provides for the duration of registration; and
  - (c) provides for requirements that the operator of a food business that is subject to a national programme must comply with in order to ensure that food is safe and suitable.
- (2) This regulation is intended only as a guide to the general scheme and effect of this Part.

### **40 Application of this Part**

This Part applies to any person or food business that is subject to a level 3, 2, or 1 national programme, unless otherwise stated.

## Subpart 1—Preliminary matters

### **41 National programme imposed**

- (1) The following requirements are a level 3, 2, and 1 national programme, unless otherwise stated:
  - (a) the requirements of this Part; and
  - (b) the requirements of Part 3 that apply to persons and food businesses that are subject to a national programme.
- (2) Every person or food business that is subject to a national programme must comply with the programme's requirements.

### **42 Duty to comply with applicable requirements of Act**

Every person or food business that is subject to a national programme must comply with the applicable requirements of the Act.

### **43 Appropriate registration authority**

- (1) The appropriate registration authority for a food business that is subject to a national programme is the relevant territorial authority (as defined in section 52(3) of the Act), unless subclause (2) applies.
- (2) The operator of a multi-site food business operating in more than 1 territorial authority district must choose whether the appropriate registration authority is the chief executive or the relevant territorial authority for each place in which the business operates.
- (3) The operator must,—
  - (a) if the operator chooses the chief executive, register all places of food business with the chief executive under 1 registration; or
  - (b) if the operator chooses the relevant territorial authorities,—
    - (i) register the food business with each relevant territorial authority; and
    - (ii) include under the registration each place of food business within the authority's district.

### **44 Duration of registration**

The registration of a food business that is subject to a national programme commences on the date of registration and ends on—

- (a) the date that is 24 months after the date of registration; or
- (b) any later date that is specified in writing by the registration authority.

## Subpart 2—Safety and suitability

### 45 Application of this subpart

This subpart applies in relation to—

- (a) the operator of a food business that is subject to a national programme; and
- (b) the operator's place of food business; and
- (c) any other matter or thing that the operator is responsible for under the programme.

*Places of food business: design, construction, and location*

### 46 Places of food business: design, construction, and location

The operator must ensure that the design, construction, and location of the place of food business enable food to be safe and suitable, including by—

- (a) identifying and managing any risk posed to the safety or suitability of food that relates to the location of the place (for example, previous uses of the location that could result in contamination of food or proximity to activities that could result in contamination of food); and
- (b) ensuring that the place has adequate space for—
  - (i) the activities relating to the production or processing and handling of food to be carried out; and
  - (ii) the fixtures, fittings, and equipment used for those activities to be used as required by these regulations; and
- (c) ensuring that the design of the place enables the movement of staff, visitors, and food to flow in a way that prevents or manages the risk of contamination of food or food-related accessories; and
- (d) ensuring that the design of the place provides easy access for the cleaning and maintenance of the place and of the fixtures, fittings, and equipment used in the place; and
- (e) ensuring, to the extent reasonably practicable, that the place is designed, constructed, and located so as to—
  - (i) exclude dirt, dust, fumes, smoke, and other contaminants; and
  - (ii) prevent pests from entering and remaining in the place; and
- (f) ensuring, to the extent reasonably practicable, that the following materials are not capable of contaminating food:
  - (i) the materials used to construct the place;
  - (ii) the materials used for the surfaces of the fixtures, fittings, and equipment used in the place.

*Good operating practices relating to cleaning, maintenance, waste management, and pest control*

**47 Cleaning**

- (1) The operator must, for the purpose of enabling food to be safe and suitable,—
- (a) have procedures for cleaning facilities, equipment, and the place of food business; and
  - (b) have procedures for sanitising facilities, equipment, and the place of food business if, and to the extent that, it is necessary to sanitise the facilities, equipment, and the place of food business to enable food to be safe and suitable.
- (1A) The procedures required under subclause (1) must be sufficient to enable food to be safe and suitable.
- (2) The operator must ensure that facilities, equipment, and the place of food business are cleaned and, if applicable, sanitised in accordance with the procedures.
- Regulation 47(1): replaced, on 1 July 2017, by regulation 4(1) of the Food Amendment Regulations 2017 (LI 2017/99).
- Regulation 47(1A): inserted, on 1 July 2017, by regulation 4(1) of the Food Amendment Regulations 2017 (LI 2017/99).
- Regulation 47(2): amended, on 1 July 2017, by regulation 4(2) of the Food Amendment Regulations 2017 (LI 2017/99).

**48 Maintenance**

- (1) The operator must ensure that facilities, equipment, and the place of food business are—
- (a) maintained in a state of repair and condition that—
    - (i) facilitate cleaning and, if applicable, sanitising; and
    - (ii) enable the facilities, equipment, and place of food business to function as intended; and
    - (iii) prevent or manage the risk of contaminating food; and
  - (b) maintained in a way that does not—
    - (i) create or contribute to hazards; or
    - (ii) adversely affect the safety or suitability of food in any other way.
- (2) The operator must ensure that—
- (a) maintenance needed in respect of the place of food business and facilities and equipment is identified; and
  - (b) all maintenance performed on the place of food business and facilities and equipment is recorded.
- (3) Subclause (2)(b) does not apply to a food business if, and only to the extent that, it is—

- (a) a food business that is subject to national programme level 1; or
- (b) a retailer of manufacturer-packaged chilled or frozen food (excluding ice cream, iced confectionery, and iced desserts); or
- (c) a food service provided to pre-school children (including children under 5 years of age) in a centre-based service setting.

Regulation 48(1)(a)(i): amended, on 1 July 2017, by regulation 5(1) of the Food Amendment Regulations 2017 (LI 2017/99).

Regulation 48(3): inserted, on 1 July 2017, by regulation 5(2) of the Food Amendment Regulations 2017 (LI 2017/99).

#### **49 Maintenance compounds**

- (1) The operator must ensure that any maintenance compound—

*Type of maintenance compounds*

- (a) is appropriate for any task for which it is used; and

*Use of maintenance compounds*

- (b) is used in accordance with the manufacturer's instructions (if any); and
- (c) is used in a way that does not adversely affect the safety or suitability of food; and

*Storage, transport, and handling of maintenance compounds*

- (d) is stored, transported, and handled—

(i) in accordance with the manufacturer's instructions (if any); and

(ii) in a way that does not adversely affect the safety or suitability of food; and

- (e) is stored in a container that—

(i) is clearly and appropriately labelled; and

(ii) is not likely to be mistaken for a container of food; and

(iii) is not used for storing food.

- (2) If maintenance compounds are used in a way that adversely affects the safety or suitability of food, the operator must, as soon as practicable, record—

- (a) the incident; and

- (b) the actions taken by the operator to—

(i) ensure the safety and suitability of the food; or

(ii) dispose of the food.

#### **50 Waste management**

- (1) The operator must ensure that waste is collected, stored, and disposed of in a way that prevents the waste from—

- (a) becoming a source of contamination of food; or

- (b) being mistaken for food; or
  - (c) attracting or harbouring pests.
- (2) The operator must have procedures for managing waste in a way that enables food to be safe and suitable.
- (3) The operator must ensure that waste is managed in accordance with the procedures.

### **51 Pest control**

- (1) The operator must ensure that—
- (a) regular inspections for pests and evidence of pests are carried out; and
  - (b) any material or site that could attract pests is removed or destroyed; and
  - (c) corrective action is taken when pests are found or evidence of pests is found, including by—
    - (i) eradicating the pests or evidence of pests (in a way that does not adversely affect the safety or suitability of food); and
    - (ii) disposing of any food that has been contaminated by the pests; and
    - (iii) decontaminating or disposing of any food-related accessory that has been contaminated by the pests.
- (2) The operator must ensure that, as soon as practicable after finding pests or evidence of pests, a record is kept of—
- (a) the type of pest found; and
  - (b) the extent of the infestation.
- (3) The operator must have procedures to control pests so as to enable food to be safe and suitable.
- (4) The operator must ensure that pests are controlled in accordance with the procedures.

#### *Facilities, equipment, and essential services generally*

### **52 Design, construction, and location**

The operator must ensure that facilities, equipment, and essential services are designed, constructed, and located in a way that enables food to be safe and suitable, including by complying with the requirements set out in regulations 53 to 67.

### **53 Operation**

The operator must ensure that facilities, equipment, and essential services are not operated beyond their capacity or capability.

#### **54 Cleaning facilities and equipment**

The operator must—

- (a) provide facilities and equipment for cleaning and, if applicable, sanitising the place of food business; and
- (b) ensure that such facilities and equipment are sufficient to enable food to be safe and suitable.

Regulation 54(a): amended, on 1 July 2017, by regulation 6 of the Food Amendment Regulations 2017 (LI 2017/99).

#### *Facilities and essential services*

#### **55 Water**

The operator must ensure that—

- (a) any water used for producing food, processing and handling food, personal hygiene, cleaning, or any other purpose—
  - (i) is suitable for the purpose for which it is used; and
  - (ii) does not adversely affect the safety or suitability of food; and
- (b) the capacity of the water supply to the place of food business is adequate for the operations of the food business.

#### **56 Lighting**

- (1) The operator must ensure that natural or artificial lighting is provided at the place of food business that is of a sufficient intensity to enable the satisfactory performance of all activities that might affect—
  - (a) the safety or suitability of food; or
  - (b) the effective use of food-related accessories.
- (2) The operator must ensure that food is not contaminated by the breakage of lighting fixtures at the place of food business.

#### **57 Air quality and ventilation**

The operator must ensure that ventilation facilities (whether natural or mechanical) at the place of food business are managed to—

- (a) minimise airborne contamination of food; and
- (b) remove any fumes, smoke, steam, and vapours; and
- (c) control condensation or humidity; and
- (d) enable their maintenance and cleaning.

#### **58 Storage of food and food-related accessories**

- (1) The operator must ensure that facilities for storing food and food-related accessories are provided at the place of food business if those facilities are necessary to protect food and food-related accessories from contamination.

- (2) Storage facilities described in subclause (1) must be designed and constructed to—
- (a) allow for adequate maintenance and cleaning; and
  - (b) prevent pests from entering and remaining in the facilities; and
  - (c) enable food and food-related accessories to be effectively protected from contamination during storage; and
  - (d) provide an environment that minimises the deterioration of food, such as by controlling the temperature or humidity.

**59 Storage of cleaning and maintenance equipment and maintenance compounds**

The operator must ensure that places of food business are provided with facilities for storing cleaning and maintenance equipment and maintenance compounds so that those items—

- (a) do not contaminate food, food-related accessories, or food contact surfaces; and
- (b) are not used in food.

**60 Personal hygiene facilities**

The operator must ensure that—

- (a) personal hygiene facilities are available to persons at the place of food business; and
- (b) those facilities enable a person to maintain a level of personal hygiene that is sufficient to avoid the contamination of food, food-related accessories, and food contact surfaces; and
- (c) those facilities are located for easy access by staff and visitors and that such access does not compromise food safety or suitability.

**61 Laundry facilities**

If a laundry facility that is provided at the place of food business is not separate from areas used for food, the operator must ensure that the laundry facility is designed and operated so that the laundry activities and related maintenance compounds do not contaminate food.

**62 Baby changing facilities**

The operator must ensure that baby changing facilities at the place of food business are not located in an area where food is processed and handled.

**63 Solid waste disposal**

The operator must—

- (a) provide containers for food waste, packaging materials, and other types of solid waste that are generated by the food business's activities; and



- (b) ensure that those containers are made of material suitable for the type of waste being contained.

#### **64 Liquid waste disposal**

- (1) The operator must ensure that the place of food business is provided with liquid waste disposal systems that—
  - (a) are adequate for the volume of any liquid waste generated at the place; and
  - (b) are designed and constructed to minimise the risk of contaminating the food or water supply.
- (2) The operator must ensure that the liquid waste disposal systems are operated in a way that minimises the risk of contaminating the food or water supply.

### *Equipment*

#### **65 Equipment**

The operator must ensure that equipment—

- (a) is capable of achieving the characteristics or conditions necessary for achieving and maintaining the safety and suitability of food; and
- (b) is appropriate for the volume of food processed; and
- (c) is made of material that will not contaminate food; and
- (d) allows for effective cleaning and, if appropriate, sanitising; and
- (e) enables, where relevant, parameters critical for the safety and suitability of food to be monitored and accurately measured.

#### **66 Measuring equipment**

The operator must provide, and ensure the use of, any measuring equipment needed to ensure the safety and suitability of—

- (a) the food produced or processed and handled; and
- (b) any thing that is used in producing or processing and handling the food.

#### **67 Vending machines**

The operator must ensure that vending machines are able to dispense only food that is safe and suitable at the time it is dispensed.

### *Management of food and food-related accessories*

#### **68 Receiving and sourcing food**

- (1) The operator must ensure that all reasonable steps are taken to assess and confirm that the food received from a supplier, or otherwise sourced by the food business, is safe and suitable.
- (2) The operator must ensure that records are kept of—

- (a) the names and contact details of suppliers of food that is to be sold or used in the production or processing and handling of food; and
- (b) the type and quantity of received food that is to be sold or used in the production or processing and handling of food; and
- (c) the temperature of that food at the time it is received, if the food needs to be at a particular temperature in order to be safe and suitable; and
- (d) the corrective action taken by the operator—
  - (i) if food is found not to be safe or suitable when received; or
  - (ii) if food is not at the required temperature.

### **69 Inventory control**

The operator must ensure that, until it is disposed of, food that is not safe or suitable is—

- (a) clearly identified as food that is not to be used; and
- (b) stored in a way that will prevent it from being used or contaminating other food.

### **70 Packaging and other food-related accessories**

The operator must ensure that food-related accessories—

- (a) are able to maintain the safety and suitability of food (to the extent that maintaining the safety and suitability of food is their intended use); and
- (b) do not create or contribute to hazards.

### **71 Identification and tracing of food**

- (1) The operator must have procedures for—
  - (a) identifying units of food; and
  - (b) tracing food so that food can be traced—
    - (i) from the supplier to the food business; and
    - (ii) while it is under the control of the food business; and
    - (iii) from the food business to the next recipient in the supply chain (other than the final consumer).
- (2) The procedures must include the keeping of records that are needed to—
  - (a) identify units of food; and
  - (b) trace food in the way described in subclause (1)(b).
- (3) The operator must ensure that food is identified and traced in accordance with the procedures.

#### *Exemptions*

- (4) The chief executive may, in a particular case or class of case, exempt 1 or more food businesses from any requirement in subclauses (1) to (3).

- (5) Before granting an exemption, the chief executive must consider—
  - (a) the frequency and scale of the food business's operation; and
  - (b) the potential impact on consumers; and
  - (c) the type of food sold by the operator; and
  - (d) the feasibility, effectiveness, and efficiency of requiring the operator to comply with the requirement; and
  - (e) any other matters that the chief executive considers relevant.
- (6) An exemption must be—
  - (a) granted in writing, if it applies to a particular case; or
  - (b) given effect to by a notice under section 405 of the Act, if it applies to a class of case.

## **72 Recall of food or food-related accessory**

- (1) The operator must have procedures for the recall of—
  - (a) food sold by the food business that is not safe or suitable, or whose safety or suitability is in doubt; and
  - (b) any food-related accessory sold by the food business—
    - (i) that has, or for which there is doubt about whether it has, contaminated food or caused food to no longer be safe or suitable; or
    - (ii) for which there is doubt about whether it may contaminate food.
- (2) The operator must recall food and food-related accessories in accordance with the procedures.
- (3) If the operator makes a decision to recall food or a food-related accessory, the operator must report the decision to the chief executive as soon as practicable after making the decision, but no later than 24 hours after making the decision.
- (4) The operator must ensure that records are kept of any recall undertaken.
- (5) The records must include—
  - (a) the problem identified and the extent of the problem;
  - (b) actions taken to identify and remove the food or food-related accessory from sale;
  - (c) actions taken to prevent the problem recurring;
  - (d) any monitoring of the recall process.

### *Protection of food during production and processing and handling*

## **73 Protection against contamination, etc, generally**

The operator must ensure that food is produced or processed and handled in a way that minimises the contamination and deterioration of food, including by complying with the requirements set out in regulations 74 to 76.

**74 Protection against contamination, etc, by people***Personal hygiene*

- (1) The operator must ensure that staff and visitors at the place of food business—
  - (a) follow a routine of personal hygiene that is appropriate to maintain the safety and suitability of food; and
  - (b) behave in a way that does not compromise the safety or suitability of food.
- (2) The operator must ensure that a record is kept of any instance where personal hygiene or behaviour has compromised the safety or suitability of food.

*Sickness*

- (3) The operator must have procedures to ensure that any staff member or visitor at the place of food business who is known to be, or suspected of being, sick does not contaminate food or food-related accessories.
- (4) The operator must ensure that the procedures are complied with.
- (5) For the purposes of subclause (3), **sick** means being infected by or being a carrier of a disease or illness (including a notifiable infectious disease listed in section A of Part 1 of Schedule 1 of the Health Act 1956) that is likely to be transmitted through food.
- (6) The operator must ensure that a record is kept of any actions taken to comply with the requirements of subclause (4).

*Clothing*

- (7) The operator must ensure that any staff member or visitor whose presence or actions may contaminate food wears clothing that minimises the risk of contamination.
- (8) The operator must ensure that a record is kept of any instance where clothing or a lack of appropriate clothing has resulted in the safety or suitability of food being compromised.
- (9) Subclauses (2), (6), and (8) do not apply to a food business if, and only to the extent that, it is—
  - (a) a food business that is subject to national programme level 1; or
  - (b) a retailer of manufacturer-packaged chilled or frozen food (excluding ice cream, iced confectionery, and iced desserts); or
  - (c) a food service provided to pre-school children (including children under 5 years of age) in a centre-based service setting.

Regulation 74(9): inserted, on 1 July 2017, by regulation 7 of the Food Amendment Regulations 2017 (LI 2017/99).

**75 Protection during transportation**

- (1) The operator must ensure that—

- (a) any temperature, humidity, atmosphere, or other condition necessary for the safety or suitability of food is maintained while the food is being transported; and
  - (b) corrective action is taken if food is not transported in a manner that maintains its safety and suitability; and
  - (c) records are kept of the matters referred to in paragraphs (a) and (b).
- (2) Subclause (1)(c) does not apply to a food business if, and only to the extent that, it is—
- (a) a food business that is subject to national programme level 1 other than a transporter or distributor of food products; or
  - (b) a retailer of manufacturer-packaged chilled or frozen food (excluding ice cream, iced confectionery, and iced desserts); or
  - (c) a food service provided to pre-school children (including children under 5 years of age) in a centre-based service setting.

Regulation 75(2): inserted, on 1 July 2017, by regulation 8 of the Food Amendment Regulations 2017 (LI 2017/99).

## 76 Procedures for hazard control

- (1) The operator must have procedures for controlling hazards during the production and processing and handling of food.
- (2) The procedures must—
  - (a) identify each step or combination of steps in the process of production or processing and handling at which it is essential to prevent or eliminate a hazard or to reduce a hazard to an acceptable level; and
  - (b) set out—
    - (i) the criteria that must be met to ensure that the hazard has been prevented or eliminated or reduced to an acceptable level; and
    - (ii) the reason for each criterion.
- (3) The operator must ensure that hazards are controlled in accordance with the procedures.
- (4) In this regulation, **acceptable level** means a level at which a hazard will not prevent food from being safe or suitable.

### *Competency and training*

## 77 Competency and training

The operator must ensure that—

- (a) any staff member or visitor who carries out a task that could adversely affect the safety or suitability of food has the competency required to carry out that task; and

- (b) any competency or skill required by the following people is identified and recorded:
  - (i) the day-to-day manager of the place of food business; and
  - (ii) any staff member or visitor who is responsible for a task that could adversely affect the safety or suitability of food; and
- (c) records are kept that demonstrate that those competencies and skills have been achieved and maintained; and
- (d) staff and visitors understand what they must do while at the place of food business to enable food to be safe and suitable.

*Operator verification, corrective action, and reporting*

**78 Operator verification**

- (1) The operator must have a process for operator verification.
- (2) The process must include regular checks of—
  - (a) places of food business, facilities, and equipment; and
  - (b) staff and visitors; and
  - (c) practices, procedures, and activities.
- (3) The operator must ensure that the process is complied with.

**79 Corrective actions**

- (1) Whenever there is a loss of control, the operator or operator's nominee must—
  - (a) identify the cause and extent of the loss of control; and
  - (b) restore control; and
  - (c) ensure that any food, food-related accessory, place of food business, or other thing affected by the loss of control is disposed of, restored, or otherwise dealt with; and
  - (d) take appropriate action for the purpose of improving the competency or skill of any staff member or visitor involved in the loss of control; and
  - (e) take measures for the purpose of preventing another loss of control; and
  - (f) take any other corrective action that is appropriate, having regard to the nature of the loss of control and its effect on the safety and suitability of food.
- (2) The operator or operator's nominee must keep the following records of any loss of control in relation to food:
  - (a) a description of the loss of control; and
  - (b) how control was restored; and
  - (c) how any affected food was identified, controlled, or disposed of; and
  - (d) how any affected places, facilities, and equipment were dealt with; and

- (e) how issues affecting the competency of staff and visitors involved with the loss of control were identified and dealt with; and
  - (f) any measures taken to prevent a recurrence of the loss of control; and
  - (g) any other corrective actions taken.
- (3) The operator must nominate a suitably skilled person to carry out the corrective actions specified in subclause (1) if the operator's procedures do not provide for the corrective actions required in relation to the loss of control.
- (4) In this regulation,—
- loss of control** means that a food business or an operator—
- (a) has breached any applicable requirements of the Act; or
  - (b) is likely to breach any applicable requirements of the Act unless corrective action is taken

**operator's nominee** means the person nominated by the operator in accordance with subclause (3)

**restore control** means to ensure that the food business is operating in a way that will not breach or be likely to breach any applicable requirements of the Act.

## **80 Breach of national programme must be reported**

- (1) The operator must report to the operator's verification agency or verifier any breach of the national programme that results in food that—
- (a) is not, or may not be, safe or suitable; and
  - (b) could cause an adverse or injurious effect on human life or public health.
- (2) The operator must report the breach as soon as practicable after the operator becomes aware of it.

### *Record keeping*

## **81 How long records must be kept**

- (1) The operator must keep each record for a period of at least 4 years after the date on which the record is created.
- (2) In this regulation and regulation 82, **record** means a record that the operator must keep under a requirement of the Act.

## **82 Quality, content, and availability of records**

- (1) The operator must ensure that each record—
- (a) is legible, accurate, and complete; and
  - (b) is dated or marked in a way that identifies the version; and
  - (c) if the record is relevant to the responsibilities of the operator or any staff member of the food business, is readily accessible to that person.

- (2) The operator must ensure that each record that relates to an activity—
  - (a) states the date and, if appropriate, the time at which the activity was performed; and
  - (b) describes the results of the activity; and
  - (c) names or otherwise identifies the person or persons who performed the activity.

### **Part 3**

#### **Verification**

#### **83 Outline**

- (1) This Part provides for the verification of—
  - (a) food businesses subject to food control plans; and
  - (b) food control plans; and
  - (c) food businesses subject to national programmes; and
  - (d) the operations of registered importers; and
  - (e) food businesses that choose to operate under a higher risk-based measure; and
  - (f) multi-site food businesses; and
  - (g) food businesses subject to multi-business food control plans.
- (2) This regulation is intended only as a guide to the general scheme and effect of this Part.

#### **84 Criteria for determining frequency of verification**

A person or an agency who is required or authorised under this Part to determine the frequency at which verifications must be carried out must consider—

- (a) the competence of, as the case may require,—
  - (i) the operator of a food business in managing the activities of the food business; or
  - (ii) the registered importer in managing the operations of the registered importer; and
- (b) the effectiveness of process controls established for the food business or operations of the registered importer; and
- (c) the activities and conduct of the operator of the food business or registered importer that affect the safety or suitability of food; and
- (d) the effectiveness of environmental controls such as controls on cleanliness, pests, and water supply; and
- (e) the compliance history of the operator of the food business or registered importer in relation to the Act.



**85 When requirements relating to frequency of verification apply**

In this Part, the frequency of verification is calculated from the date that the initial verification commences.

**86 Definition of verification requirement and registration authority for registered importers**

- (1) In this Part, **verification requirement** means a requirement under this Part relating to the verification of a food business, food control plan, or the operations of a registered importer.
- (2) In this Part, **registration authority** or **appropriate registration authority** means, in the case of a registered importer, the chief executive.

Subpart 1—Verification of food control plans and food businesses  
subject to food control plans

**87 Custom food control plans**

- (1) The operator of a food business that is subject to a custom food control plan must ensure that the plan and the food business are verified by a verification agency or verifier,—
  - (a) in the case of an existing business, within 6 months of registration of the custom food control plan; or
  - (b) in the case of a new business, within 3 months of registration of the custom food control plan.
- (2) A verification agency or verifier must, after completion of the initial verification, verify the plan and food business—
  - (a) no more frequently than every 3 months; and
  - (b) at least once every 18 months; and
  - (c) in accordance with regulation 90.

**88 Template food control plans**

- (1) The operator of a food business that is subject to a template food control plan must ensure that the plan and the food business are verified by a verification agency or verifier,—
  - (a) in the case of an existing business, within 1 year of registration; or
  - (b) in the case of a new business, within 6 weeks of registration.
- (2) A verification agency or verifier must, after completion of the initial verification, verify the plan and food business—
  - (a) no more frequently than every 3 months; and
  - (b) at least once every 18 months; and
  - (c) in accordance with regulation 90.

Regulation 88(1)(b): amended, on 1 July 2017, by regulation 9 of the Food Amendment Regulations 2017 (LI 2017/99).

### **89 Deemed food control plans**

- (1) This regulation applies to a food business operating under a deemed food control plan until the date that—
  - (a) the food business operates under a food control plan that is registered under section 59 of the Act; or
  - (b) the food business is subject to a national programme and is registered under section 88 of the Act.
- (2) Regulations 87, 88, and 90(2) do not apply to a food business operating under a deemed food control plan.
- (3) Instead, the verification agency or verifier must—
  - (a) carry out verification of the food business and the deemed food control plan at the same frequency as the audit frequency last assigned to the food business under the Food Act 1981 before 1 March 2016; and
  - (b) reduce or increase the frequency of verification in accordance with regulation 90(3) and (4).

### **90 Frequency of verification of food business and food control plan**

- (1) The frequency levels for the verification of a food business that is subject to a food control plan and of the food control plan are as follows:

<b>Steps</b>	<b>Frequency of verification</b>
5	18 months
4	12 months
3	9 months
2	6 months
1	3 months

- (2) If the result of the initial verification is an acceptable outcome, the verification agency or verifier must carry out verification of the food control plan and food business at the frequency referred to in step 4 of the table in subclause (1) (the **table**).
- (3) If the result of the initial verification or any subsequent verification (including any unscheduled verification) is an unacceptable outcome, the verification agency or verifier must, after considering the frequency criteria, increase the frequency of verification to a level set out in steps 3 to 1 of the table.
- (4) If the results of 2 consecutive verifications (including any unscheduled verification) are 2 acceptable outcomes, the verification agency or verifier must reduce the frequency of verification to a lesser frequency further up the table.

## Subpart 2—Verification of food businesses subject to national programmes

### **91 Food businesses subject to national programme level 3**

- (1) The operator of a food business that is subject to national programme level 3 must ensure that the food business's compliance with the national programme is verified by a verification agency or verifier,—
  - (a) in the case of an existing business, within 6 months of registration; or
  - (b) in the case of a new business, within 6 weeks of registration.
- (2) A verification agency or verifier must, after completion of the initial verification, verify the food business's compliance with national programme level 3—
  - (a) no more frequently than every 3 months; and
  - (b) at least once every 2 years; and
  - (c) in accordance with regulation 94.

Regulation 91(1)(b): amended, on 1 July 2017, by regulation 10 of the Food Amendment Regulations 2017 (LI 2017/99).

### **92 Food businesses subject to national programme level 2**

- (1) The operator of a food business that is subject to national programme level 2 must ensure that the food business's compliance with the national programme is verified by a verification agency or verifier,—
  - (a) in the case of an existing business, within 1 year of registration; or
  - (b) in the case of a new business, within 6 weeks of registration.
- (2) A verification agency or verifier must, after completion of the initial verification, verify the food business's compliance with national programme level 2—
  - (a) no more frequently than every 3 months; and
  - (b) at least once every 3 years; and
  - (c) in accordance with regulation 94.

Regulation 92(1)(b): amended, on 1 July 2017, by regulation 11 of the Food Amendment Regulations 2017 (LI 2017/99).

### **93 Food businesses subject to national programme level 1**

- (1) The operator of a food business that is subject to national programme level 1 must ensure that the food business's compliance with the national programme is verified by a verification agency or verifier,—
  - (a) in the case of an existing business, within 1 year of registration; or
  - (b) in the case of a new business, within 6 weeks of registration.
- (2) A verification agency or verifier must—
  - (a) carry out an initial verification of the food business's compliance with national programme level 1; and

- (b) carry out any subsequent verification in accordance with regulation 94(3) and (4).

Regulation 93(1)(b): amended, on 1 July 2017, by regulation 12 of the Food Amendment Regulations 2017 (LI 2017/99).

#### 94 Frequency of verification of food businesses subject to national programmes

- (1) The frequency levels for verification of food businesses subject to national programmes are as follows:

Steps	National programme level 3	National programme level 2	National programme level 1
8			no verification
7		3 years	3 years
6	2 years	2 years	2 years
5	18 months	18 months	18 months
4	12 months	12 months	12 months
3	9 months	9 months	9 months
2	6 months	6 months	6 months
1	3 months	3 months	3 months

- (2) If the result of the initial verification is an acceptable outcome, the verification agency or verifier—
- must, if the food business is subject to national programme level 3, carry out subsequent verifications at the frequency referred to in step 6 of the table in subclause (1) (the **table**); and
  - must, if the food business is subject to national programme level 2, carry out subsequent verifications at the frequency referred to in step 7 of the table; and
  - must not, if the food business is subject to national programme level 1, carry out any further verifications unless regulation 102 applies.
- (3) If the result of the initial verification or any subsequent verification (including any unscheduled verification) is an unacceptable outcome, the verification agency or verifier must, after considering the frequency criteria, increase the frequency of verification,—
- if the food business is subject to national programme level 3, to a level set out in steps 5 to 1 of the table; or
  - if the food business is subject to national programme level 2, to a level set out in steps 6 to 1 of the table; or
  - if the food business is subject to national programme level 1, to a level set out in steps 7 to 1 of the table.
- (4) If, after the initial verification, the result of a subsequent verification (including any unscheduled verification) is an acceptable outcome, the verification agency

or verifier must, after considering the frequency criteria, reduce the frequency of verification,—

- (a) if the food business is subject to national programme level 3, to a level set out in steps 6 to 2 of the table; or
- (b) if the food business is subject to national programme level 2, to a level set out in steps 7 to 2 of the table; or
- (c) if the food business is subject to national programme level 1, to a level set out in steps 8 to 2 of the table.

#### Subpart 2A—Extensions of time for new businesses

Subpart 2A: inserted, on 1 July 2017, by regulation 13 of the Food Amendment Regulations 2017 (LI 2017/99).

#### 94A Operators of new businesses may request extension of time to fulfil verification obligations

- (1) If an operator of a new business that is subject to a custom food control plan, template food control plan, or national programme level 3, 2, or 1 wishes to extend the prescribed time by which the operator must fulfil its verification obligations,—
  - (a) the operator may, no later than 2 weeks before the due date, request that the registration authority extend the prescribed time; and
  - (b) the registration authority may extend the prescribed time to a date no later than 6 weeks after the due date if—
    - (i) the operator has advised that it will not start trading on or before the day that is 2 weeks before the due date; or
    - (ii) the authority is satisfied there are special circumstances that justify the extension.
- (2) A request for an extension must include reasons.
- (3) The operator may request an extension (in respect of the same matter) more than once. However, the last day of any subsequent extension must still be a date that is no later than 6 weeks after the due date.
- (4) In this regulation,—

**due date** means the last day within the prescribed time

**prescribed time** means, as applicable, the time prescribed in regulation 87(1)(b), 88(1)(b), 91(1)(b), 92(1)(b), or 93(1)(b)

**verification obligations** means, as applicable, the operator's obligations—

- (a) under regulation 87(1) to ensure that the custom food control plan and food business are verified; or
- (b) under regulation 88(1) to ensure that the template food control plan and the food business are verified; or

- (c) under regulation 91(1) to ensure that the food business's compliance with national programme level 3 is verified; or
- (d) under regulation 92(1) to ensure that the food business's compliance with national programme level 2 is verified; or
- (e) under regulation 93(1) to ensure that the food business's compliance with national programme level 1 is verified.

Regulation 94A: inserted, on 1 July 2017, by regulation 13 of the Food Amendment Regulations 2017 (LI 2017/99).

### Subpart 3—Multi-site food businesses and multi-business food control plans

#### **95 Application**

- (1) This subpart applies to—
  - (a) multi-site food control plans; and
  - (b) multi-site food businesses (whether the business is subject to a food control plan or a national programme); and
  - (c) multi-business food control plans; and
  - (d) places of food business that are subject to multi-business food control plans.
- (2) The requirements of this subpart are in addition to the verification requirements under subpart 1 or 2 that apply to a food business.

#### **96 Verification of multi-site food businesses and multi-business food control plans**

- (1) A verification agency or verifier must carry out an onsite initial verification of—
  - (a) a multi-site food business and—
    - (i) its multi-site food control plan (if any); and
    - (ii) any new place of food business that becomes part of the multi-site food business;
  - (b) a multi-business food control plan and—
    - (i) each place of food business that is subject to the plan; and
    - (ii) any new place of food business that becomes subject to the plan.
- (2) For the purposes of any subsequent verification of a multi-site food business,—
  - (a) the verification agency or verifier may treat the verification outcome of 1 or more places of food business that are part of the multi-site food business as applying to all places of food business that are part of the multi-site food business; and

- (b) the verification scope and frequency may vary between each place of food business.
- (3) For the purposes of any subsequent verification of a multi-business food control plan,—
  - (a) the verification agency or verifier may treat the verification outcome of 1 or more places of food business that are subject to the plan as applying to all places of food business that are subject to the plan; and
  - (b) the verification scope and frequency may vary between each place of food business.

#### Subpart 4—Verification of operations of registered importers

### **97 Chief executive may require verification of registered importers**

- (1) The chief executive may require—
  - (a) the verification of the operations of a registered importer to be carried out in accordance with this subpart; and
  - (b) the initial verification of those operations to be carried out within a specified time.
- (2) For the purposes of subclause (1), the chief executive—
  - (a) must consider—
    - (i) any recalls of the imported food undertaken at the direction of the chief executive or undertaken by any food business or any registered importer; and
    - (ii) any contamination, or suspected contamination, of the imported food by any hazard; and
    - (iii) any information that the chief executive considers is reasonable grounds for suspecting that the imported food is not safe and suitable or otherwise does not comply with any applicable requirements of the Act; and
    - (iv) any information that the chief executive considers is reasonable grounds for suspecting that the operations of the registered importer do not comply with any applicable requirements of the Act; and
    - (v) any findings from any monitoring, surveys, or auditing conducted by the Ministry of the activities of importers that affect the safety or suitability of food; and
  - (b) may consider any other factors the chief executive considers relevant.
- (3) The chief executive must, in writing, inform the registered importer of any requirement under this regulation.

- (4) A registered importer must arrange for a verification agency or verifier to carry out the initial verification of the operations—
- (a) as soon as practicable after being informed by the chief executive; or
  - (b) within a time (if any) specified by the chief executive under subclause (1)(b).
- (5) In this regulation, **imported food** means food imported by the registered importer whose operations are being verified.

#### **98 Importer must pay for verification**

A registered importer whose operations are required by the chief executive to be verified must pay for the costs of verification.

#### **99 Who may verify**

Verification of the operations of a registered importer may be carried out only by a verification agency or verifier whose specified functions and activities include the verification of the operations of a food import business.

#### **100 Frequency of verification of operations of registered importer**

- (1) The frequency levels for verification of the operations of a registered importer are as follows:

<b>Step</b>	<b>Verification frequency</b>
8	No verification
7	3 years
6	2 years
5	18 months
4	12 months
3	9 months
2	6 months
1	3 months

- (2) If the result of the initial verification is an acceptable outcome, the verification agency or verifier must set the frequency of verification at step 8 of the table in subclause (1) (the **table**).
- (3) If the result of the initial verification is an unacceptable outcome, the verification agency or verifier must, after considering the frequency criteria, set the frequency of verification to a level set out in steps 7 to 1 of the table.
- (4) If the result of any subsequent verification (including any unscheduled verification) is an acceptable outcome, the verification agency or verifier must, after considering the frequency criteria, reduce the frequency of verification to a level set out in steps 8 to 2 of the table.
- (5) If the result of any subsequent verification (including any unscheduled verification) is an unacceptable outcome, the verification agency or verifier must, after



considering the frequency criteria, increase the frequency of verification to a level set out in steps 7 to 1 of the table.

### Subpart 5—Food businesses that choose to operate under higher risk-based measure

#### **101 Frequency of verification for food businesses that choose to operate under higher risk-based measure**

- (1) If a food business that is subject to a risk-based measure chooses to operate under a higher risk-based measure, the food business must, as a minimum, be verified at the frequency that applies to its original risk-based measure.
- (2) A food business that is not required to operate under a risk-based measure but chooses to operate under a risk-based measure is not subject to a verification requirement.
- (3) If not all parts of a food business are subject to a risk-based measure or the same risk-based measure, but the food business chooses to operate all of its food business activities under the applicable highest risk-based measure,—
  - (a) each part of the food business that is subject to a risk-based measure must, as a minimum, be verified at the frequency that applies to that risk-based measure; and
  - (b) each part of the food business that is not subject to a risk-based measure continues not to be subject to any verification requirement.

### Subpart 6—Unscheduled verification

#### **102 Unscheduled verification**

- (1) This regulation applies if a registration authority considers there are, in respect of a food business or the operations of a registered importer, potential food safety or suitability issues based on—
  - (a) any recalls of food undertaken at the direction of the chief executive or undertaken by any food business or any registered importer:
  - (b) any contamination, or suspected contamination, of the food by any hazard:
  - (c) any information that the registration authority considers is reasonable grounds for suspecting that the food is not safe or suitable or otherwise does not comply with any applicable requirements of the Act:
  - (d) any information that the registration authority considers is reasonable grounds for suspecting that the food business or operations of the registered importer do not comply with any applicable requirements of the Act:
  - (e) any findings from monitoring, surveys, or auditing conducted by the registration authority of activities of food businesses or importers:

- (f) any other factors the registration authority considers relevant.
- (2) The registration authority—
  - (a) must, in writing, advise the verification agency or verifier responsible for verifying the food business or operations of the registered importer of the issues referred to in subclause (1); and
  - (b) may require the verification of the food business and the food control plan (if applicable) or the operations of the registered importer to be carried out within a specified time.
- (3) The verification agency or verifier must carry out a verification of the food business and the food control plan (if applicable) or the operations of the registered importer—
  - (a) as soon as practicable after receiving the advice of the registration authority; or
  - (b) within a time (if any) specified by the registration authority in the advice.

## Subpart 7—Verification process

### *Corrective actions*

#### **103 Verification agency or verifier may recommend that corrective action be determined**

- (1) If, while carrying out a verification under this Part, a verification agency or verifier reasonably considers that there is a non-compliance with an applicable requirement of the Act, the verification agency or verifier may recommend that the operator or the registered importer—
  - (a) determine a corrective action; and
  - (b) carry out the corrective action within a specified time.
- (2) The operator or registered importer must carry out the corrective action to the satisfaction of the verification agency or verifier within the specified time.
- (3) The verification agency or verifier must confirm on any subsequent visit whether the operator or registered importer has complied with subclause (2).

#### **104 Corrective action plan**

- (1) If, after carrying out a verification, a verification agency or verifier assigns an unacceptable outcome, the operator or registered importer and the verification agency or verifier must—
  - (a) agree to a period of time within which the operator or registered importer must prepare a corrective action plan for the consideration of the verification agency or verifier; and

- (b) agree to a corrective action plan, which must state the corrective actions to be carried out and the time within which each action must be carried out.
- (2) The operator or registered importer must comply with the corrective action plan to the satisfaction of the verification agency or verifier.

*Verification decision*

**105 Verification decision**

- (1) After carrying out a verification, the verification agency or verifier must assign an outcome and provide a written report to the operator or registered importer.
- (2) The verification agency or verifier must assign an acceptable outcome if satisfied—
  - (a) of the operator’s or registered importer’s compliance with the applicable requirements of the Act; and
  - (b) in the case of a food business,—
    - (i) of the applicability of the risk-based measure to the operations of the food business; and
    - (ii) of the effectiveness of that risk-based measure; and
  - (c) that subclause (4) does not otherwise apply.
- (3) For the purpose of subclause (2)(a), if there has been any non-compliance with an applicable requirement of the Act, the verification agency or verifier must consider whether any corrective action has been, or is being, carried out appropriately.
- (4) The verification agency or verifier must assign an unacceptable outcome if satisfied that—
  - (a) there is, or has been, non-compliance by the operator or registered importer with an applicable requirement of the Act that is likely to result in food being unsafe or unsuitable; or
  - (b) in the case of a food business,—
    - (i) the risk-based measure is not applicable to the operations of the food business; or
    - (ii) the risk-based measure is not effective; or
  - (c) 1 or more of the following apply:
    - (i) in the case of a food business subject to a food control plan or a national programme, the operator verification process has failed repeatedly to identify deficiencies that affect the safety or suitability of food (for example, deficiencies in the food control plan or deficiencies in the operator’s practices and processes):

- (ii) the operator or registered importer has failed to identify or effectively address a problem or deficiency that has the potential to cause a critical non-compliance:
  - (iii) the verification agency or verifier has no confidence in the operations of the food business or registered importer because of the combined effect of several instances of non-compliance:
  - (iv) the verification agency or verifier has no confidence in the operations of the food business or registered importer due to the extent to which records required under the applicable requirements of the Act are absent, incomplete, or altered.
- (5) The verification report must state—
- (a) the name of the verification agency or verifier; and
  - (b) the name of the operator or registered importer; and
  - (c) the name (including the trading name if applicable) and address of the food business or registered importer; and
  - (d) a summary of the verification activities undertaken; and
  - (e) the outcome of the verification; and
  - (f) any recommendations concerning corrective actions (*see* regulations 103 and 104); and
  - (g) if applicable, any aspects of an unacceptable outcome that have triggered an increase in verification frequency; and
  - (h) the proposed date of the next verification, noting that this does not prevent an unscheduled verification; and
  - (i) the names of any technical experts who had a role in any verification activity and information about their competence for that role (for example, relevant qualifications and experience).

Regulation 105(5)(h): amended, on 1 July 2017, by regulation 14(1) of the Food Amendment Regulations 2017 (LI 2017/99).

Regulation 105(5)(i): inserted, on 1 July 2017, by regulation 14(2) of the Food Amendment Regulations 2017 (LI 2017/99).

## **106 Reconsideration of verification decision**

- (1) An operator or a registered importer may seek a reconsideration of a verification decision by applying in writing within 15 working days after receipt of the verification report,—
- (a) in the case of a decision of a verification agency, to the chief executive; or
  - (b) in the case of a decision of a verifier, to the recognised agency of the verifier, or if there is no recognised agency, to the relevant registration authority.

- (2) The frequency of verification set out in the verification decision continues to apply until the operator or registered importer is notified of the reconsideration decision.
- (3) The person or body responsible for reconsidering the verification decision must—
  - (a) reconsider the decision within 20 working days after receipt of the application for reconsideration, or a later date if the applicant agrees; and
  - (b) give written notice of his or her or its decision to the applicant and the verification agency or verifier.
- (4) Regulation 105 applies, with any necessary modifications, to the reconsideration of a verification decision.

**107 Matters that verification agencies and independent verifiers must advise registration authority**

- (1) A verification agency or an independent verifier must—
  - (a) advise the appropriate registration authority as soon as practicable of—
    - (i) any unacceptable outcome in a verification decision of the agency or verifier relating to a food business or the operations of a registered importer; or
    - (ii) any critical non-compliance, identified by the agency or verifier, by a food business or registered importer; and
  - (b) include in that advice, any actions that the agency or verifier recommends that the authority should undertake.
- (2) A verification agency or an independent verifier must provide, at the request of a registration authority, any specified information relating to the verification of—
  - (a) a food business or food control plan for which the authority is the registration authority; or
  - (b) the operations of a registered importer.

**Part 4**

**Recognised agencies, persons, and classes of persons**

**108 Outline**

- (1) This Part sets out requirements for the recognition and maintenance of recognition of agencies, natural persons, and classes of natural persons under subpart 1 of Part 4 of the Act.
- (2) This regulation is intended only as a guide to the general scheme and effect of this Part.

**109 Application**

This Part does not apply to—

- (a) the recognition of territorial authorities under section 137 of the Act; and
- (b) any territorial authorities recognised under section 137(1) of the Act.

**110 Quality management system**

(1) This regulation sets out the requirements that apply to a quality management system that—

- (a) an agency or a person may be required to have under this Part; or
- (b) a member of a class of natural persons (**member**) or a body to which that member belongs, or is employed, engaged, or managed by, may be required to have under this Part.

(2) The quality management system must contain procedures for—

*Conflicts of interest*

- (a) maintaining independence and managing conflicts of interest:
- (b) maintaining impartiality:

*Confidential information*

- (c) managing the confidentiality of information:

*Staffing*

- (d) ensuring that—
  - (i) staff are trained and competent to perform the services for which they are employed or engaged; and
  - (ii) staff are aware of the scope of the specified functions and activities of the agency, person, or member; and
  - (iii) staff performance is regularly monitored:

*Resourcing*

- (e) ensuring that the agency, person, or member is adequately resourced (including having, or having access to, relevant technical expertise) to carry out its or his or her specified functions and activities:

*Reporting requirements*

- (f) meeting reporting requirements under the applicable requirements of the Act:

*Records*

- (g) keeping the following records and reports for at least 4 years:
  - (i) records relating to staff members' qualifications, training, work-related experience, and performance:
  - (ii) records and reports of the specified functions and activities, and any related activity, of the agency, person, or member:

- (iii) records relating to each food business or registered importer to whom the agency, person, or member provides services:
- (iv) records and reports required to be kept under the applicable requirements of the Act:
- (h) making records or reports referred to in paragraph (g) available at the request of the chief executive or a food safety officer:

*Non-compliance and corrective actions*

- (i) identifying and reporting any non-compliance with an applicable requirement of the Act occurring at a food business or the operations of a registered importer:
- (j) identifying and monitoring corrective actions that a food business or registered importer must carry out:

*Complaints and disputes*

- (k) investigating and managing complaints and disputes relating to—
  - (i) the staff of the agency, person, or member:
  - (ii) the performance by the agency, person, or member of its or his or her specified functions and activities:

*Internal management*

- (l) providing for the regular review of the quality management system:

*Review of performance*

- (m) reviewing the agency's, person's, or member's performance of its or his or her specified functions and activities, for the purpose of ensuring that the applicable requirements of the Act are met:

*Contractual arrangements*

- (n) ensuring that contractual arrangements with any food businesses or registered importer to whom the person, agency, or member provides services are documented and appropriate for the services being provided.

- (3) In subclause (2),—

**services** means services under the Act that are within the scope of the specified functions and activities of the agency, person, or member

**staff** includes any contractor.

## Subpart 1—Recognition of agencies

### 111 Requirements for recognition of agencies under section 135 of Act

- (1) This regulation sets out, for the purpose of section 135(3)(a)(v) of the Act, requirements that a person applying to be a recognised agency must meet.
- (2) The person must—
  - (a) demonstrate that the person—

- (i) has a written quality management system that complies with regulation 110(2); and
- (ii) is able to comply with procedures set out in that quality management system; and
- (b) hold an accreditation to ISO 17020 Type A inspection body if the person intends to carry out any of the following:
  - (i) verifications of custom food control plans:
  - (ii) verifications of food businesses operating under custom food control plans:
  - (iii) evaluations.

### **112 Requirements for recognition of agencies under section 136 of Act**

- (1) This regulation sets out, for the purpose of section 136 of the Act, requirements that must be met by an agency or a group of persons that the chief executive is considering recognising under that section.
- (2) The agency or group of persons must—
  - (a) demonstrate that it—
    - (i) has a written quality management system that complies with regulation 110(2); and
    - (ii) is able to comply with procedures set out in that quality management system; and
  - (b) hold an accreditation to ISO 17020 Type A inspection body if the agency or group of persons intends to carry out any of the following:
    - (i) verifications of custom food control plans:
    - (ii) verifications of food businesses operating under custom food control plans:
    - (iii) evaluations.

### **113 Maintaining recognition**

For the purpose of sections 155 and 156 of the Act, a recognised agency (whether recognised under section 135 or 136 of the Act) must, in order to maintain the competency requirements applicable to its recognition,—

- (a) continue to have a written quality management system that complies with regulation 110(2); and
- (b) continue to comply with procedures set out in that quality management system; and
- (c) if regulation 111(2)(b) or 112(2)(b) applies to the agency, continue to hold an accreditation to ISO 17020 Type A inspection body.



## Subpart 2— Recognition of natural persons and classes of natural persons

### **114 Requirements relating to recognition of natural person and class of natural persons**

- (1) This regulation applies—
  - (a) for the purpose of section 139(3)(a)(v) of the Act, to any natural person applying to be recognised under section 139 of the Act;
  - (b) for the purpose of section 140(2) of the Act, to any natural person whom the chief executive is considering recognising under section 140 of the Act;
  - (c) for the purpose of section 141(4)(a)(vi) of the Act, to any class of natural persons applying to be recognised under section 141 of the Act;
  - (d) for the purpose of section 141(4)(a)(vi) of the Act, to any class of natural persons that the chief executive is considering recognising under section 141 of the Act;
  - (e) regardless of whether the natural person or member of the class of natural persons is managed, employed, or engaged by a recognised agency.
- (2) A natural person or each member of a class of natural persons must demonstrate knowledge and understanding of—
  - (a) the applicable requirements of the Act and relevant requirements under other enactments; and
  - (b) the identification and control of food safety hazards; and
  - (c) food suitability requirements; and
  - (d) good operating practice for food businesses; and
  - (e) particular sectors, industries, or processes that are relevant to the specified functions and activities of the person or class of persons of which the person is a member; and
  - (f) the design and construction of premises, facilities, and processes relating to food businesses; and
  - (g) how to perform audits competently; and
  - (h) when specialist technical expertise is needed and how it can be obtained.

### **115 Additional recognition requirements for natural person or member of class of natural persons that are independent of recognised agency**

- (1) A natural person to whom regulation 114 applies and who is not employed, engaged, or managed by a recognised agency must (in addition to the requirements of regulation 114(2))—
  - (a) demonstrate that the person—

- (i) has a written quality management system that complies with regulation 110(2); and
    - (ii) is able to comply with procedures set out in that quality management system; and
  - (b) if the person intends to carry out any of the following, hold an accreditation to ISO 17020 Type A inspection body or be a member of, or be employed, engaged, or managed by, a body that holds that accreditation:
    - (i) verifications of custom food control plans:
    - (ii) verifications of food businesses operating under custom food control plans:
    - (iii) evaluations.
- (2) A member of a class of natural persons to whom regulation 114 applies and who is not employed, engaged, or managed by a recognised agency must (in addition to the requirements of regulation 114(2))—
- (a) demonstrate that the member—
    - (i) has a written quality management system that complies with regulation 110(2) or is a member of, or is employed, engaged, or managed by, a body that has a written quality management system that complies with regulation 110(2); and
    - (ii) is able to comply with procedures set out in that quality management system; and
  - (b) if the member intends to carry out any of the following, hold an accreditation to ISO 17020 Type A inspection body or be a member of, or be employed, engaged, or managed by, a body that holds that accreditation:
    - (i) verifications of custom food control plans:
    - (ii) verifications of food businesses operating under custom food control plans:
    - (iii) evaluations.

**116 Recognised persons or member of recognised class of natural persons must maintain compliance with requirements in regulations 114 and 115**

- (1) For the purpose of section 156(b) of the Act, a natural person who is recognised under section 139 or 140 of the Act must, in order to maintain the competency requirements applicable to his or her recognition,—
- (a) continue to demonstrate that the person has knowledge and understanding of the matters referred to in regulation 114(2); and
  - (b) continue to have a written quality management system that complies with regulation 110(2) and continue to comply with procedures set out in that quality management system; and

- (c) if regulation 115(1)(b) applies, continue to hold an accreditation to ISO 17020 Type A inspection body or be a member of, or be employed, engaged, or managed by, a body that holds that accreditation.
- (2) For the purpose of section 156(b) of the Act, a member of a natural class of persons that is recognised under section 141 of the Act must, in order to maintain the competency requirements applicable to the recognition of that class,—
  - (a) continue to demonstrate that the member has knowledge and understanding of the matters referred to in regulation 114(2); and
  - (b) either—
    - (i) continue to have a written quality management system that complies with regulation 110(2) and continue to comply with the procedures set out in that quality management system; or
    - (ii) continue to be a member of, or be employed, engaged, or managed by, a body that has a written quality management system that complies with regulation 110(2) and continue to comply with procedures set out in that quality management system; and
  - (c) if regulation 115(2)(b) applies, continue to hold an accreditation to ISO 17020 Type A inspection body or be a member of, or be employed, engaged, or managed by, a body that holds that accreditation.

### Subpart 3—Assessments and accreditation reports

#### **117 Chief executive may require agency, person, or class to undergo assessment before and after granting recognition**

- (1) Before recognising an agency, a person, or a class of natural persons under the Act, the chief executive may require the agency, person, class of natural persons, or any member of that class to undergo an assessment of its or his or her ability to perform the functions and activities for which recognition is sought or considered.
- (2) The chief executive may require a recognised agency, recognised person, recognised class of natural persons, or any member of a recognised class of natural persons to undergo assessments of its or his or her performance of the specified functions and activities for which recognition is granted.
- (3) The chief executive may require an assessment under subclause (1) or (2) to be carried out by the chief executive or an accreditation body.
- (4) The chief executive may require an assessment under subclause (2) to be carried out by a date and at any frequency specified by the chief executive.
- (5) An agency or a person, class of natural persons, or member of a class of natural persons must comply with any requirements imposed by the chief executive under this regulation.

**118 Accreditation reports**

- (1) This regulation applies to—
  - (a) a recognised agency or recognised person that holds an accreditation to ISO 17020 Type A inspection body; and
  - (b) a member of a recognised class of natural persons if the member—
    - (i) holds a current accreditation to ISO 17020 Type A inspection body; or
    - (ii) is a member of, or is employed, engaged, or managed by, a body that holds that accreditation.
- (2) The recognised agency, recognised person, or member of the recognised class of natural persons must,—
  - (a) as soon as practicable after receiving any assessment report from the relevant accreditation body, provide the chief executive with a copy of the report; or
  - (b) ensure that the relevant accreditation body is authorised to provide copies of any assessment reports to the chief executive.
- (3) In this regulation, an **assessment report** means a finalised report by the accreditation body that assesses or includes any assessment of the performance of the recognised agency, recognised person, recognised class, or member of a recognised class against—
  - (a) the requirements for accreditation; and
  - (b) the applicable requirements of the Act.

## **Part 5 Imported food**

**119 Outline**

- (1) This Part provides for—
  - (a) duties of registered importers of food; and
  - (b) categories of food that require or may require clearance for entry; and
  - (c) procedures relating to food that requires clearance for entry; and
  - (d) powers of food safety officers in relation to imported food; and
  - (e) the testing of samples of imported food.
- (2) This regulation is intended only as a guide to the general scheme and effect of this Part.

**120 Application**

This Part applies to—

- (a) a registered importer who trades in food; and

- (b) food that is or is to be imported into New Zealand by the registered importer for the purpose of sale.

**121 Definition of responsibility**

In this Part, unless the context otherwise requires, **responsibility**, in relation to food, means ownership of the food or a contractual obligation to manage the food on behalf of the owner.

Subpart 1—Duties of registered importer

**122 Registered importers must take reasonable steps to assess safety and suitability of food**

A registered importer must, before the food arrives in New Zealand, take all reasonable steps to—

- (a) ensure that an assessment of the safety and suitability of the food has been carried out; and
- (b) confirm, as a result of that assessment, that the food is or will be safe and suitable at the time that responsibility for the food passes to the registered importer.

**123 Transport and storage of food**

- (1) A registered importer must take all reasonable steps to ensure that food is transported and stored in a manner that ensures its safety and suitability and minimises its deterioration and contamination.
- (2) A registered importer must comply with subclause (1) from the time that the food arrives in New Zealand until responsibility for the food has passed from the registered importer.

**124 Information that registered importer must keep or have ready access to**

- (1) A registered importer must—
  - (a) keep, or have ready access to, the information described in subclause (2) for at least 4 years after the date of import of the food; and
  - (b) provide that information as soon as practicable when requested by a food safety officer.
- (2) The information is—
  - (a) the name and contact details of the supplier of the food; and
  - (b) the name and contact details of the manufacturer or producer of the food; and
  - (c) information that demonstrates that the food has been assessed or confirmed as being safe and suitable in accordance with regulation 122; and
  - (d) information that demonstrates that the food is transported and stored in accordance with regulation 123; and

- (e) a description of the identity of the food by commodity, brand (if any), and lot or batch; and
- (f) information that enables the food to be traced—
  - (i) from the supplier of the food to the registered importer; and
  - (ii) while it is under the registered importer's control; and
  - (iii) to the next person to whom responsibility for the food has passed (other than the final consumer).

### **125 Food safety officer may require certain information**

- (1) A food safety officer may require a registered importer to provide to the officer—
  - (a) any information described in regulation 124(2); and
  - (b) any label attached to or connected with the food to which the information relates, or any copy of the label.
- (2) If the information or label required to be provided is not in English, the registered importer must arrange for a translation to be done—
  - (a) by a person that the food safety officer considers competent; and
  - (b) at the cost of the registered importer.
- (3) The registered importer must comply with a requirement under this regulation as soon as practicable.

### **126 Recalls**

- (1) A registered importer must—
  - (a) have procedures for recalling food sold by the registered importer that the registered importer considers is not safe or suitable or whose safety or suitability is in doubt; and
  - (b) recall, in accordance with those procedures, food sold by the registered importer that the registered importer considers is not safe or suitable or whose safety or suitability is in doubt.
- (2) If a registered importer makes a decision to recall food, the registered importer must report the decision to the chief executive as soon as practicable after making the decision, but no later than 24 hours after making the decision.
- (3) A registered importer must keep records of any recall undertaken, and those records must include information about—
  - (a) the problem identified and the extent of the problem;
  - (b) actions taken to identify and remove the food from sale;
  - (c) actions taken to prevent the problem recurring;
  - (d) any monitoring undertaken of the recall process.

**127 Information that must be provided to Joint Border Management System or food safety officer**

- (1) A registered importer must, for each consignment of food, supply to the Ministry in English the information described in subclause (2)—
  - (a) by using a Joint Border Management System or by using another means approved in writing by the chief executive under section 133(2)(b) of the Act; and
  - (b) if requested by a food safety officer, to the officer within a time (if any) specified by the officer.
- (2) The information is—
  - (a) the name of the vessel or the number of the flight on which the food is imported; and
  - (b) the country of origin of the food; and
  - (c) the name of the port of loading of the vessel or aircraft in the country of export; and
  - (d) the date of importation of the food into New Zealand, and the port of discharge; and
  - (e) a detailed description of the food, product type, and, where applicable, brand name and details of any batch or lot identification in relation to the consignment; and
  - (f) the name of the importer importing the food (not being the carrier, freight forwarder, or importer's agent) and the contact person for the importer (including, in each case, a physical or postal address, telephone number, and email or fax details); and
  - (g) the name and contact details of the supplier, manufacturer, or producer of the food; and
  - (h) the broker associated with the consignment, if relevant; and
  - (i) the applicable tariff code; and
  - (j) the number of packages (if any) in the consignment and the weight of each package; and
  - (k) the total weight of the consignment; and
  - (l) the unique consignment reference, if known; and
  - (m) if the first person referred to in paragraph (f) is not the registered importer associated with the consignment, the name and contact details of the registered importer (including a physical or postal address, telephone number, and email or fax details).

Regulation 127(1)(a): amended, on 1 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

## Subpart 2—Food that requires clearance for entry

### *Categories of food*

#### **128 Categories of food**

- (1) For the purpose of section 109 of the Act, the following are categories of imported food:
  - (a) high regulatory interest food:
  - (b) increased regulatory interest food.
- (2) When making any notice under section 405 of the Act specifying food that fits within the category of high regulatory interest food, the chief executive must consider whether the food poses a risk to human health due to—
  - (a) the nature of the food; and
  - (b) the hazard associated with the food; and
  - (c) the control measures that applied during processing and handling of the food; and
  - (d) the likelihood of the particular hazard being present in the food at a level determined as unacceptable in accordance with a New Zealand or international standard, or science-based criteria; and
  - (e) the likelihood that the food is not safe or suitable.
- (3) When making any notice under section 405 of the Act specifying food that fits within the category of increased regulatory interest food, the chief executive must consider—
  - (a) whether there is uncertainty or concern about the risk to the safety and suitability of the food in light of information about—
    - (i) the nature of the food:
    - (ii) the hazard associated with the food:
    - (iii) control measures applied during processing and handling of the food:
    - (iv) the likelihood of the particular hazard being present in the food at a level determined as unacceptable in accordance with a New Zealand or an international standard, or science-based criteria:
    - (v) the likelihood that the food is not safe or suitable; and
  - (b) whether categorising the food as increased regulatory interest food will assist in managing and quantifying the risk that the food poses to human health.

#### **129 Clearance required for high regulatory interest food**

- (1) A food that fits within the category of high regulatory interest food requires clearance for entry.



- (2) A registered importer must apply in writing to a food safety officer for clearance for entry of any high regulatory interest food.

**130 Clearance for certain increased regulatory interest food**

- (1) A food that fits within the category of increased regulatory interest food requires clearance for entry only if a notice under section 405 of the Act requires clearance for entry for that food.
- (2) A registered importer must apply in writing to a food safety officer for clearance for entry of any increased regulatory interest food for which clearance for entry is required.

*Clearance requirements*

**131 Clearance requirements**

- (1) A notice under section 405 of the Act may set out clearance requirements that apply to a food specified in the notice.
- (2) Without limiting the generality of subclause (1), a clearance requirement may require that 1 or more of the following be provided:
- (a) an official certificate;
  - (b) information or an assurance that demonstrates that food controls under which the food has been or is to be processed and handled ensure that the food is or will be safe and suitable;
  - (c) the results of any testing undertaken in an approved laboratory to meet a requirement in a notice under section 405 of the Act relating to any hazards;
  - (d) a sample of the food.

*Duties of registered importers in relation to food requiring clearance for entry*

**132 Registered importer must inform food safety officer where consignment to be held and inspected**

- (1) A registered importer of a consignment of food requiring clearance for entry must provide to a food safety officer the details of—
- (a) the place where the consignment will be held before clearance for entry or a direction is given under the Act; and
  - (b) the place where the consignment may be inspected.
- (2) Subclause (1) does not apply if a food safety officer requires the consignment to be held or inspected in a specified place.

**133 Food safety officer may require food to be moved for inspection**

A food safety officer may direct a registered importer to move food that is subject to clearance for entry—

- (a) to the place where it will be inspected; and
- (b) at the cost of the registered importer.

*Testing of food that requires clearance for entry*

**134 Food for sampling and testing**

- (1) If food that requires clearance for entry is required by a notice under section 405 of the Act to be tested,—
  - (a) a food safety officer must take samples of the food; and
  - (b) the registered importer must ensure that the food is available and accessible to the food safety officer for that purpose; and
  - (c) the food safety officer must—
    - (i) arrange for the samples to be sent to an approved laboratory selected by the registered importer for testing; and
    - (ii) ensure that the samples are sent in a manner that prevents their contamination and deterioration; and
  - (d) the registered importer must pay the cost of sending the samples to the approved laboratory.
- (2) A registered importer must provide the test results to a food safety officer within 3 months after the date that the samples were taken.

**135 Frequency of testing**

- (1) If food is required to be tested under a notice under section 405 of the Act, a food safety officer may decide the frequency with which testing of consignments of food must be undertaken.
- (2) In deciding the frequency of testing, the food safety officer must consider—
  - (a) whether, and the extent to which, the officer has confidence in the management of the operations of the registered importer; and
  - (b) the accuracy of the documentation that has been provided for the purposes of importation requirements under the Act; and
  - (c) whether, and the extent to which, the officer has confidence in the imported food being safe and suitable.

*Food that is subject to clearance for entry or that has failed clearance must not be distributed*

**136 Food that is subject to clearance or has failed clearance must not be distributed**

- (1) This regulation applies to food that requires clearance for entry and that—
  - (a) is waiting for clearance for entry to be given; or
  - (b) has failed to receive clearance for entry.

- (2) The food—
  - (a) must not be distributed for human consumption or sale for human consumption; and
  - (b) must be managed by the registered importer to ensure that the food is—
    - (i) clearly identified; and
    - (ii) isolated from all other food; and
    - (iii) withheld from distribution for human consumption or sale for human consumption; and
    - (iv) managed according to any direction given under the Act.
- (3) A registered importer must keep records of the management of the food for at least 4 years.

### Subpart 3—Testing of samples of imported food

#### **137 Required tests of samples of imported food must be undertaken in approved laboratories**

A person who is required by a food safety officer under section 312 of the Act to arrange for testing of a sample of imported food must arrange for the testing to be undertaken in an approved laboratory.

## **Part 6**

### **Food standards in relation to agricultural compounds**

#### **138 Outline**

- (1) This Part—
  - (a) provides for standards and notices relating to the residue levels of an agricultural compound in food; and
  - (b) prohibits the sale of food containing residues of an agricultural compound unless certain circumstances apply.
- (2) This regulation is intended only as a guide to the general scheme and effect of this Part.

#### **139 Definition of notice and specified food**

In this Part, unless the context otherwise requires,—

**notice** means a notice under section 406(1)(u) of the Act

**specified food** means food specified in a notice under section 406(1)(u) of the Act as food to which a maximum residue level of an agricultural compound applies.

*Setting maximum residue levels***140 Criteria for specifying maximum residue levels of agricultural compound**

When specifying in a notice the maximum residue levels of an agricultural compound that may be present in food, the chief executive must—

- (a) follow, as far as practicable, international best practice on dietary intake assessment and setting of maximum residue limits;
- (b) ensure that the food commodities considered in the establishment of residue levels are consistent, as far as practicable, with the current edition of the Codex standard on the Classification of Foods and Animal Feeds (CAC/MISC 4);
- (c) ensure that the portion of the food commodity to which the maximum residue level applies is consistent, as far as practicable, with the current edition of the Codex standard on the Analysis of Pesticide Residues: Portion of Commodities to which Codex MRLs Apply and which is Analyzed (CAC/GL 41-1993).

**141 Contents of notice**

- (1) A notice setting the maximum residue level of an agricultural compound that may be present in food (**maximum residue level**)—
  - (a) must specify—
    - (i) the common name of the agricultural compound; and
    - (ii) the agricultural compound's Chemical Abstracts Service (CAS) registry number (if assigned); and
    - (iii) the components of the agricultural compound that were considered in determining the maximum residue level; and
    - (iv) the food to which the maximum residue level applies; and
    - (v) the maximum residue level of the agricultural compound that may be present in the food (being the sum of the residue levels that were considered for each component of the agricultural compound); and
  - (b) may specify—
    - (i) conditions on the use of the agricultural compound and any other conditions; and
    - (ii) a period for which the maximum residue level applies.
- (2) A notice may provide that no maximum residue level of a specified agricultural compound applies to a food or a specified food if the agricultural compound is used—
  - (a) for the management of—
    - (i) plants, or parts of plants, from which food is derived; or

- (ii) plants to be fed to animals from which food is derived; or
  - (iii) animals that are intended for food or from which food is to be derived; and
- (b) in accordance with any conditions specified in the notice.

**142 Maximum residue levels in processed food**

- (1) The maximum residue level of an agricultural compound that may be present in a food applies to that food regardless of any processing, except for—
- (a) drying; or
  - (b) dehydration; or
  - (c) concentration.
- (2) If a food has been dried, dehydrated, or concentrated, the maximum residue level of an agricultural compound that may be present in the food must be determined with respect to the mass of the food after dilution or reconstitution.

Regulation 142(1)(c): amended, on 1 July 2017, by regulation 15 of the Food Amendment Regulations 2017 (LI 2017/99).

**143 Maximum residue levels in food that consists of other foods**

The maximum residue level of any agricultural compound that is present in a food consisting of more than 1 food (a **food product**) is calculated by multiplying—

- (a) the sum of the maximum residue levels of the agricultural compound in each food; by
- (b) the proportion (by mass) of each food in the food product.

*Sale of food containing residues*

**144 Prohibition on sale of food containing residues of agricultural compound and exceptions**

- (1) A person must not sell food containing residues of an agricultural compound unless 1 of the following applies:
- (a) the residue level of the agricultural compound present in the food does not exceed the maximum residue level, specified in a notice, of the agricultural compound that may be present in the food:
  - (b) a notice provides that no maximum residue level of the agricultural compound applies to the food and the person's use of the agricultural compound complies with the requirements of, including any conditions specified in, the notice:
  - (c) the residue level of the agricultural compound present in the food does not exceed 0.1mg/kg, and there is no notice—

- (i) specifying a maximum residue level of the agricultural compound that may be present in the food; or
- (ii) providing that no maximum residue level for the agricultural compound applies to the food:
- (d) the food is imported food containing residues of an agricultural compound that do not exceed the maximum residue levels specified for that food in the current editions of the—
  - (i) Maximum Residue Limits (MRLs) and Extraneous Maximum Residue Limits (EMRLs) for Pesticides (Codex Pesticides Residues in Food Online Database); or
  - (ii) Maximum Residue Limits for Veterinary Drugs in Food (Codex Veterinary Drug Residue in Food Online Database).
- (2) To avoid doubt, subclauses (1)(a) to (c) applies whether or not the food is imported food.

## Part 7

### Infringement offences

#### 145 Outline

- (1) This Part and Schedules 2 and 3—
  - (a) state offences in the Act that are infringement offences; and
  - (b) prescribe infringement offences for the breach of, or failure to comply with, adopted joint food standards; and
  - (c) prescribe infringement fees for the infringement offences; and
  - (d) prescribe the form of infringement notices and reminder notices.
- (2) This regulation is intended only as a guide to the general scheme and effect of this Part and Schedules 2 and 3.

#### *Offences in Act stated to be infringement offences*

#### 146 Offences in Act stated to be infringement offences

- (1) An offence against a provision of the Act that is specified in column 1 is an infringement offence.
- (2) The infringement fee for an infringement offence referred to in subclause (1) is the fee prescribed for that offence in column 3.
- (3) In this regulation, **column** means a column of the table in Part 1 of Schedule 2.

*Adopted joint food standards: preliminary matters*

**147 Definition of standard**

In this Part and Schedule 2, **standard** means a standard of the Australia New Zealand Food Standards Code.

**148 Exceptions, etc, in Australia New Zealand Food Standards Code apply to infringement offences**

In determining compliance with a standard, nothing in this Part or Schedule 2 prevents a person from relying on any exception, exemption, proviso, or similar provision applying under the Australia New Zealand Food Standards Code.

*Adopted joint food standards: information requirements*

**149 Information requirements for food that is required to bear label**

- (1) This regulation applies to a person who sells food in a package in the circumstances described in standard 1.2.1—4 (the retail sale of food or the sale of food as suitable for retail sale).
- (2) The person commits an infringement offence if—
  - (a) the person fails to comply with standard 1.2.1—6(1) (food must bear a label with certain information); and
  - (b) the failure relates to—
    - (i) the information referred to in a standard specified in column 1; and
    - (ii) a further standard specified in column 2 (if any); and
    - (iii) either—
      - (A) the food specified in column 3, if a food is specified in that column; or
      - (B) any food to which the standards specified in columns 1 and 2 apply, if no food is specified in column 3.
- (3) The infringement fee for an infringement offence referred to in subclause (2) is the fee prescribed for that offence in column 5.
- (4) In this regulation, **column** means a column of the table in Part 2 of Schedule 2.

**150 Information requirements for food that is not required to bear label**

- (1) This regulation applies to a person who, in the circumstances described in standard 1.2.1—4 (the retail sale of food or the sale of food as suitable for retail sale), sells food that is not required to bear a label by standard 1.2.1—6.
- (2) The person commits an infringement offence if—
  - (a) the person fails to comply with standard 1.2.1—9(2), (5), or (6) (information requirements for food that is not required to bear a label); and

- (b) the failure relates to—
  - (i) the information referred to in a standard specified in column 1; and
  - (ii) a further standard specified in column 2 (if any); and
  - (iii) either—
    - (A) the food specified in column 3, if a food is specified in that column; or
    - (B) any food to which the standards specified in columns 1 and 2 apply, if no food is specified in column 3.
- (3) The infringement fee for an infringement offence referred to in subclause (2) is the fee prescribed for that offence in column 5.
- (4) In this regulation, **column** means a column of the table in Part 3 of Schedule 2.

*Adopted joint food standards: prohibition on defacing labels and language requirement*

**151 Prohibition on defacing labels**

- (1) A person who sells packaged food, or who deals with packaged food before its sale, commits an infringement offence if the person defaces the label on the package in breach of standard 1.2.1—22.
- (2) The infringement fee for the infringement offence referred to in subclause (1) is \$650.

**152 Food required to bear label: labels must be in English**

- (1) A person commits an infringement offence if—
  - (a) the person sells food that is required to bear a label by standard 1.2.1—6; and
  - (b) the label fails to comply with the requirement in standard 1.2.1—24(1) (words, statements, expressions, and designs that are required by the Australia New Zealand Food Standards Code to be contained, written, or set out on a label must be in English).
- (2) The infringement fee for the infringement offence referred to in subclause (1) is \$450.

*Infringement notices and reminder notices*

**153 Infringement notices and reminder notices**

- (1) An infringement notice for an infringement offence must be in form 1 of Schedule 3.
- (2) A reminder notice for an infringement offence must be in form 2 of Schedule 3.



## Part 8

### Various food standards and related matters

Part 8: inserted, on 1 July 2017, by regulation 16 of the Food Amendment Regulations 2017 (LI 2017/99).

#### 154 Application of this Part

This Part applies to any person who trades in food.

Regulation 154: inserted, on 1 July 2017, by regulation 16 of the Food Amendment Regulations 2017 (LI 2017/99).

#### 155 Standards relating to labelling of imported wine

- (1) The name and description of the wine shown on a label of imported wine—
  - (a) must not include any reference to a single variety of grape unless the wine has been manufactured from not less than 75% by volume of juice derived from that variety of grape; and
  - (b) must not include a reference to 2 or more varieties of grape unless—
    - (i) the wine has been manufactured from not less than 75% by volume of juice derived from those varieties of grape; and
    - (ii) the names of the varieties of grape are listed on the label in descending order of proportion.
- (2) In this regulation, **wine** means a product of the complete or partial fermentation of fresh grapes, or a mixture of that product and products derived solely from grapes.

Regulation 155: inserted, on 1 July 2017, by regulation 16 of the Food Amendment Regulations 2017 (LI 2017/99).

#### 156 Standards relating to water

- (1) This regulation applies to water that—
  - (a) may be added to food; and
  - (b) is supplied by a drinking-water supplier.
- (2) The water—
  - (a) must be potable; and
  - (b) may include fluoride to a level permitted under any drinking-water standard.
- (3) In this regulation, **drinking-water standard**, **drinking-water supplier**, and **potable** have the meanings given to them by section 69G of the Health Act 1956.

Regulation 156: inserted, on 1 July 2017, by regulation 16 of the Food Amendment Regulations 2017 (LI 2017/99).

**157 Exemption relating to hemp seed oil***[Revoked]*

Regulation 157: revoked, on 12 November 2018, by regulation 4 of the Food (Hemp Seeds and Hemp Seed Food Products) Amendment Regulations 2018 (LI 2018/218).

**Part 9****Declarations relating to food**

Part 9: inserted, on 12 November 2018, by regulation 5 of the Food (Hemp Seeds and Hemp Seed Food Products) Amendment Regulations 2018 (LI 2018/218).

**158 Outline**

- (1) This Part declares certain things to be food under sections 9 and 393 of the Act.
- (2) This regulation is intended only as a guide to the general scheme and effect of this Part.

Regulation 158: inserted, on 12 November 2018, by regulation 5 of the Food (Hemp Seeds and Hemp Seed Food Products) Amendment Regulations 2018 (LI 2018/218).

**159 Hemp seeds and hemp seed food products declared food**

- (1) Hemp seeds and hemp seed food products are declared to be food for the purposes of the Act.
- (2) In this regulation,—

**hemp seed food products** means any of the following products, provided that any cannabinoids in the product are those that were naturally present in or on the seeds from which the product was extracted or derived:

- (a) oil that—
  - (i) is extracted from seeds of low THC *Cannabis sativa*; and
  - (ii) contains not more than 10 mg/kg of total THC:
- (b) a beverage that—
  - (i) is derived from seeds of low THC *Cannabis sativa*; and
  - (ii) contains not more than 0.2 mg/kg of total THC:
- (c) any product (that is not oil or a beverage) that—
  - (i) is extracted or derived from seeds of low THC *Cannabis sativa*; and
  - (ii) contains not more than 5 mg/kg of total THC

**hemp seeds** means *Cannabis sativa* seeds that—

- (a) are seeds of low THC *Cannabis sativa*; and
- (b) contain not more than 5 mg/kg of total THC; and
- (c) if the seeds are for retail sale, are non-viable and hulled; and

(d) have only naturally present cannabinoids in or on them

**hulled**, in relation to seeds of low THC *Cannabis sativa*, means seeds from which the outer coat or hull of seeds has been removed

**low THC *Cannabis sativa*** means *Cannabis sativa*, the leaves and flowering heads of which do not contain more than 1% delta 9-tetrahydrocannabinol

**non-viable** means not able to germinate

**seeds** includes a part of a seed

**seeds of low THC *Cannabis sativa*** include, for the purposes of the definition of **hemp seed food products** only, viable and unhulled seeds

**total THC** means the total amount of delta 9-tetrahydrocannabinol and delta 9-tetrahydrocannabinolic acid.

Regulation 159: inserted, on 12 November 2018, by regulation 5 of the Food (Hemp Seeds and Hemp Seed Food Products) Amendment Regulations 2018 (LI 2018/218).

## Schedule 1

### Transitional, savings, and related provisions

r 4

#### Part 1

#### Transitional provisions relating to commencement of Food Act 2014

##### *Preliminary matters*

#### 1 Outline

- (1) The majority of the Act's provisions come into force on 1 March 2016. This Part specifies that date as the relevant appointed date for all purposes of sub-part 7 of Part 5 of the Act, including—
  - (a) the start of the Act's introductory period (*see* section 415 of the Act); and
  - (b) the start of the authorised transition period for every food sector (*see* section 416 of the Act).
- (2) During the Act's introductory period, the provisions of the former food regime (as defined in section 414 of the Act) continue in force. By the end of that period, every food business must be operating under the risk-based measure that applies under the Act (if any).
- (3) An authorised transition period is set for each food sector. An authorised transition period is the period during which existing businesses within each sector must transition to operating under the applicable risk-based measure. The end date of the authorised transition period for each food sector is specified in clause 6.
- (4) In order to facilitate the transition of existing businesses to the new regime, this Part specifies the date by which the operator of an existing business must—
  - (a) apply to register a food control plan; or
  - (b) apply to register an existing business that is subject to a national programme.
- (5) This Part appoints 1 March 2016 as the date on which all remaining provisions of the Food Act 1981 are repealed (*see* sections 2(1) and 420(2) of the Act and clause 7).
- (6) This clause is intended only as a guide to the general scheme and effect of this Part.

#### 2 Food sectors in this Part

- (1) For the purposes of this Part, food businesses belong to the food sectors in which they are grouped in Schedules 1 and 2 of the Act, except that—

- (a) food businesses that operate under a deemed food control plan belong to a food sector called the **deemed plan sector**; and
  - (b) on-licence food service businesses belong to a food sector called the **on-licence food service sector**.
- (2) Any food business that operates under a deemed food control plan and is an on-licence food service business belongs to the deemed plan sector.
- (3) In this clause, **on-licence food service business** means a food business that—
- (a) belongs to the food service sector described in Part 3 of Schedule 1 of the Act; and
  - (b) has an on-licence under the Sale and Supply of Alcohol Act 2012.

### *Dates*

#### **3 Relevant appointed date for all purposes**

The relevant appointed date for all purposes of subpart 7 of Part 5 of the Act is 1 March 2016, including for the start of—

- (a) the Act's introductory period; and
- (b) the authorised transition period for every food sector.

#### **4 End dates of authorised transition periods**

The end date of the authorised transition period for a food sector is the date specified at the top of the column in which the sector is listed in clause 6.

#### **5 Due dates for registration applications**

- (1) This clause specifies a step that must be taken to ensure that existing businesses are subject to the applicable risk-based measure by the end date of the authorised transition period.
- (2) The step is that the operator of an existing business must apply by the date specified in subclause (3)—
  - (a) to register a food control plan, in the case of an existing business that is required to operate under a food control plan or that has chosen to operate under a food control plan; or
  - (b) to register an existing business, in the case of an existing business that is subject to a national programme.
- (3) The operator must apply by the end of—
  - (a) 31 March 2017, if the business belongs to a food sector listed in the first column of clause 6; or
  - (b) 31 March 2018, if the business belongs to a food sector listed in the second column of clause 6; or
  - (c) 30 November 2018, if the business belongs to a food sector listed in the third column of clause 6.

- (4) Despite subclause (3), the chief executive may, at his or her discretion, determine a different date by which operators in a food sector or an operator of an existing business must apply if the chief executive is satisfied that the different date is justified, having regard to the circumstances of the food sector or the existing business.
- (5) A date determined under subclause (4) must end before the date on which the relevant authorised transition period ends.

## 6 Table of end dates referred to in clause 4

The following table sets out the end dates of the authorised transition periods referred to in clause 4:

30 June 2017	30 June 2018	28 February 2019
Manufacturers of food for vulnerable populations	Manufacturers of commercially sterilised food products	Manufacturers of vegetable proteins or other protein products
Manufacturers of fresh ready-to-eat salads	Manufacturers of meat, poultry, or fish products	Processors of grain
Manufacturers of non-shelf-stable sauces, spreads, dips, soups, broths, gravies, or dressings	Manufacturers of dairy products	Manufacturers of oils or fats for human consumption
Food service provided to pre-school children (including children under 5 years of age) in a centre-based service setting	Manufacturers of processed egg products	Manufacturers of dry mix products
Processors of nuts and seeds	Manufacturers of meals and prepared foods (not otherwise covered in Schedule 1 of the Act)	Brewers, distillers, and manufacturers of vinegar, alcoholic beverages, or malt extract
On-licence food service sector	Wholesale bakeries	Manufacturers of shelf-stable grain-based products
	Food retail sector where food businesses prepare or manufacture and sell food	Manufacturers of crisps, popcorn, pretzels, or similar snack products
	Processors of herbs or spices	Manufacturers of dried or dehydrated fruit or vegetables
	Retailers that handle food (but do not prepare or manufacture food)	Manufacturers of water-based products including ice, iced confectionery, and iced desserts
	Manufacturers of food additives, processing aids, vitamins, minerals, or other nutrients intended to be added to food	Manufacturers of shelf-stable condiments (including sauces, spreads, and preserves)
	Manufacturers of non-alcoholic beverages	Manufacturers of frozen fruit or vegetables
	Retailers of manufacturer-packaged chilled or frozen	Retailers of hot beverages and shelf-stable

**30 June 2017**

**30 June 2018**

food (excluding ice cream, iced confectionery, and iced desserts)

Manufacturers of confectionery

Bakeries that prepare or manufacture bread or bread products only

Food service sector

**28 February 2019**

manufacturer-packaged foods only

Extractors and packers of honey

Manufacturers of sugar or related products

Transporters or distributors of food products

Producers of horticultural food and horticultural packing operations (packhouses)

Retailers of manufacturer-packaged ice cream, iced confectionery, and iced desserts

Deemed plan sector

*Repeal of remaining provisions of Food Act 1981*

**7 Date appointed for commencing repeal of remaining provisions of Food Act 1981**

This clause appoints 1 March 2016 as the date for the purpose of commencing the repeals effected by section 420(2) of the Act (which repeals the provisions of the Food Act 1981 other than those already repealed by section 420(1) of the Act).

## Schedule 2

### Infringement offences and fees

rr 145–150

#### Part 1

#### Offences in Act stated to be infringement offences

Column 1 Provisions of Act	Column 2 Description of offence	Column 3 Fee (\$)
ss 108, 234(1)(c)	Importing food for the purpose of sale without either being a registered importer or importing the food through an agent who is a registered importer (the importation of food in a quantity that is more than that which a reasonable person would consider to be reasonably required for the purpose of personal consumption is treated as an importation of the food for the purpose of sale, unless the contrary is proved)	450
ss 48, 240(2)	Failing to register a food control plan or to ensure that a food control plan is registered with the appropriate authority	450
ss 79, 240(2)	Failing to ensure that a food business that is subject to a national programme is registered with the appropriate authority	450



**Part 2**  
**Information requirements for food that is required to bear label**

Column 1 Failing to bear label with information referred to in this standard	Column 2 In accordance with this further standard	Column 3 In relation to this food	Column 4 Description of offence	Column 5 Fee (\$)
S1.2.1—8(1)(a)	S1.2.2—2(1)(a)	Honey	Selling honey without a label that includes the prescribed name that applies under S2.8.2—4 (honey)	300
S1.2.1—8(1)(a)	S1.2.2—2(1)(a)	Fermented comminuted processed meat	Selling fermented comminuted processed meat without a label that includes the prescribed name that applies under S2.2.1—9(1)	300
S1.2.1—8(1)(a)	S1.2.2—2(1)(a)	Fermented comminuted manufactured meat	Selling fermented comminuted manufactured meat without a label that includes the prescribed name that applies under S2.2.1—10(1)	300
S1.2.1—8(1)(a)	S1.2.2—2(1)(a)	Formulated meal replacement	Selling formulated meal replacement without a label that includes the prescribed name that applies under S2.9.3—4(4) (formulated meal replacement)	300
S1.2.1—8(1)(a)	S1.2.2—2(1)(a)	Formulated supplementary food	Selling formulated supplementary food without a label that includes the prescribed name that applies under S2.9.3—6(5) (formulated supplementary food)	300
S1.2.1—8(1)(a)	S1.2.2—2(1)(a)	Formulated supplementary food for young children	Selling formulated supplementary food for young children without a label that includes the prescribed name that applies under S2.9.3—8(5) (formulated supplementary food for young children)	300
S1.2.1—8(1)(b)			Selling food without a label that includes the lot identification	450
S1.2.1—8(1)(c)			Selling food without a label that includes the name and address of the supplier	450
S1.2.1—8(1)(d)	S1.2.3—2(1)		Selling food without a label that includes the mandatory advisory statement required by the standard specified in column 2	450

Column 1	Column 2	Column 3	Column 4	Column 5
Failing to bear label with information referred to in this standard	In accordance with this further standard	In relation to this food	Description of offence	Fee (\$)
S1.2.1—8(1)(d)	S1.2.3—2(2)		Selling food without a label that includes the mandatory advisory statement required by the standard specified in column 2	450
S1.2.1—8(1)(e)	S1.2.4—3		Selling food without a label that includes a list of all ingredients	450
S1.2.1—8(1)(e)	S1.2.4—4(a)		Selling food that contains offal without a label that includes a statement that identifies the presence of offal in accordance with S2.2.1—6	300
S1.2.1—8(1)(f)	S1.2.5—5(1) (in relation to S1.2.5—5(2))		Selling food with a label that includes a best-before date, a use-by date, a baked-for date, or a baked-on date that is not expressed in accordance with S1.2.5—5(2)	450
S1.2.1—8(1)(f)	S1.2.5—5(1) (in relation to S1.2.5—5(3))		Selling food with a label that includes a best-before date or a use-by date that is not expressed in accordance with S1.2.5—5(3)	300
S1.2.1—8(1)(f)	S1.2.5—5(1) (in relation to S1.2.5—5(4))		Selling food with a label that includes a best-before date or a use-by date that is not expressed in accordance with S1.2.5—5(4)	450
S1.2.1—8(1)(f)	S1.2.5—5(1) (in relation to S1.2.5—5(5))		Selling food with a label that includes date marking information that is not expressed in accordance with S1.2.5—5(5)	450
S1.2.1—8(1)(g)	S1.2.6—2(a)		Selling food without a label that includes a statement of the specific storage conditions required to ensure that the food will keep until the use-by date or the best-before date	450
S1.2.1—8(1)(i)	S1.2.8—5		Selling food without a label that includes a nutrition information panel	300
S1.2.1—8(1)(i)	S1.2.8—6(1)(a)		Selling food without a label that includes, in the nutrition information panel, the number of servings in the package, expressed in accordance with the standard specified in column 2	300

Column 1	Column 2	Column 3	Column 4	Column 5
<b>Failing to bear label with information referred to in this standard</b>	<b>In accordance with this further standard</b>	<b>In relation to this food</b>	<b>Description of offence</b>	<b>Fee (\$)</b>
S1.2.1—8(1)(i)	S1.2.8—6(1)(b)		Selling food without a label that includes, in the nutrition information panel, the average quantity of the food in a serving, expressed in accordance with the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—6(1)(c)		Selling food without a label that includes, in the nutrition information panel, the unit quantity of the food	300
S1.2.1—8(1)(i)	S1.2.8—6(1)(d)(i)		Selling food without a label that includes, in the nutrition information panel, the information for a serving and unit quantity of the food required by the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—6(1)(d)(ii)		Selling food without a label that includes, in the nutrition information panel, the information for a serving and unit quantity of the food required by the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—6(1)(d)(iii)		Selling food without a label that includes, in the nutrition information panel, the information for a serving and unit quantity of the food required by the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—6(1)(d)(iv)		Selling food without a label that includes, in the nutrition information panel, the information for a serving and unit quantity of the food required by the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—6(1)(e) (in relation to S2.10.3—5(1)(a) and (b))		Selling chewing gum without a label that includes, in the nutrition information panel, the information required by S2.10.3—5(1)(a) and (b)	300
S1.2.1—8(1)(i)	S1.2.8—6(1)(e) (in relation to S2.10.3—5(1)(c))		Selling chewing gum without a label that includes, in the nutrition information panel, the information required by S2.10.3—5(1)(c)	300

Column 1	Column 2	Column 3	Column 4	Column 5
<b>Failing to bear label with information referred to in this standard</b>	<b>In accordance with this further standard</b>	<b>In relation to this food</b>	<b>Description of offence</b>	<b>Fee (\$)</b>
S1.2.1—8(1)(i)	S1.2.8—6(2)		Selling food without a label that includes a nutrition information panel set out in the format required by the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—6(3)		Selling food without a label that includes, in the nutrition information panel, the declarations of fatty acids required by the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—6(5)		Selling food without a label that includes, in the nutrition information panel, the declaration relating to dietary fibre required by the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—6(6)		Selling food with a label that includes a nutrition information panel in which the declaration required by S1.2.8—6(5) is not expressed in accordance with the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—7(1)		Selling food with a label that includes, in the nutrition information panel, a quantity that is not expressed in accordance with the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—7(3)		Selling food with a label that includes, in the nutrition information panel, an average energy content or a quantity that is not expressed in accordance with the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—8(3)(a)		Selling food without a label that includes, in the nutrition information panel, the information relating to the percentage of daily intake required by the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—8(3)(b)		Selling food without a label that includes, in the nutrition information panel, the information relating to the percentage of daily intake required by the standard specified in column 2	300

Column 1	Column 2	Column 3	Column 4	Column 5
Failing to bear label with information referred to in this standard	In accordance with this further standard	In relation to this food	Description of offence	Fee (\$)
S1.2.1—8(1)(i)	S1.2.8—9		Selling food without a label that includes, in the nutrition information panel, the information relating to the percentage of the recommended dietary intake required by the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—11		Selling food with labelling that indicates that the food should be reconstituted with water before consumption without a nutrition information panel that complies with the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—12		Selling food with labelling that contains directions indicating that the food should be drained before consumption without a nutrition information panel that complies with the standard specified in column 2	300
S1.2.1—8(1)(i)	S1.2.8—14(1)(a)		Selling food for sale in a small package without a label that includes the nutrition information required by the standard specified in column 2, expressed in accordance with that standard	300
S1.2.1—8(1)(i)	S1.2.8—14(1)(b)		Selling food for sale in a small package without a label that includes the nutrition information required by the standard specified in column 2, expressed in accordance with that standard	300
S1.2.1—8(1)(n)	S2.2.1—8		Selling raw meat joined or formed in the semblance of a cut of meat without a label that includes the information required by the standard specified in column 2	300
S1.2.1—8(1)(o)	S2.2.1—9(2)		Selling fermented comminuted processed meat with a label that includes a trade name without also including the information required by the standard specified in column 2	300
S1.2.1—8(1)(o)	S2.2.1—9(3)		Selling fermented comminuted processed meat with a label that includes a reference to a heating process in breach of the standard specified in column 2	300

Column 1	Column 2	Column 3	Column 4	Column 5
Failing to bear label with information referred to in this standard	In accordance with this further standard	In relation to this food	Description of offence	Fee (\$)
S1.2.1—8(1)(o)	S2.2.1—10(2)		Selling fermented comminuted manufactured meat with a label that includes a trade name without also including the information required by the standard specified in column 2	300
S1.2.1—8(1)(o)	S2.2.1—10(3)		Selling fermented comminuted manufactured meat with a label that includes a reference to a heating process in breach of the standard specified in column 2	300
S1.2.1—8(1)(p)	S2.2.3—3		Selling raw fish joined or formed in the semblance of a cut or fillet of fish without a label that includes the information required by the standard specified in column 2	300
S1.2.1—8(1)(r)			Selling a juice blend without a label that includes the name and percentage by volume of each juice in the blend	450
S1.2.1—8(1)(s)	S2.6.2—5(1)		Selling water that contains added fluoride without a label that includes a statement to the effect that the water contains added fluoride	300
S1.2.1—8(1)(t)(i)	S2.6.2—11		Selling an electrolyte drink or electrolyte drink base without a label that includes the declaration of the composition required by the standard specified in column 2	300
S1.2.1—8(1)(v)(i)	S2.6.4—5(1)(a)		Selling a formulated caffeinated beverage without a label that includes the declaration of average quantity required by the standard specified in column 2	300
S1.2.1—8(1)(v)(i)	S2.6.4—5(1)(b)		Selling a formulated caffeinated beverage without a label that includes the declaration of average quantities required by the standard specified in column 2	300
S1.2.1—8(1)(v)(ii)	S2.6.4—5(3)(a) and (b)		Selling a formulated caffeinated beverage without a label that includes the advisory statements required by the standard specified in column 2	300

Column 1	Column 2	Column 3	Column 4	Column 5
Failing to bear label with information referred to in this standard	In accordance with this further standard	In relation to this food	Description of offence	Fee (\$)
S1.2.1—8(1)(v)(ii)	S2.6.4—5(3)(c) and (4)		Selling a formulated caffeinated beverage without a label that includes the advisory statement required by the standard specified in column 2, expressed in accordance with that standard	300
S1.2.1—8(1)(w)(i)	S2.7.1—3(1), (2), and (3)		Selling food that contains alcohol without a label that includes a statement of the alcohol content as required by the standard specified in column 2	300
S1.2.1—8(1)(w)(ii)	S2.7.1—4		Selling food that contains alcohol without a label that includes a statement of the approximate number of standard drinks	300
S1.2.1—8(1)(y)(ii)	S2.9.2—7(3)		Selling food for infants without a label that includes the information relating to composition required by the standard specified in column 2	300
S1.2.1—8(1)(y)(ii)	S2.9.2—8(1)(a)		Selling food for infants without a label that includes the information relating to composition required by the standard specified in column 2	300
S1.2.1—8(1)(y)(ii)	S2.9.2—8(1)(b)		Selling food for infants without a label that includes the information relating to composition required by the standard specified in column 2	300
S1.2.1—8(1)(y)(ii)	S2.9.2—9(2)		Selling food for infants with a label that includes a recommendation that the food can be added to bottle feeds of an infant formula product	300
S1.2.1—8(1)(y)(ii)	S2.9.2—11(3)		Selling food for infants without a label that includes a nutrition information panel that is in the format required by the standard specified in column 2	300
S1.2.1—8(1)(y)(ii)	S2.9.2—12		Selling food for infants that is in a dehydrated or concentrated form without a label that includes the information required by the standard specified in column 2, expressed in accordance with that standard	300

Column 1	Column 2	Column 3	Column 4	Column 5
<b>Failing to bear label with information referred to in this standard</b>	<b>In accordance with this further standard</b>	<b>In relation to this food</b>	<b>Description of offence</b>	<b>Fee (\$)</b>
S1.2.1—8(1)(y)(ii)	S2.9.2—13		Selling food for infants without a label that includes storage instructions that cover the period after the package is opened	300
S1.2.1—8(1)(y)(iii)	S2.9.3—4(1)(a)		Selling formulated meal replacement without a label that includes, in the nutrition information panel, the declaration of average quantities required by the standard specified in column 2	300
S1.2.1—8(1)(y)(iii)	S2.9.3—4(1)(b)		Selling formulated meal replacement without a label that includes, in the nutrition information panel, the declaration of average quantities required by the standard specified in column 2	300
S1.2.1—8(1)(y)(iii)	S2.9.3—4(2)		Selling formulated meal replacement with a label that includes a claim as to the presence of a vitamin or mineral in breach of the standard specified in column 2	300
S1.2.1—8(1)(y)(iii)	S2.9.3—4(5)		Selling formulated meal replacement without a label that includes a statement to the effect that the product must not be used as a total diet replacement	300
S1.2.1—8(1)(y)(iii)	S2.9.3—6(1)		Selling formulated supplementary foods without a label that includes, in the nutrition information panel, the declaration of average quantities required by the standard specified in column 2	300
S1.2.1—8(1)(y)(iii)	S2.9.3—6(2)		Selling formulated supplementary food with a label that includes a claim as to the presence of a vitamin or mineral in breach of the standard specified in column 2	300
S1.2.1—8(1)(y)(iii)	S2.9.3—6(4)		Selling formulated supplementary food without a label that includes the description of the role of the food required by the standard specified in column 2	300



Column 1	Column 2	Column 3	Column 4	Column 5
Failing to bear label with information referred to in this standard	In accordance with this further standard	In relation to this food	Description of offence	Fee (\$)
S1.2.1—8(1)(y)(iii)	S2.9.3—8(1)		Selling formulated supplementary food for young children without a label that includes, in the nutrition information panel, the declaration of average quantities required by the standard specified in column 2	300
S1.2.1—8(1)(y)(iii)	S2.9.3—8(2)		Selling formulated supplementary food for young children with a label that includes a claim as to the presence of a vitamin or mineral in breach of the standard specified in column 2	300
S1.2.1—8(1)(z)	S2.10.2—8		Selling a reduced sodium salt mixture or salt substitute without a label that includes a declaration of the sodium and potassium content, expressed per 100 g	300

**Part 3**  
**Information requirements for food that is not required to bear label**

Column 1	Column 2	Column 3	Column 4	Column 5
Failing to bear label with information required by this standard	In accordance with this further standard	In relation to this food	Description of offence	Fee (\$)
S1.2.1—9(3)(e)		Fermented comminuted processed meat	Selling fermented comminuted processed meat without including in labelling that accompanies or is displayed in connection with the display of the meat the prescribed name that applies under S2.2.1—9(1)	300
S1.2.1—9(3)(e)		Fermented comminuted manufactured meat	Selling fermented comminuted manufactured meat without including in labelling that accompanies or is displayed in connection with the display of the meat the prescribed name that applies under S2.2.1—10(1)	300
S1.2.1—9(5)(a)	S2.2.1—6		Selling offal without declaring to the purchaser a statement indicating the presence of offal in accordance with the standard specified in column 2	300
S1.2.1—9(5)(b)	S2.2.1—8		Selling raw meat joined or formed in the semblance of a cut of meat without providing to the purchaser the information required by the standard specified in column 2	300
S1.2.1—9(5)(c)	S2.2.3—3		Selling raw fish joined or formed in the semblance of a cut or fillet of fish without providing to the purchaser the information required by the standard specified in column 2	300
S1.2.1—9(7)(a)	S1.2.2—2(1)(a)	Honey	Selling honey without including in labelling displayed in connection with the display of the honey or provided to the purchaser on request a statement of the prescribed name that applies under 2.8.2—4 (honey)	300
S1.2.1—9(7)(g)	S2.6.4—5(3)(a) and (b)		Selling a formulated caffeinated beverage without including in labelling displayed in connection with the display of the beverage or provided to the purchaser on request the advisory statements required by the standard specified in column 2	300

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<p><b>Failing to bear label with information required by this standard</b> S 1.2.1—9(7)(g)</p>	<p><b>In accordance with this further standard</b> S2.6.4—5(3)(c) and (4)</p>	<p><b>In relation to this food</b></p>	<p><b>Description of offence</b> Selling a formulated caffeinated beverage without including in labelling displayed in connection with the display of the beverage or provided to the purchaser on request the advisory statement required by the standard specified in column 2, expressed in accordance with that standard</p>	<p><b>Fee (\$)</b> 300</p>

## Schedule 3

### Infringement notices and reminder notices

r 153

#### Form 1

#### Infringement notice

*Section 218, Food Act 2014*

#### **(Front of notice)**

#### **Ministry for Primary Industries or territorial authority\***

\*Select one and use consistently throughout the form.

Notice number:

#### **Infringement notice served on**

Full name or company name (*eg, operator in charge, importer*):

Date of birth:\*

Trading name (if different to company name):

Physical address:

Business address (if different to physical address):

Electronic address:

\*Omit if the notice is served on a company.

#### **Alleged infringement offence details**

Date issued:

Fee payable: \$

This is an infringement offence against [*regulation number*] of the Food Regulations 2015.

Charge text: [*narrative of events*]

#### **Issuing details**

Issuing officer's warrant number:

Method infringement notice served by:

#### **Procedures for payment of infringement fee**

The infringement fee is payable within 28 days after [*specify date*].

**Important:** Please read the information about infringement offences printed on the back of this notice.

Infringement fees may be paid to [*the Ministry for Primary Industries or the relevant territorial authority*] by any of the following methods [*specify payment options*].

[*Deposit slip is printed here.*]

**(Back of notice)**

**Information about infringement offences**

**Note:** If, after reading this information, there is something in it that you do not understand, you should consult a lawyer immediately.

**1 Payment of infringement fee**

If you pay the infringement fee within 28 days after the service of this notice, no further action in respect of the infringement offence will be taken. Payment should be made to [*the Ministry for Primary Industries or the relevant territorial authority*] in accordance with the instructions on the front page of this notice.

**2 Further action**

If you wish to raise any matter relating to the circumstances of the alleged offence, you should do so by writing to [*the Ministry for Primary Industries or the relevant territorial authority*] at the address shown in the note at the end of this information within 28 days after the service of this notice.

**3 Defences**

- (1) You have a defence against any proceedings for the offence alleged in this notice if you can prove that the infringement fee has been paid to [*the Ministry for Primary Industries or the relevant territorial authority*] by one of the payment methods specified on the front of this notice within 28 days after you are served with a reminder notice in respect of the offence.

**Note:** Late payment, or payment by any other method, will not be a defence.

- (2) You may have a further defence against any proceedings for the offence alleged in this notice under section 251, 253, or 256 of the Food Act 2014. If you believe you have a defence, you should obtain a copy of that Act.

**4 Right to request hearing**

- (1) You have the right to request a hearing. A request for a hearing must be made in writing, be signed by you, and be delivered to [*the Ministry for Primary Industries or the relevant territorial authority*] at the address shown in the note at the end of this information within 28 days after you have been served with this notice. If you request a hearing, you may deny liability for the offence or admit liability and make submissions as to penalty or any other matter.
- (2) If you deny liability for the offence, [*the Ministry for Primary Industries or the relevant territorial authority*] will serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court (unless [*the*

*Ministry for Primary Industries or the relevant territorial authority*] decides not to commence court proceedings).

**Note:** If the court finds you guilty of the offence, costs will be imposed in addition to any fine.

- (3) If you admit liability for the offence but want the court to consider your submissions, you should, in your request for a hearing,—
- (a) admit the offence; and
  - (b) set out the written submissions you wish to be considered by the court. [*The Ministry for Primary Industries or the relevant territorial authority*] will then file your letter with the court (unless [*the Ministry for Primary Industries or the relevant territorial authority*] decides not to commence court proceedings). There will be no oral hearing before the court if you follow this course of action.

**Note:** Any costs will be imposed in addition to any fine.

## 5 Right to ask for cancellation

You have the right to ask, with your reasons, for cancellation of the notice on the basis of the interests of justice.

**Note:** An infringement notice cannot be cancelled if the particulars of a reminder notice or notice of hearing relating to the infringement notice have been filed in a District Court.

## 6 Consequences of taking no action

If you do not pay the infringement fee and do not request a hearing within 28 days after the service of this notice, you will be served with a reminder notice (unless [*the Ministry for Primary Industries or the relevant territorial authority*] decides otherwise).

If you do not pay the infringement fee and do not request a hearing in respect of the alleged infringement offence within 28 days after the service of the reminder notice, you will become liable to pay costs in addition to the infringement fee (unless [*the Ministry for Primary Industries or the relevant territorial authority*] decides not to commence court proceedings against you).

## 7 Questions and other correspondence

In any correspondence, please include—

- (a) the date of the infringement notice; and
- (b) the infringement notice number; and
- (c) the course of action you are taking in respect of the alleged offence; and
- (d) your full address for replies.

**Note:** All queries and all correspondence regarding this notice must be directed to the [*specify full address*]. Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Form 2  
Reminder notice

*Section 21(2), Summary Proceedings Act 1957*

***(Front of notice)***

**Ministry for Primary Industries or Territorial authority\***

\*Select one and use consistently throughout the form.

Notice number:

**Reminder notice served on**

Full name or company name (*eg, operator in charge, importer*):

Date of birth:\*

Trading name (if different to company name):

Physical address:

Business address (if different to physical address):

Electronic address:

\*Omit if the notice is served on a company.

**Alleged infringement offence details**

Date issued:

Fee payable: \$

This is an infringement offence against [*regulation number*] of the Food Regulations 2015.

Charge text: [*narrative of events*]

**Service details (to be provided for filing in court)**

Infringement notice served by [*method of service*] on [*date of service*].

Reminder notice served by [*method of service*] on [*date of service*].

The last day for payment is [*specify date*], being 28 days from the date of service recorded on this notice.

**Procedures for payment of infringement fee**

**Important:** Please read the information about infringement offences printed on the back of this notice.

Infringement fees may be paid to [*the Ministry for Primary Industries or the relevant territorial authority*] by any of the following methods [*specify payment options*].

[*Deposit slip is printed here.*]

*(Back of notice)*

**Information about infringement offences**

**Note:** If, after reading this information, there is something in it that you do not understand, you should consult a lawyer immediately.

**1 Payment of infringement fee**

If you pay the infringement fee within 28 days after the service of this notice, no further action in respect of the infringement offence will be taken. Payment should be made to [*the Ministry for Primary Industries or the relevant territorial authority*] in accordance with the instructions on the front page of this notice.

**2 Further action**

If you wish to raise any matter relating to the circumstances of the alleged offence, you should do so by writing to [*the Ministry for Primary Industries or the relevant territorial authority*] at the address shown in the note at the end of this information within 28 days after the service of this notice.

**3 Defences**

- (1) You have a defence against any proceedings for the offence alleged in this notice if you can prove that the infringement fee has been paid to [*the Ministry for Primary Industries or the relevant territorial authority*] by one of the payment methods specified on the front of this notice within 28 days after you are served with this notice in respect of the offence.

**Note:** Late payment, or payment by any other method, will not be a defence.

- (2) You may have a further defence against any proceedings for the offence alleged in this notice under section 251, 253, or 256 of the Food Act 2014. If you believe you have a defence, you should obtain a copy of that Act.

**4 Right to request hearing**

- (1) You have the right to request a hearing. A request for a hearing must be made in writing, be signed by you, and be delivered to [*the Ministry for Primary Industries or the relevant territorial authority*] at the address shown in the note at the end of this information within 28 days after you have been served with this notice. If you request a hearing, you may deny liability for the offence or admit liability and make submissions as to penalty or any other matter.
- (2) If you deny liability for the offence, [*the Ministry for Primary Industries or the relevant territorial authority*] will serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court (unless [*the Ministry for Primary Industries or the relevant territorial authority*] decides not to commence court proceedings).

**Note:** If the court finds you guilty of the offence, costs will be imposed in addition to any fine.



- (3) If you admit liability for the offence but want the court to consider your submissions, you should, in your request for a hearing,—
- (a) admit the offence; and
  - (b) set out the written submissions you wish to be considered by the court. [*The Ministry for Primary Industries or the relevant territorial authority*] will then file your letter with the court (unless [*the Ministry for Primary Industries or the relevant territorial authority*] decides not to commence court proceedings). There will be no oral hearing before the court if you follow this course of action.

**Note:** Any costs will be imposed in addition to any fine.

## 5 Right to ask for cancellation

You have the right to ask, with your reasons, for cancellation of the notice on the basis of the interests of justice.

**Note:** An infringement notice cannot be cancelled if the particulars of a reminder notice or notice of hearing relating to the infringement notice have been filed in a District Court.

## 6 Consequences of taking no action

If you do not pay the infringement fee and do not request a hearing in respect of the alleged infringement offence within 28 days after the service of the reminder notice, you will become liable to pay costs in addition to the infringement fee (unless [*the Ministry for Primary Industries or the relevant territorial authority*] decides not to commence court proceedings against you).

## 7 Questions and other correspondence

In any correspondence, please include—

- (a) the date of the infringement notice; and
- (b) the infringement notice number; and
- (c) the course of action you are taking in respect of the alleged offence; and
- (d) your full address for replies.

**Note:** All queries and all correspondence regarding this notice must be directed to the [*specify full address*]. Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Michael Webster,  
Clerk of the Executive Council.

## Reprints notes

### **1** *General*

This is a reprint of the Food Regulations 2015 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

### **2** *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3** *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4** *Amendments incorporated in this reprint*

Food (Hemp Seeds and Hemp Seed Food Products) Amendment Regulations 2018 (LI 2018/218)

Customs and Excise Act 2018 (2018 No 4): section 443(4)

Food Amendment Regulations 2017 (LI 2017/99)