

Food (Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 12 April 1995

(Brought in by Mrs Tehan and Mr Gude)

A BILL

to amend the **Food Act 1984** and for other purposes.

Food (Amendment) Act 1995

The Parliament of Victoria enacts as follows:

1. Purpose

The purpose of this Act is to make miscellaneous amendments to the **Food Act 1984**.

5 2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

N . 10082.
R print d t
No. 23/1994.
Subsequ ntly
am nd d by
No. 79/1994.

3. Principal Act

In this Act, the **Food Act 1984** is called the Principal Act.

4. Removal of references to National Association of Testing Authorities

- (1) Section 3 (7) of the Principal Act is **repealed**.
- (2) Section 31 (b) of the Principal Act is **repealed**.
- (3) Section 50 (5) of the Principal Act is **repealed**.

5. Definitions

In section 4 (1) of the Principal Act, in the definition of “Chief General Manager”, after “Health” **insert** “and Community Services”.

6. Offence to contravene section 18 of Principal Act

In section 18 of the Principal Act—

- (a) for “shall” **substitute** “must”;
- (b) at the foot of the section **insert**—
“Penalty: 50 penalty units.”.

7. Powers with respect to unclean food premises etc.

- (1) In section 19 (1) (b) of the Principal Act after “premises” **insert** “or in a food vehicle”.
- (2) In section 19 (1) (d) of the Principal Act—
 - (a) after “premises” **insert** “or in the food vehicle”;
 - (b) for “to prevent or minimise its adulteration” **substitute** “is not adulterated”.
- (3) In section 19 (2) of the Principal Act—
 - (a) after paragraph (b) **insert**—
“; or
 - (c) the food vehicle must not be kept or used for the preparation of food—”;

(b) in section 19 (2) of the Principal Act after “those premises” **insert** “or that vehicle”;

(c) for “to prevent or minimise its adulteration” **substitute** “is not adulterated”.

5 (4) In section 19 (6) of the Principal Act—

(a) after “at the premises” **insert** “or in the vehicle”;

(b) for “to prevent or minimise its adulteration” **substitute** “is not adulterated”.

8. *New Part IIIA inserted in Principal Act*

10 After Part III of the Principal Act **insert**—

“PART IIIA—CLEANLINESS OF FOOD HANDLERS ETC.

19A. *Duty for food handlers to be in a clean and sanitary condition*

15 The proprietor of any food premises, food
vehicle or food vending machine must
ensure that all persons employed or
engaged by the proprietor to handle
20 unpackaged food at those premises or that
vehicle or in connection with that
machine—

(a) keep themselves and their clothing in
a clean and sanitary condition at all
times; and

25 (b) take all reasonable care not to render
the unpackaged food unfit for human
consumption or adulterated while
engaged in handling it; and

30 (c) do not handle any unpackaged food
during any period in which the
proprietor knows, or in all the
particular circumstances ought
reasonably to have known, that the
person is suffering from a condition

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that is liable to render the food unfit for human consumption or adulterated.

Penalty: 50 penalty units.

19B. Powers with respect to unclean food handlers etc.

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(1) If an authorised officer is satisfied that there has been a contravention of section 19A in relation to a person employed or engaged to handle unpackaged food, he or she may by order in writing direct that specified steps be taken—

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(a) to ensure that that person or his or her clothing is put in a clean and sanitary condition; or

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(b) to alter or improve the method of handling of unpackaged food by that person; or

(c) to ensure that that person ceases to handle unpackaged food until diagnosed by a registered medical practitioner as not suffering from a condition that is liable to render unpackaged food unfit for human consumption or adulterated.

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(2) An order under this section takes effect when it is given to or served on the proprietor of the food premises, food vehicle or food vending machine.

(3) If the authorised officer is satisfied that an order made under this section with respect to a person has been complied with, he or she must—

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(a) forthwith revoke the order; and

(b) give written notice of the revocation of the order in the same manner in

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which the order was given or served under this section.

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- (4) Any person who is aggrieved by an order made by an authorised officer under this section may, within 21 days after the order is made, appeal to the Magistrates' Court.
- (5) On an appeal under sub-section (4) the court must—
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- (a) reconsider the decision of the authorised officer; and
- (b) hear any relevant evidence tendered whether by the person aggrieved or by the relevant authorised officer.
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- (6) The costs of, and incidental to, an appeal under sub-section (4) are in the discretion of the court.
- (7) A person must not contravene an order made by an authorised officer under this section.

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Penalty: For a first offence 25 penalty units, and for a second or subsequent offence 50 penalty units.”.

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9. *Registration outside municipal districts*

- (1) In section 20 (5) of the Principal Act for “premises that are” **substitute** “food premises or food vehicle being”.
- (2) In section 36 (1) and (2) of the Principal Act after “Crown” (where twice occurring) **insert** “or on land that is not part of a municipal district”.
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10. *Copy of certificate of analysis*

In section 33 of the Principal Act for “on payment of the prescribed fee” **substitute** “free of charge”.

11. Amendment of heading to Part VI

In the heading to Part VI of the Principal Act, for “, **FOOD VEHICLES AND FOOD VENDING MACHINES**” substitute “**AND FOOD VEHICLES**”.

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12. Evidence of identity of proprietor

In section 35A of the Principal Act, for sub-section (1) **substitute**—

“(1) The proprietor of any food premises or food vehicle must paint or affix prominently on the premises or vehicle, and keep painted or affixed, the name of the proprietor.

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Penalty: 10 penalty units.”.

13. Registration offence

For section 36 (3) of the Principal Act **substitute**—

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“(3) Subject to section 38, the proprietor of any food premises or any food vehicle that is not registered in accordance with this section is guilty of an offence.”.

14. Registration of food premises and food vehicles

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In section 40 of the Principal Act, after sub-section (1) **insert**—

“(1A) If the food premises are required to be registered with the council by or under Part XII or Part XIX of the **Health Act 1958**, the council may, subject to the requirements of that Act applicable to registration being complied with, incorporate the certificate of registration under this section in one document with any certificate of registration to be issued under that Act.”.

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15. Licences or permits under Liquor Control Act

- (1) Section 40 (3) of the Principal Act is **repealed**.
- (2) Section 50 (6) of the Principal Act is **repealed**.

16. **Register book**

- (1) In section 43 of the Principal Act, sub-section (2) is **repealed**.
- (2) In section 43 (5) of the Principal Act, for “to an authorized officer free of charge and to any other person on payment of such fee as is prescribed” **substitute** “free of charge to any person who requests it”.

17. **Protection against liability**

In section 56 of the Principal Act, for “Commisson” **substitute** “Chief General Manager”.

18. **Regulations**

In section 63 (1) (h) (vi) of the Principal Act, after “Manager,” **insert** “or any persons employed or engaged by that proprietor to handle unpackaged food at those premises or that vehicle,”.

19. **New section 63B inserted in Principal Act**

In Part XI of the Principal Act, after section 63A **insert—**

“63B. Limitation on power to make local laws

- (1) A council must not make a local law under the **Local Government Act 1989** for or with respect to any matter or thing for or with respect to which—
- (a) regulations made under this Act are in force; or
 - (b) regulations could be made under this Act; or
 - (c) a prescribed food standard has effect.
- (2) A local law (whether made before or after the commencement of the **Food (Amendment) Act 1995**) is of no effect to

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the extent that it makes provision for or with respect to any matter or thing referred to in sub-section (1).”.

20. *Repeal of spent provisions*

Part XII of the Principal Act is **repealed**.

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