

Reprint  
as at 1 July 2017



## Food (Safety) Regulations 2002 (SR 2002/396)

Food (Safety) Regulations 2002: revoked, on 1 July 2017, by regulation 17 of the Food Amendment Regulations 2017 (LI 2017/99).

Silvia Cartwright, Governor-General

### Order in Council

At Wellington this 9th day of December 2002

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 42 of the Food Act 1981, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

### Contents

	Page
1 Title	3
2 Commencement	3
3 Interpretation	3
4 Expiry	4
5 Application	4

---

#### 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.**

<b>Part 1</b>		
<b>General provisions relating to food safety</b>		
6	Misuse of food containers	4
7	Safety of articles	5
8	Identification of articles	5
9	Labels on bottles containing food	6
<i>Infected persons and food</i>		
10	Infected persons	6
11	Persons in contact with infected person	6
12	Powers of Medical Officer of Health and designated officer in respect of infected food	7
<i>Low-acid canned food</i>		
13	Manufacture of low-acid canned food must be supervised	8
14	Manufacture of low-acid canned food must comply with code	8
15	Powers of designated officer in respect of low-acid canned food	9
<i>Provisions relating to certain foods and articles</i>		
16	Sale of muttonbird	9
17	Brands for packages of muttonbird	10
18	Sale of shellfish <i>[Revoked]</i>	10
19	Contaminated shellfish <i>[Revoked]</i>	10
20	Wine	10
21	Importation of enamelware and ceramicware <i>[Revoked]</i>	11
<i>Enforcement</i>		
22	Appeals	11
23	Offences and penalties	11
<b>Part 2</b>		
<b>Specific permissions</b>		
24	Fluoridated water	12
25	Sale of artificial drinks <i>[Revoked]</i>	12
26	Sale of hemp seed oil as food	13
<b>Part 3</b>		
<b>Miscellaneous</b>		
27	Analyst's certificate and fees	13
28	Revocation	13
<b>Schedule 1</b>		
<b>Tests for enamelware and ceramicware articles</b>		
<i>[Revoked]</i>		
<b>Schedule 2</b>		
<b>Analyst's certificate under Food Act 1981</b>		
		14

## Regulations

### 1 Title

These regulations are the Food (Safety) Regulations 2002.

### 2 Commencement

These regulations come into force on 20 December 2002.

### 3 Interpretation

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

**Act** means the Food Act 1981

**alcohol** means ethanol

**article** means an appliance, container, or vessel

**canned food** means food that—

- (a) is processed and packaged in accordance with good manufacturing practice; and
- (b) is packed in clean containers that are hermetically sealed; and
- (c) is processed by heat to ensure preservation, whether before or after being sealed in a container

**container**, in relation to any food, means a package or other container in which the food is in, or is likely to come into direct contact with

**designated officer**—

- (a) means an officer within the meaning of the Act who is for the time being designated by the Director-General for the purposes of these regulations; and
- (b) includes the Director within the meaning of the Act

**Food Standards Code** means the code incorporated into New Zealand law by the New Zealand (Australia New Zealand Food Standards Code) Food Standards 2002 and issued by the Minister under section 11C of the Food Act 1981

**fruit wine** means the product of the alcoholic fermentation of the juice, or of the juice and other portions, of any fruit except grapes

**low-acid food** means—

- (a) any food, other than an alcoholic beverage, where any component has a pH value greater than 4.6 after heat processing, and a water activity greater than 0.85; but
- (b) does not include food in hermetically sealed containers that is required to be stored under refrigeration

**mead** means the product of the alcoholic fermentation of honey mixed with water or fruit juice or both, with or without the addition of spices

**muttonbird** means a member of the species *Puffinus griseus* (sooty shearwater), *Puffinus tenuirostris* (short-tailed shearwater), or *Pterodroma macropiera* (grey-faced petrel)

**off-licence** means premises described in section 36(1)(d)(i) or (ii) of the Sale of Liquor Act 1989 in respect of which an off-licence has been granted under that Act

**sparkling fruit wine** means fruit wine that is surcharged with carbon dioxide

**sparkling wine** means wine that is surcharged with carbon dioxide

**wine** means the product of the partial or complete alcoholic fermentation of any or all of the following:

- (a) grape juice:
  - (b) grape juice and other portions of grapes:
  - (c) the reconstituted product of concentrated grape juice and water.
- (2) Any term or expression that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

Regulation 3(1) **off-licence**: substituted, on 25 March 2004, by regulation 3 of the Food (Safety) Amendment Regulations 2004 (SR 2004/18).

Regulation 3(1) **shellfish**: revoked, on 1 June 2006, by regulation 61(a) of the Animal Products (Regulated Control Scheme—Bivalve Molluscan Shellfish) Regulations 2006 (SR 2006/38).

#### 4 Expiry

Regulations 24 and 26 expire on 30 October 2017.

Regulation 4: substituted, on 25 October 2007, by regulation 4 of the Food (Safety) Amendment Regulations 2007 (SR 2007/290).

Regulation 4: amended, on 25 October 2012, by regulation 4 of the Food (Safety) Amendment Regulations 2012 (SR 2012/281).

#### 5 Application

Nothing in these regulations applies in respect of any food that is a related product within the meaning of the Medicines Act 1981.

Compare: SR 1984/262 r 273

### Part 1

#### General provisions relating to food safety

#### 6 Misuse of food containers

No person may put, keep, or sell any disinfectant, antiseptic, or detergent, or a substance that could cause poisoning, in any container or package that—

- (a) bears any brand, picture, word, mark, or statement—
  - (i) indicating the presence in the container of any food; or

- (ii) that is likely to mislead any person into believing that the contents of the container are intended for the purposes of human consumption; or
- (b) is of a distinctive type in which articles of food have been commonly or are currently being sold, whether or not it bears any brand, picture, word, mark, or statement.

Compare: SR 1984/262 r 266

## **7 Safety of articles**

- (1) No person may sell an article—
  - (a) that is intended for use in the storage, preparation, cooking, presentation, or consumption of food; and
  - (b) that is either—
    - (i) capable of imparting lead, antimony, arsenic, cadmium, or any other toxic substance to any food stored, prepared, or cooked in it; or
    - (ii) not resistant to vinegar.
- (2) Despite subclause (1), no person may sell an article that is made of enamelware or ceramicware, and that is intended for use in the storage, preparation, cooking, presentation, or consumption of food, if the article fails to satisfy the test set out in Schedule 1.
- (3) An article is treated as not being intended for use in the storage, preparation, cooking, presentation, or consumption of food if—
  - (a) it is made or rendered unsuitable for the purpose by some artifice such as holes bored through the potential food contact surfaces; or
  - (b) a label, incapable of obliteration, is permanently affixed to the article's surfaces, stating clearly that the article is not for food use, together with a statement of the hazard associated with the article if it is used for food purposes.

Compare: SR 1984/262 r 267

## **8 Identification of articles**

- (1) No person may sell an article that is used, or is intended to be used, for the preparation or storage of food unless there is marked on, or attached to, the article—
  - (a) the trading name and business address of the manufacturer, or the owner of the rights of manufacture, or the seller of the article, or of the principal or the agent of any of them; or
  - (b) the trade mark, duly registered in New Zealand, of any of those persons.

- (2) Subclause (1) does not apply to an article that is used, or is intended to be used, only once.

Compare: SR 1984/262 r 268

## **9 Labels on bottles containing food**

- (1) No person may sell a food in a bottle that bears a label on its surface unless the label is of a size and is placed so that cleaning and inspection of the interior of the bottle are not hindered.
- (2) Subclause (1) does not apply to a bottle that is used, or is intended to be used, only once.

Compare: SR 1984/262 r 269

### *Infected persons and food*

## **10 Infected persons**

- (1) No person referred to in subclause (2) may be engaged, or employed, in the manufacture, preparation, storage, packing, carriage, or delivery, for sale, of—
- (a) a food; or
  - (b) an article used or likely to be used as a food; or
  - (c) any material or article that is used, or is likely to be used, as a wrapper, package, or container for a food.
- (2) The persons are—
- (a) a person who is suffering from a communicable disease;
  - (b) a person who is a carrier as defined in the Health Act 1956;
  - (c) a person who is suffering from a condition causing a discharge of pus or serum from any part of the head, neck, hands, or arms.

Compare: SR 1984/262 r 259

## **11 Persons in contact with infected person**

- (1) A Medical Officer of Health or designated officer may, by serving notice in writing on any person who has been in recent contact with a person to whom regulation 10 applies, prohibit the person from engaging in, or being employed in, the manufacture, preparation, storage, packing, carriage, or delivery, for sale, of a food.
- (2) If, in the opinion of the Medical Officer of Health or the designated officer, there is no longer any risk of any food becoming infected by a person on whom the notice has been served, the Medical Officer of Health or designated officer must—
- (a) revoke the notice; and
  - (b) notify the person in writing of the revocation.

- (3) No person may be engaged, or be employed, in a business in contravention of a notice served under subclause (1).
- (4) No person may knowingly employ any other person in contravention of a notice served on that other person under subclause (1).

Compare: SR 1984/262 r 260

**12 Powers of Medical Officer of Health and designated officer in respect of infected food**

- (1) If a Medical Officer of Health or designated officer suspects on reasonable grounds that any food is infected with an organism capable of causing food poisoning or a communicable disease within the meaning of the Health Act 1956, he or she may, by notice in writing served on any person,—
  - (a) describe, by postal address or otherwise, the source from which the Medical Officer of Health or designated officer believes the food to have been supplied; and
  - (b) prohibit the person on whom the notice is served from selling any food that the person knows or has reason to believe has been obtained at, or from, the source specified.
- (2) Unless sooner revoked by a Medical Officer of Health or designated officer, a notice served under subclause (1) remains in force for the period, not exceeding 1 month, specified in the notice.
- (3) However, a Medical Officer of Health or designated officer may, before the notice expires or is revoked, extend the effect of the notice for a further period not exceeding 1 month by serving notice in writing in the same manner as the original notice.
- (4) If, in the opinion of the Medical Officer of Health or designated officer, the food in respect of which the notice has been served is no longer infected, he or she must—
  - (a) revoke the notice; and
  - (b) notify the person on whom the notice was served in writing of the revocation.
- (5) While a notice served under subclause (1) or extended under subclause (3) remains in force, no person on whom it has been served, or who knows of its contents, may sell any food that the person knows, or has reason to believe, has been obtained from a source specified in the notice.

Compare: SR 1984/262 r 262

*Low-acid canned food***13 Manufacture of low-acid canned food must be supervised**

- (1) This regulation applies to the facilities, methods, practices, and controls used by a commercial processor in the manufacture, processing, or packing of low-acid canned food.
- (2) The following persons involved in the manufacture of low-acid canned food must be supervised:
  - (a) an operator of a processing system, retort, aseptic processing and packaging system, and product formulating system; and
  - (b) a container closure inspector.
- (3) The supervisor of a person under subclause (2) must—
  - (a) have attended a school approved by a designated officer for giving instruction appropriate to the preservation technology used in the manufacture of low-acid food; and
  - (b) have been identified by that school as having satisfactorily completed the prescribed course of instruction.
- (4) The supervisor must only supervise a person in respect of those activities for which the school referred to in subclause (3) recognises the supervisor as having satisfactorily completed training.

Compare: SR 1984/262 r 272(1), (3), (4)

**14 Manufacture of low-acid canned food must comply with code**

Commercial processors who manufacture, process, or pack low-acid canned food must do so in accordance with the principles detailed in one of the following codes:

- (a) the Recommended International Code of Hygiene Practice for Low-acid and Acidified Low-acid Canned Foods, as published by the Codex Alimentarius Commission;
- (b) the United States Food and Drug Administration Requirements for Thermally Processed Low-acid Foods Packaged in Hermetically Sealed Containers, as contained in 21 CFR Part 113, and Acidified Foods as contained in 21 CFR Part 114, as appropriate;
- (c) the Code of Practice for the Thermal Processing of Low-acid Canned Food, as published by the Australian National Health and Medical Research Council.

Compare: SR 1984/262 r 272(5)



**15 Powers of designated officer in respect of low-acid canned food**

- (1) A designated officer may serve notice in writing on the owner or occupier of any premises prohibiting the use of the premises for, or in connection with, the manufacture, processing, or packing of low-acid canned food, if—
  - (a) the processor does not have the person required by regulation 13 supervising the required operations whenever the processor is manufacturing, processing, or packing low-acid canned food; or
  - (b) the facilities, methods, practices, and controls used by the processor are not in accordance with one of the codes specified in regulation 14.
- (2) A notice served under subclause (1) must—
  - (a) state the premises to which it relates; and
  - (b) state the reason for the prohibition; and
  - (c) state the date on which the prohibition commences.
- (3) If, in the opinion of the designated officer, the reason for which the notice was served has ceased to exist, the designated officer must—
  - (a) revoke the notice; and
  - (b) notify the owner or occupier of the premises, and every other person on whom a copy of the notice has been served, in writing of the revocation.
- (4) While a notice remains in force,—
  - (a) no person on whom it has been served may use, or permit the premises specified in the notice to be used, for the manufacture, processing, or packing of low-acid canned food; and
  - (b) no person on whom a copy of the notice has been served, or who knows of its contents, may use the premises for the manufacture, processing, or packing of low-acid canned food.

Compare: SR 1984/262 r 263(2), (3)

*Provisions relating to certain foods and articles*

**16 Sale of muttonbird**

- (1) Any muttonbird that is sold under a description associated with a particular process of preparation for sale must have been prepared in the manner normally associated with that process.
- (2) No person may sell any muttonbird (except muttonbird described as titi puku) unless it has a dressed weight of not less than 250 g.

Compare: SR 1984/262 r 63

**17 Brands for packages of muttonbird**

- (1) It is sufficient compliance with standard 1.2.2(3) of the Food Standards Code in respect of any package of muttonbird if, instead of the name and address of the packer, the label bears the packer's brand approved under this regulation.
- (2) A designated officer in Invercargill may keep a register containing the names and addresses of persons who will be engaged in the preparation and packing of muttonbirds for sale during the next year.
- (3) Any such person may submit a brand to the designated officer for approval.
- (4) The designated officer may decline approval of a brand if he or she considers that the brand is so similar to another brand already approved under this regulation so as to be likely to mislead.
- (5) An approval is effective only for the year in respect of which it is given.
- (6) In this regulation, **year** means a period of 12 months commencing on 1 April.

Compare: SR 1984/262 r 64

**18 Sale of shellfish**

*[Revoked]*

Regulation 18: revoked, on 1 June 2006, by regulation 61(b) of the Animal Products (Regulated Control Scheme—Bivalve Molluscan Shellfish) Regulations 2006 (SR 2006/38).

**19 Contaminated shellfish**

*[Revoked]*

Regulation 19: revoked, on 1 June 2006, by regulation 61(b) of the Animal Products (Regulated Control Scheme—Bivalve Molluscan Shellfish) Regulations 2006 (SR 2006/38).

**20 Wine**

- (1) The name or description of the wine shown on the label of wine must not include any reference to—
  - (a) a single variety of grape unless the wine has been manufactured from not less than 75% by volume juice derived from that variety of grape; or
  - (b) 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) Wine, sparkling wine, fruit wine, sparkling fruit wine, and mead that is sold in an off-licence must not contain more than 15% alcohol by volume at 20°C.

Compare: SR 1984/262 rr 219(5), 225(3), (4)

## 21 Importation of enamelware and ceramicware

*[Revoked]*

Regulation 21: revoked, on 25 October 2007, by regulation 5 of the Food (Safety) Amendment Regulations 2007 (SR 2007/290).

### *Enforcement*

## 22 Appeals

- (1) A person may appeal to a District Court Judge if the person objects—
  - (a) to a notice served—
    - (i) by a Medical Officer of Health or designated officer under regulation 11 or regulation 12; or
    - (ii) by a designated officer under regulation 15 or regulation 19; or
  - (b) to a refusal—
    - (i) by a Medical Officer of Health or designated officer to revoke a notice served under regulation 11 or regulation 12; or
    - (ii) by a designated officer to revoke a notice served under regulation 15.
- (2) An appeal must be made,—
  - (a) in the case of an appeal under subclause (1)(a)(i) or (b)(i), within 21 days after the notice has been served or the refusal was made:
  - (b) in the case of an appeal under subclause (1)(a)(ii) or (b)(ii), within 3 days after the notice has been served or the refusal was made.
- (3) On hearing the appeal, the Judge may—
  - (a) confirm the notice or the refusal; or
  - (b) revoke the notice.

Compare: SR 1984/262 r 275

Regulation 22(1)(b)(ii): amended, on 1 June 2006, by regulation 61(c) of the Animal Products (Regulated Control Scheme—Bivalve Molluscan Shellfish) Regulations 2006 (SR 2006/38).

## 23 Offences and penalties

- (1) Every person commits an offence who contravenes or fails to comply with any of the following regulations:
  - (a) regulation 6 (which relates to misuse of food containers):
  - (b) regulation 7(1) or (2) (which relates to safety of articles):
  - (c) regulation 8(1) (which relates to identification of articles):
  - (d) regulation 9(1) (which relates to labels on bottles containing food):
  - (e) regulation 10 (which relates to infected persons):

- (f) regulation 11(3) or (4) (which relates to persons in contact with infected person):
  - (g) regulation 12(5) (which relates to powers of a Medical Officer of Health and designated officer in respect of infected food):
  - (h) regulations 13(2) or (3) (which relates to the supervision of persons involved in the manufacture of low-acid canned food):
  - (i) regulation 14 (which relates to manufacture of low-acid canned food):
  - (j) regulation 15(4)(a) or (b) (which relates to powers of a designated officer in respect of low-acid canned food):
  - (k) regulation 16 (which relates to sale of muttonbird).
  - (l) *[Revoked]*
  - (m) *[Revoked]*
  - (n) *[Revoked]*
- (2) Every person who commits an offence against subclause (1) is liable to a fine not exceeding \$500.

Compare: SR 1984/262 r 276

Regulation 23(1)(l): revoked, on 1 June 2006, by regulation 61(d) of the Animal Products (Regulated Control Scheme—Bivalve Molluscan Shellfish) Regulations 2006 (SR 2006/38).

Regulation 23(1)(m): revoked, on 1 June 2006, by regulation 61(d) of the Animal Products (Regulated Control Scheme—Bivalve Molluscan Shellfish) Regulations 2006 (SR 2006/38).

Regulation 23(1)(n): revoked, on 25 October 2007, by regulation 6 of the Food (Safety) Amendment Regulations 2007 (SR 2007/290).

## Part 2

### Specific permissions

#### 24 Fluoridated water

- (1) If water may be added to food, the water—
  - (a) must be of potable quality; and
  - (b) may include the addition of fluoride to generally accepted levels by municipal authorities, or by contractors to municipal authorities managing municipal water supplies.
- (2) In this regulation, **generally accepted levels** means levels that are permitted under the Health Act 1956, the Local Government Act 1974, or in any other enactment regulating water quality or reticulation.

#### 25 Sale of artificial drinks

*[Revoked]*

Regulation 25: revoked, on 25 March 2004, by regulation 4 of the Food (Safety) Amendment Regulations 2004 (SR 2004/18).

**26 Sale of hemp seed oil as food**

- (1) Despite standard 1.4.4 of the Food Standards Code, oil extracted from hemp seed may be sold as food in New Zealand if it complies with the requirements set out in subclause (2).
- (2) The requirements are,—
  - (a) in the case of hemp seed oil that is produced in New Zealand, the hemp seed oil is derived from cannabis seed from plants that are grown in New Zealand under and in accordance with any conditions attached to a licence to cultivate industrial hemp issued by the Director-General of the Ministry of Health:
  - (b) in the case of hemp seed oil that is imported into New Zealand, the hemp seed oil has been tested by an analyst working in a laboratory approved under the Misuse of Drugs Act 1975 and has been authorised for sale and use.

**Part 3  
Miscellaneous**

**27 Analyst's certificate and fees**

- (1) The certificate of the analyst referred to in section 22 of the Act must be in the form set out in Schedule 2.
- (2) A person who, in accordance with section 22(4) of the Act, wishes to obtain a copy of the analyst's certificate or report must pay a fee of \$2.
- (3) A person who, in accordance with section 36(1) of the Act, requires an officer to procure a sample of any food and submit it for analysis must pay a fee of \$200.

Compare: SR 1984/262 r 274

**28 Revocation**

The Food Regulations 1984 (SR 1984/262) are revoked.

**Schedule 1  
Tests for enamelware and ceramicware articles**

*[Revoked]*

r 21

Schedule 1: revoked, on 25 October 2007, by regulation 7 of the Food (Safety) Amendment Regulations 2007 (SR 2007/290).

**Schedule 2**  
**Analyst’s certificate under Food Act 1981**

r 27

I, *[full name]*, an analyst under the Food Act 1981, certify that on *[date]* there was submitted to me by *[full name and address of the officer from whom the sample was received]*, a designated officer within the meaning of that Act, a sample of *[name of the sample]* for analysis or examination in a *[state the nature of the package in which the sample was enclosed, how it was labelled and marked, and how it was sealed]*, and that the sample has been analysed or examined (and in that analysis the method prescribed for the analysis of *[name of sample]* has been followed)\* and that the result of that analysis or examination is as follows: *[state analysis and observations]*.

The fee for the analysis is *[fee]*.

.....  
Signature of analyst

.....  
Date

\* Delete if inapplicable

Marie Shroff,  
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 12 December 2002.

## **Reprints notes**

### **1    *General***

This is a reprint of the Food (Safety) Regulations 2002 that incorporates all the amendments to that regulation as at the date of the last amendment to it.

### **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 Amendment Regulations 2017 (LI 2017/99): regulation 17

Food (Safety) Amendment Regulations 2012 (SR 2012/281)

Food (Safety) Amendment Regulations 2007 (SR 2007/290)

Animal Products (Regulated Control Scheme—Bivalve Molluscan Shellfish) Regulations 2006 (SR 2006/38): regulation 61

Food (Safety) Amendment Regulations 2004 (SR 2004/18)