

NORTHERN TERRITORY OF AUSTRALIA

FOOD REGULATIONS 2014

As in force at 1 August 2020

Table of provisions

Part 1	Preliminary matters	
1	Citation	1
2	Commencement	1
3	Definitions.....	1
Part 1A	Risk classification of food business	
3A	Northern Territory Food Business Risk Classification.....	1
3B	Risk classification	2
Part 2	Fees	
4	Registration fee	2
4A	Renewal fee.....	2
4B	Fee for variation of conditions of registration of food business.....	2
Part 2A	Audits	
Division 1	Food safety auditors	
4C	Approval of food safety auditors	2
4D	Approval of authorised officers as food safety auditors	3
4E	Term of approval	4
4F	Variation of conditions, suspension or cancellation of approval.....	4
4G	Suspension or cancellation on request by food safety auditor.....	5
4H	Identity card	6
4J	Functions of food safety auditors.....	6
4K	Direct or indirect interest.....	6
Division 2	Auditing and reporting requirements	
4L	Frequency of auditing	7
4M	Reporting requirements	7
Part 3	Infringement notice offences	
5	Infringement notice offence and prescribed amount payable	8
6	When infringement notice may be given.....	8
7	Contents of infringement notice	8
9	Withdrawal of infringement notice.....	10

10	Application of Part	10
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Schedule 1 Registration fee

Schedule 1A Renewal fee

**Schedule 1B Fee for variation of conditions of
registration**

**Schedule 2 Infringement notice offences and
prescribed amounts**

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 August 2020

FOOD REGULATIONS 2014

Regulations under the *Food Act 2004*

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Food Regulations 2014*.

2 Commencement

These Regulations commence on 1 January 2015.

3 Definitions

In these Regulations:

CHO, means the Chief Health Officer.

infringement notice, see regulation 6.

infringement notice offence, see regulation 5(1).

prescribed amount, see regulation 5(2).

risk classification, of a food business, means the classification determined under regulation 3B.

Part 1A Risk classification of food business

3A Northern Territory Food Business Risk Classification

- (1) For section 135(3)(a) of the Act, the Northern Territory Food Business Risk Classification is a tool used to classify food businesses on the basis of food safety risks.
- (2) For section 135(3)(b) of the Act, the Northern Territory Food Business Risk Classification, as in force from time to time, applies on and from the commencement of this Regulation.

(3) For section 135(3)(c) of the Act, the Northern Territory Food Business Risk Classification:

- (a) must be available for inspection at the Agency's office during normal business hours; and
- (b) must be published on the Agency's website.

3B Risk classification

The Agency may classify a food business in accordance with the Northern Territory Food Business Risk Classification.

Part 2 Fees

4 Registration fee

For section 71(2)(c) of the Act, the prescribed fee for a food business with a risk classification specified in Schedule 1, is as specified in Schedule 1 for each premises where the operation of the food business will be carried on.

4A Renewal fee

For section 75(2)(b) of the Act, the prescribed fee for a food business with a risk classification specified in Schedule 1A, is as specified in Schedule 1A for each premises where the operation of the food business will be carried on.

4B Fee for variation of conditions of registration of food business

For section 78(5)(b) of the Act, the prescribed fee for a food business with a risk classification specified in Schedule 1B, is as specified in Schedule 1B.

Part 2A Audits

Division 1 Food safety auditors

4C Approval of food safety auditors

- (1) The CHO may approve a person to be a food safety auditor if the CHO is satisfied the person is competent to carry out the functions of an auditor having regard to the person's appropriate skills and knowledge.

- (2) A person may apply, in the approved form, to the CHO for an approval under subregulation (1).
- (3) The CHO may require the applicant to provide additional information relevant to the application.
- (4) The CHO may, after considering an application:
 - (a) approve the application, with or without conditions; or
 - (b) refuse to approve the application.
- (5) If the CHO approves an application, the CHO must issue the applicant with a written notice of approval that sets out any conditions to which the approval is subject.
- (6) If the CHO refuses to approve an application, the CHO must issue the applicant with a written notice of refusal that sets out the reasons for the refusal.
- (7) The applicant may, if dissatisfied with the CHO's decision, apply to the Local Court to review the merits of the decision.
- (8) The application must be made within 5 business days after notice of the CHO's decision was received by the applicant.
- (9) In determining the review, the Court must, by written notice to the applicant:
 - (a) confirm the decision; or
 - (b) vary the decision; or
 - (c) revoke the decision; or
 - (d) substitute a decision for that decision.
- (10) The Court must state the reasons for its determination in the notice.

4D Approval of authorised officers as food safety auditors

- (1) The CHO may approve an authorised officer to be a food safety auditor if the CHO is satisfied the authorised officer has the appropriate skills and knowledge.
- (2) The CHO may approve an authorised officer to be a food safety auditor under subregulation (1) subject to any conditions the CHO considers appropriate.

- (3) An authorised officer may, in writing to the CHO, request approval to be a food safety auditor.
- (4) An authorised officer is not required to make an application under regulation 4C.

4E Term of approval

- (1) An approval granted under regulation 4C remains in force until the earlier of the following:
 - (a) the expiry of the period, not exceeding 3 years, specified in the approval;
 - (b) the date of which the approval is suspended;
 - (c) the date of which the approval is cancelled.
- (2) An auditor approved under regulation 4C may apply for renewal of an approval.
- (3) An approval granted under regulation 4D remains in force while the authorised officer is appointed as an authorised officer.

4F Variation of conditions, suspension or cancellation of approval

- (1) The CHO may, on the CHO's own motion, vary the conditions of, or suspend or cancel, an approval of a food safety auditor.
- (2) The CHO may suspend or cancel a food safety auditor's approval on one or more of the following grounds:
 - (a) the auditor has wilfully or negligently contravened the Act or these Regulations;
 - (b) the auditor has contravened a condition of the approval;
 - (c) the auditor has not competently carried out the functions of an auditor under these Regulations;
 - (d) the auditor has a direct or indirect interest in any food business that, in the opinion of the CHO, could affect the performance of the auditor's functions under these Regulations;
 - (e) the auditor has failed to give notice to the CHO of any direct or indirect interest in any food business under regulation 4K(1);
 - (f) for any other reason the CHO considers appropriate.

- (3) The CHO may not vary the conditions of, or suspend or cancel, the approval of a food safety auditor unless the CHO has:
 - (a) given the auditor:
 - (i) written notice of the intention to vary, suspend or cancel the approval; and
 - (ii) an opportunity to make submissions in relation to the intended variation, suspension and cancellation; and
 - (b) considered any submissions made by the auditor.
- (4) A variation of the conditions of, or the suspension or cancellation of, the approval of an auditor under subregulation (1):
 - (a) must be by written notice; and
 - (b) must be given to the person to whom the approval relates; and
 - (c) takes effect on the day on which the notice is given or on a later day specified in the notice.
- (5) The auditor may, if dissatisfied with the CHO's decision to vary, suspend or cancel the auditor's approval, apply to the Local Court to review the merits of the decision.
- (6) The application must be made within 5 business days after notice of the CHO's decision to vary, suspend or cancel the approval was received by the auditor.
- (7) In determining the review, the Court must, by written notice to the applicant:
 - (a) confirm the decision; or
 - (b) vary the decision; or
 - (c) revoke the decision; or
 - (d) substitute a decision for that decision.
- (8) The Court must state the reasons for its determination in the notice.

4G Suspension or cancellation on request by food safety auditor

- (1) The CHO must, if requested to do so by a food safety auditor, suspend or cancel the food safety auditor's approval as a food safety auditor.

- (2) Regulation 4F does not apply to the suspension or cancellation of an approval at the request of the auditor.

4H Identity card

- (1) The CHO must give a food safety auditor an identity card stating the person's name and that the person is a food safety auditor.
- (2) The identity card must:
- (a) state that it is issued under these Regulations; and
 - (b) show a recent photograph of the food safety auditor; and
 - (c) state the date on which it expires; and
 - (d) specify any conditions to which the person's approval as a food safety auditor is subject; and
 - (e) be signed by:
 - (i) the food safety auditor; and
 - (ii) the CHO.
- (3) A person who ceases to be a food safety auditor must return the person's identity card to the CHO as soon as reasonably practicable after the cessation.

4J Functions of food safety auditors

A food safety auditor has the following functions:

- (a) to carry out audits of food safety programs prepared in relation to food businesses under the Food Standards Code;
- (b) to carry out any necessary post-audit action, including to carry out further audits to check that any deficiencies in a food safety program have been remedied;
- (c) to carry out assessments of food businesses to ascertain their compliance with requirements of the Food Safety Standards;
- (d) to report in accordance with regulation 4M.

4K Direct or indirect interest

- (1) A food safety auditor must notify the CHO of any direct or indirect interest the auditor has in any food business as soon as possible after becoming aware of the interest.

- (2) A food safety auditor must not carry out the functions of an auditor in relation to a food business in which the auditor has a direct or indirect interest.
- (3) Payment to an auditor for carrying out the functions of an auditor does not constitute a direct or indirect interest in a food business for this regulation.

Division 2 Auditing and reporting requirements

4L Frequency of auditing

The CHO must:

- (a) determine the audit frequency of any food safety programs required by the Food Standards Code to be prepared in relation to a food business; and
- (b) give written notice to the proprietor of the food business of:
 - (i) the audit frequency; and
 - (ii) the date by which the food business must have implemented any such food safety programs.

4M Reporting requirements

- (1) A food safety auditor must report in writing to the CHO the results of any audit carried out by the auditor.
- (2) A report under subregulation (1) must:
 - (a) be in the approved form; and
 - (b) be given to the CHO within 21 days after the completion of the audit; and
 - (c) take account of any action taken before the submission of the report to remedy any deficiency identified by the auditor.
- (3) The report must include a statement as to whether, in the opinion of the auditor, the food business is being conducted in compliance with the requirements of the Food Standards Code relating to food safety programs.

- (4) An auditor must immediately report to the CHO any contravention of the Act, these Regulations, or the Food Safety Standards that comes to the auditor's attention in the course of carrying out an audit:
 - (a) that is an imminent and serious risk to the safety of food intended for sale; or
 - (b) that will cause significant unsuitability of food intended for sale.
- (5) A report under subregulation (4) must be completed by the auditor as soon as possible and not later than 24 hours after the contravention comes to the auditor's attention.
- (6) A copy of a report provided to the CHO under this regulation must be given to the proprietor of the food business concerned.

Part 3 Infringement notice offences

5 Infringement notice offence and prescribed amount payable

- (1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 2.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in Schedule 2.

6 When infringement notice may be given

If an authorised officer reasonably believes a person has committed an infringement notice offence, the authorised officer may give a notice (an ***infringement notice***) to the person.

7 Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person, if known;
 - (b) the date the infringement notice is given to the person;
 - (c) the date, time and place of the infringement notice offence;
 - (d) a description of the offence;
 - (e) the prescribed amount payable for the offence;

- (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act 2001*, to whom or to which the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
- (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act 2001* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001*, including (but not limited to) action for the following:
 - (i) suspending the person's licence to drive;
 - (ii) seizing personal property of the person;
 - (iii) deducting an amount from the person's wages or salary;
 - (iv) registering a statutory charge on land owned by the person;
 - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

8 Electronic payment and payment by cheque

- (1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the enforcement agency's bank account.
- (2) If the person tenders a cheque in payment of the prescribed amount, payment is not effected unless the cheque is cleared on first presentation.

9 Withdrawal of infringement notice

- (1) The CHO may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
 - (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the prescribed amount.

10 Application of Part

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, this Part does not:
 - (a) require an infringement notice to be given; or
 - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
 - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

Schedule 1 Registration fee

regulation 4

Risk classification	Fee per premises (revenue units)
Priority 1 (P1)	180
Priority 2 (P2)	90
Priority 3 (P3)	45
Priority 4 (P4)	0

Schedule 1A Renewal fee

regulation 4A

Risk classification	Fee per premises (revenue units)
Priority 1 (P1)	145
Priority 2 (P2)	70
Priority 3 (P3)	35
Priority 4 (P4)	0

Schedule 1B Fee for variation of conditions of registration

regulation 4B

Risk classification	Fee (revenue units)
Priority 1 (P1)	90
Priority 2 (P2)	45
Priority 3 (P3)	22
Priority 4 (P4)	0

Schedule 2 Infringement notice offences and prescribed amounts

regulation 5

Provision	Prescribed amount (penalty units)	
	for individual	for body corporate
<i>Food Act 2004</i>		
section 15(1) and (2)	5	25
section 16(1) and (2)	4	20
section 17(1), (2) and (3)	3	15
section 18(1)	3	15
section 19(1), (2) and (3)	3	15
section 20(1), (2), (3) and (4)	3	15
section 32(4)	3	15
section 46	5	25
section 52(1)	2	10
section 53	2	10
section 70	2	10
section 71(1)	1	5
section 73(3)	2	10
section 75(5)	2	10
section 79(7)	2	10
section 82	1	5
section 83(1)	2	10
section 102	3	15
section 106	1	5
section 107	3	15

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Food Regulations (SL No. 46, 2014)***

Notified	24 December 2014
Commenced	1 January 2015 (r 2)

Food Amendment Regulations 2019 (SL No. 18, 2019)

Notified	31 July 2019
Commenced	r 6: 1 August 2020 (r 2(2)); rem: 1 August 2019 (r 2(1))

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: rr 1 and 7 and Sch 2.

r 3	amd No. 18, 2019, r 4
pt 1A hdg	ins No 18, 2019, r 5
rr 3A – 3B	ins No 18, 2019, r 5
pt 2 hdg	sub No 18, 2019, r 5
r 4	sub No. 18, 2019, r 5
rr 4A – 4B	ins No. 18, 2019, r 5
pt 2A hdg	ins No. 18, 2019, r 6
pt 2A	
div 1 hdg	ins No. 18, 2019 r 6
rr 4C – 4K	ins No. 18, 2019 r 6
pt 2A	
div 2 hdg	ins No. 18, 2019 r 6
rr 4L – 4M	ins No. 18, 2019 r 6
r 8	sub No. 18, 2019, r 7
r 9	amd No. 18, 2019, r 8
sch 1	sub No. 18, 2019, r 9
sch 1A – 1B	ins No. 18, 2019, r 9