

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1982, No. 34 *

Regulations under the Weights and Measures (Packaged Goods) Act

I, ERIC EUGENE JOHNSTON, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the Weights and Measures (Packaged Goods) Act.

Dated this 3rd day of June, 1982.

E. E. JOHNSTON

Administrator

By His Honour's Command

J. M. ROBERTSON

Minister for Community Development

WEIGHTS AND MEASURES (DATE-MARKING OF PRE-PACKAGED FOODS) REGULATIONS

1. CITATION

These Regulations may be cited as the Weights and Measures (Date-marking of Pre-packaged Foods) Regulations.

2. COMMENCEMENT

These Regulations shall come into operation on a date to be fixed by the Administrator by notice in the Gazette.

3. DEFINITIONS

In these Regulations, unless the contrary intention appears -

"durable life", in relation to an item of pre-packaged food, means the period of probable life of the food calculated from the day on which the food was manufactured or produced;

* Notified in the Northern Territory Government Gazette on 11 JUN 1982, 1982.

A. B. CAUDELL, Government Printer of the Northern Territory

PRICE: C 70.

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"expiry date", in relation to an item of pre-packaged food, means the date upon which the durable life of the food, as determined by reference to and in accordance with these Regulations, will expire;

"food" has the meaning ascribed to it in the Food and Drugs Act;

"pre-packaged food" means food that is packaged before supply in any manner by which the food is cased, covered, enclosed, contained, bottled, packed, wrapped or encircled by a band and that is supplied packaged in that manner, but does not include -

- (a) food that is packaged in the presence of the person to whom it is supplied or pre-packaged food which is broken down and repacked in the presence of the person to whom it is supplied;
- (b) Easter eggs that are handwrapped in foil and carry a statement to that effect;
- (c) carbonated beverages;
- (d) alcoholic liquors;
- (e) pre-packaged food supplied for Christmas, Easter or other particular occasion, in a particular year, having appended to it a statement to that effect;
- (f) pre-packaged food where the sum of the maximum dimension and the maximum circumference or perimeter, that is perpendicular to that maximum dimension, of the pre-packaged food does not exceed 250 millimetres, unless intended to be finally supplied in a primary package;
- (g) ice-cream and related products as defined in the standard approved by the National Health and Medical Research Council at its eighty-first session in October 1975, being less than 300 millilitres in volume, unless intended to be finally supplied in a primary package;
- (h) bread;
- (j) sandwiches and filled bread rolls sold on the day of preparation;
- (k) fresh unfrozen fruit or vegetables packaged in a manner that does not obscure their nature or quality; or
- (m) eggs sold in liquid form in quantities not less than 6 kilograms;

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"primary package", in relation to food, means the package that is, or one of the packages that are, normally visible, without the necessity of first having to remove any other package, when the food is finally supplied, but does not include -

- (a) a package in which the food is packaged in the presence of the purchaser;
- (b) a package of food, where the sum of the maximum dimension and the maximum circumference or perimeter, that is perpendicular to that maximum dimension, of the package does not exceed 250 millimetres; or
- (c) a package containing less than 300 millilitres in volume of ice-cream or a related product as defined in the standard approved by the National Health and Medical Research Council at its eighty-first session in October 1975.

4. APPLICATION

(1) Section 9A of the Act and these Regulations apply to pre-packaged food which is, or is to be, supplied by retail sale or retail exchange, or which is to be exhibited, exposed or had in possession for the purpose of retail sale or retail exchange.

(2) These Regulations, other than regulation 9, do not apply to food packaged before date 1 July 1982.

5. DATE TO BE SHOWN ON PRE-PACKAGED FOOD

(1) Subject to sub-regulation (2) and regulation 11, where pre-packaged food to which these Regulations apply is manufactured or produced in or imported into the Territory -

- (a) in the case of pre-packaged food manufactured or produced in the Territory - the manufacturer or producer, as the case may be;
- (b) in the case of food which is imported into the Territory and packaged or repackaged in the Territory - the packager or repackager; or
- (c) in any other case - the importer of that food,

shall, before supplying that food to any person, append to the primary package of that food accurate statements in accordance with regulations 7 and 8.

Penalty for an offence against this sub-regulation: \$200.

(2) Where pre-packaged food is imported into the Territory with statements in accordance with regulations 7 and 8 appended thereto, the importer of that food shall not be required to append to that food statements in accordance with those regulations, but shall be deemed to have himself appended those statements.

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6. DETERMINATION OF EXPIRY DATE

(1) Subject to sub-regulation (6), a manufacturer, producer or importer into the Territory of pre-packaged food or a person who packages or repackages food imported into the Territory shall, before supplying that food to any person, make a written record that clearly -

- (a) relates to the food or to food of the class or description to which it belongs;
- (b) indicates that the record is made for the purposes of these Regulations; and
- (c) specifies a period consisting of a specified number of days, weeks or months, or any combination thereof, as the period of probable life of the food as packed or repacked.

(2) Subject to regulation 12, the Superintendent may, by notice in the Gazette, direct that a specified period shall be the period of probable life for a specified class or description of pre-packaged food manufactured or produced in, or imported into, the Territory or of food imported into the Territory and packaged or repackaged in the Territory.

(3) The period of probable life of an item of pre-packaged food is -

- (a) the period specified under sub-regulation (2) by the Superintendent in relation to the class or description of food to which the item belongs; or
- (b) if no such period has been specified under sub-regulation (2), the relevant period specified under sub-regulation (1)(c).

(4) Subject to sub-regulation (6), a manufacturer, producer, importer or other person referred to in sub-regulation (1) is guilty of an offence if -

- (a) the period specified pursuant to sub-regulation (1)(c) exceeds the length of the period commencing on the day on which the food was manufactured or produced and ending on the last day on which it can reasonably be expected that the food will, when stored under conditions appropriate to that food, retain, without any appreciable deterioration, its normal wholesomeness, nature, substance and quality; or
- (b) he contravenes or fails to comply with sub-regulation (1).

Penalty for an offence against this sub-regulation: \$200.

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(5) A person shall, in respect of any food or class of food supplied by him, keep the records made by him under sub-regulation (1) for the following period commencing on the date on which he ceased to supply that food or class of food:

- (a) the period of probable life of that food or class of food as shown in those records; and
- (b) a further period of two years.

Penalty for an offence against this sub-regulation: \$200.

(6) Sub-regulations (1) and (4) do not apply in relation to an item of pre-packaged food in respect of which -

- (a) a direction has been made by the Superintendent under sub-regulation (2); or
- (b) at the time of its importation into the Territory it had appended to it, in accordance with regulation 7 or 11(1)(a), the appropriate words or abbreviation and a date.

7. MANNER OF APPENDING DATE

(1) Subject to this regulation, the manufacturer, producer or importer of an item of pre-packaged food or the person who packages or repackages food imported into the Territory may comply with regulation 5 by appending to the primary package containing the food -

- (a) a statement consisting of the words "packed" or "packaged", or the abbreviation "pkd", followed by a reference to the date on which it was packaged expressed in the manner set out in sub-regulation (2); or
- (b) a statement consisting of the words "use by" followed by a reference to a date not later than the expiry date for the food expressed in the manner set out in sub-regulation (2).

(2) Subject to sub-regulations (3) and (4), a date referred to in sub-regulation (1) shall be -

- (a) first the day expressed, in arabic figures, as a cardinal number, or in arabic figures and in letters as an ordinal number;
- (b) followed by the month expressed, in letters, as the unabbreviated name of the month or by the first 3 letters of the name of the month; and
- (c) followed by the year expressed, in arabic figures, by the 4 numbers, or by the last 2 numbers, of the year.

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(3) In the case of food that has a durable life of less than 90 days, the date may be indicated by showing only -

- (a) the day expressed, in arabic figures, as a cardinal number, or in arabic figures and in letters as an ordinal number; and
- (b) followed by the month expressed, in letters, as the unabbreviated name of the month or by the first 3 letters in the name of the month.

(4) In the case of food that has a durable life of 90 days or more, the date may be indicated by showing only -

- (a) the month expressed, in letters, as the unabbreviated name of the month or by the first 3 letters of the name of the month; and
- (b) followed by the year expressed, in arabic figures, by the 4 numbers, or by the last 2 numbers, of the year.

(5) A statement referred to in sub-regulation (1) shall -

- (a) be conspicuously appended to the primary package in which the food is contained in such a manner that the statement will, in the course of normal handling, remain affixed to that package and be clearly legible; and
- (b) appear in figures or capital letters that are clear, prominent and conspicuous with a figure or letter height of -
 - (i) where the statement is in distinct colour contrast with the background - not less than 3 millimetres; and
 - (ii) in any other case - not less than 4.5 millimetres.

(6) A statement referred to in sub-regulation (1)(a) may, and if so required by a direction of the Superintendent published in the Gazette shall, be accompanied by a further statement indicating the minimum durable life of the item of pre-packaged food by using the words "minimum durable life" followed by the relevant number of days, weeks, months or years.

(7) Where pre-packaged food has been broken down and repackaged, a reference in sub-regulation (2) to the day of the month in the year, the month of the year or the day of the month in which the food was packaged shall be construed as a reference to the day or the month in which the food was first packaged.

8. METHOD OF STORAGE TO BE INDICATED

An item of pre-packaged food to which regulation 5 applies shall, in addition to having appended thereto a statement in the form prescribed in regulation 7, also bear a clear and legible statement in

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the prescribed form indicating the conditions of storage required to ensure that the date by which the food should be used, or the stated minimum durable life of the food, as the case may be, will be that given in the first-mentioned statement.

Penalty: \$200.

9. ALTERATION OF DATE

(1) A supplier who, except so far as may be authorized by these Regulations, alters or effaces a statement which has been appended to pre-packaged food in accordance with regulation 5(1), is guilty of an offence.

Penalty for an offence against this sub-regulation: \$200.

(2) A person who supplies pre-packaged food bearing a statement which has been appended in accordance with regulation 5(1) which has been, except so far as may be authorized by these Regulations, altered or effaced is guilty of an offence unless he proves that he acted without intent to deceive or defraud.

Penalty for an offence against this sub-regulation: \$200.

(3) For the purposes of sub-regulations (1) and (2), a statement appended to pre-packaged food in accordance with regulation 5(1) is altered not only when it is physically altered but also when a further statement which has the effect of contradicting, qualifying or modifying it, is appended to the primary package containing that food, or is contained in an advertisement used to promote the supply of that food or food of the same class or description.

10. RECORDS TO BE PRODUCED TO INSPECTOR

(1) An inspector may require a manufacturer, producer, importer or other person referred to in regulation 5(1) to produce to the inspector records required by regulation 6(1) to be kept by the manufacturer, producer, importer or other person.

(2) Subject to sub-regulation (3), a manufacturer, producer, importer or other person referred to in sub-regulation (1) shall not, without reasonable excuse, refuse or fail to produce for examination by the inspector the records required under sub-regulation (1) to be produced.

Penalty for an offence against this sub-regulation: \$200.

(3) Sub-regulation (1) does not apply in relation to the records which, under regulation 6(5), a person is no longer required to keep.

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11. EXEMPTIONS

(1) The Minister may, by notice in the Gazette, exempt from the provisions of regulation 5, either unconditionally or subject to conditions specified in the notice, a class or description of pre-packaged food if he is satisfied that -

- (a) there is or is to be appended thereto sufficient information relating to the date of manufacture, production or packaging or a date before which it can be reasonably expected that the food will, when stored under conditions appropriate to that food, retain, without any appreciable deterioration, its normal wholesomeness, nature, substance and quality; or
- (b) the expense of complying with the requirements of that regulation is not warranted having regard to the value of the pre-packaged food.

(2) The Minister may, by notice in the Gazette, exempt from the provisions of regulation 5, either unconditionally or subject to conditions specified in the notice, the supplier, manufacturer, producer, importer or other person, as the case may be, named in the notice, for such period as is specified in the notice.

12. ANCILLARY PROVISIONS RELATING TO ORDERS UNDER REGULATION 6(2)

(1) A person who manufactures or produces in, or imports into, the Territory any food (whether pre-packaged or not) the subject of a notice under regulation 6(2) may, within 14 days after the service of the notice, appeal in writing to the Minister, giving the grounds of his appeal, and the Minister may, upon receipt of such appeal, confirm, vary or revoke the notice in such manner as he thinks fit.

(2) The decision of the Minister on an appeal under sub-regulation (1) shall be deemed to be the decision of the Superintendent.

(3) A notice under regulation 6(2) shall not take effect until 21 days after it is published or, if an appeal is made under this regulation, until the appeal has been determined.

13. POWERS OF INSPECTORS

An inspector may, at any reasonable time, make such examinations and inquiries as he thinks necessary to ascertain whether the provisions of these Regulations are being complied with.