



TASMANIA

FOOD AMENDMENT ACT 2021

No. 12 of 2021

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FOOD AMENDMENT ACT 2021

No. 12 of 2021

An Act to amend the *Food Act 2003*

[Royal Assent 5 October 2021]

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Food Amendment Act 2021*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

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3. Principal Act

In this Act, the *Food Act 2003** is referred to as the Principal Act.

4. Section 4 amended (Interpretation)

Section 4(1) of the Principal Act is amended by omitting “*Australia New Zealand Food Authority Act 1991* of the Commonwealth” from the definition of *Food Standards Code* and substituting “*Food Standards Australia New Zealand Act 1991* of the Commonwealth”.

5. Section 5 amended (Meaning of food)

Section 5(1) of the Principal Act is amended by omitting “section 3B of the *Australia New Zealand Food Authority Act 1991* of the Commonwealth” from paragraph (e) of the definition of *food* and substituting “the *Food Standards Australia New Zealand Act 1991* of the Commonwealth”.

6. Section 133 substituted

Section 133 of the Principal Act is repealed and the following sections are substituted:

133. Food business database to be kept

(1) In this section –

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Database means the database established and maintained by the Director of Public Health under subsection (2).

- (2) The Director of Public Health may establish and maintain, in the form (which may be an electronic form) that he or she thinks fit, a database containing any information, obtained under this Act in relation to a food business, that the Director of Public Health considers necessary for the purpose of ensuring compliance with, and the enforcement of, this Act.
- (3) The Director of Public Health may authorise a council, State Service Agency, authorised officer, person or class of persons to –
- (a) enter information in the Database; or
 - (b) access and use the Database; or
 - (c) disclose information contained in the Database –

if the Director of Public Health is satisfied that the entering of the information in the Database, the access and use of the Database or the disclosure of the information contained in the Database would assist in achieving or implementing the purposes of this Act.

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- (4) A council, State Service Agency, authorised officer, person or class of persons, authorised by the Director of Public Health under subsection (3), must not enter information in the Database, access and use the Database or disclose information contained in the Database, except in accordance with that authorisation.

Penalty: Fine not exceeding 50 penalty units.

- (5) Nothing in this section prevents a council, State Service Agency, authorised officer, person or class of persons from disclosing information contained in the Database if the disclosure of the information is permitted under section 133A(2).

133A. Disclosure of information

- (1) A person who has, in connection with the administration or execution of this Act or in the course of performing his or her functions under this Act, obtained information must not disclose that information unless the disclosure of the information is permitted under subsection (2).

Penalty: Fine not exceeding 50 penalty units.

- (2) A person is permitted to disclose information –

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- (a) if the disclosure is made with the written consent of the person to whom the information relates; or
- (b) without the written consent of the person to whom the information relates, if the disclosure is –
 - (i) for the purposes of this Act or relates to the administration or execution of this Act; or
 - (ii) for the purposes of legal proceedings arising out of this Act; or
 - (iii) for the purposes of ensuring compliance with, and the enforcement of, this Act; or
 - (iv) made to an authorised officer, enforcement agency, State Service Agency, approved person or approved class of persons for the purposes of ensuring public health or public safety; or
 - (v) for the purposes of preventing or reducing the possibility of, or mitigating the adverse consequences of, a serious threat to public health; or

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- (vi) for the purposes of an approved study or approved research; or
- (vii) made to Food Standards Australia New Zealand, as continued under the *Food Standards Australia New Zealand Act 1991* of the Commonwealth; or
- (viii) made to a person developing, administering or enforcing a law of New Zealand, or of the Commonwealth or a Territory or another State, that corresponds to this Act or to any other prescribed law; or
- (ix) made to an approved person, or an approved class of persons, for an approved purpose; or
- (x) for a purpose that is authorised under, or is required by, another Act; or
- (xi) for a prescribed purpose; or
- (xii) made to a prescribed person or a prescribed class of persons.

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- (3) A person is not guilty of an offence under this section if the information that the person disclosed was publicly available at the time when the disclosure was made.

7. Repeal of Act

This Act is repealed on the first anniversary of the day on which this Act commenced.

*[Second reading presentation speech made in:—
House of Assembly on 24 August 2021
Legislative Council on 2 September 2021]*