

South Australia

Food Variation Regulations 2012

under the *Food Act 2001*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Food Variation Regulations 2012*.

2—Commencement

These regulations will come into operation 12 months after the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Food Regulations 2002*

4—Insertion of regulation 10A

After regulation 10 insert:

10A—Disclosure of information for standardised food sold at multiple-site food businesses

- (1) For the purposes of section 112 of the Act—
 - (a) the following are matters of a prescribed class under section 112(1)(c):
 - (i) the energy content of items of standardised food;
 - (ii) the average adult daily energy intake;
 - (b) the information relating to those matters is to comprise—

- (i) the average energy content of each item of standardised food expressed in kilojoules (*nutritional information*); and
 - (ii) a statement that the average adult daily energy intake is 8 700 kilojoules (*average intake information*); and
- (c) nutritional information for each item of standardised food must be calculated in kilojoules in accordance with Standard 1.2.8 of the Food Standards Code, making necessary adjustments to ensure that the calculation is undertaken in relation to the whole of the item rather than per 100 grams; and
- (d) nutritional information for each item of standardised food must be made available to members of the public as follows:
 - (i) the information must be expressed in numerals followed by the abbreviation "kJ";
 - (ii) if the number of kilojoules calculated for the item of standardised food is rounded—the number must be rounded up to the nearest 10 kilojoules;
 - (iii) the information must be displayed—
 - (A) on each menu that includes the item of standardised food in a manner that clearly associates the information with the item (except in the case of drive-through facilities in which case the information may be included on a separate adjacent board visible at or before the point of ordering); and
 - (B) if the item is displayed to persons who may order or purchase the item—on a tag, label or marking that clearly associates the information with the item;
 - (iv) the information must be displayed in a manner that is conspicuous and legible to persons who may order or purchase the food;
 - (v) the information must be in the same font, and be of at least the same font size, as that used to specify the price of the item or, if the price is not specified, to identify the item;
 - (vi) the information must be made available in a manner that is consistent with how nutritional information for each other item of standardised food is made available for persons who may order or purchase the food; and

- (e) average intake information must be made available to members of the public as follows:
 - (i) the information must be displayed—
 - (A) on each menu (except in the case of drive-through facilities in which case the information may be included on a separate adjacent board visible at or before the point of ordering); and
 - (B) in each area in which items of standardised food are displayed to persons who may order or purchase the items;
 - (ii) the information must be displayed in a manner that is conspicuous and legible to persons who may order or purchase the food;
 - (iii) the information must be in the same font, and be of at least the same font size, as the font with the largest font size used to identify an item of standardised food (or, if a font is not used to identify an item, used to specify the price of an item of standardised food) on the menu or in the area (as the case requires); and
- (f) the following are excluded from the operation of section 112(1):
 - (i) standardised food comprised of a loaf of bread or a plain bread roll;
 - (ii) standardised food comprised of an item that—
 - (A) is offered for sale by a multiple-site food business for a period of not more than 60 consecutive days on a trial basis; and
 - (B) is offered for sale by the business at not more than 5 locations in South Australia at any time during that period; and
 - (C) has not been sold or offered for sale at any time before that period by the business at any of those locations;
 - (iii) a multiple-site food business carried on at less than 20 separate locations in South Australia and at less than 50 separate locations in Australia (including South Australia);

Note—

When this exclusion and the definition of *multiple-site food business* in section 112(4) are taken into account, section 112(1) only applies to a multiple-site food business if it is carried on—

- (a) at 20 or more separate locations in South Australia; or
 - (b) at 50 or more separate locations in Australia (of which 5 or more are in South Australia).
- (iv) a multiple-site food business comprised of a supermarket or convenience store (including a supermarket or convenience store located in a service station);
 - (v) a multiple-site food business that involves the sale of food but only for consumption on the premises on which it is sold;
 - (vi) a multiple-site food business that primarily provides food catering services;
 - (vii) a multiple-site food business that is a body incorporated on a not-for-profit basis for the benefit of the public that provides services delivering meals to persons in their homes.
- (2) No offence is committed against section 112 of the Act if the failure to comply with the requirements occurs within 12 months after an increase in the number of locations at which a multiple-site food business is carried on brings the businesses that are part of the multiple-site food business within the scope of the requirements.
 - (3) A person who is carrying on a business excluded from the operation of section 112(1) of the Act is encouraged to ensure that nutritional information and average intake information is available for persons who may order or purchase food sold in the course of the business as if the business were not excluded from the operation of that section.
 - (4) However, if, in the course of such a business, nutritional information (or information that might reasonably be mistaken to be nutritional information) is made available in relation to an item of standardised food on a menu or in an area in which items of standardised food are displayed to persons who may order or purchase the items, the information must be calculated and made available as if section 112(1) of the Act applied.
 - (5) If there is a failure to comply with a requirement of subregulation (4), the person who carries on the business is guilty of an offence.

Maximum penalty: \$2 500.

Expiation fee: \$125.

- (6) For the purposes of this regulation—
- (a) if an item of standardised food is available in different size servings, each size serving is to be treated as a separate item of standardised food; and
 - (b) if a number of items of standardised food is available as a combination, the combination is to be treated as a separate item of standardised food (in addition to each individual item in the combination that is available as a separate item); and
 - (c) a menu includes any list or other representation of standardised food available from a food business published or made available to members of the public on the Internet, in a leaflet, on a board or poster or by other means (but excludes advertising not designed to be used, and not ordinarily used, in connection with placing an order for food); and
 - (d) if advertising includes contact details that may be used to place an order for food, the advertising will be taken (in the absence of proof to the contrary) to be designed to be used in connection with placing an order for food; and
 - (e) a supermarket or convenience store is a store the primary business of which is the sale of a range of food, beverages, groceries and other domestic goods.

Made by the Governor

with the advice and consent of the Executive Council
on 23 February 2012

No 7 of 2012

HEAC-2011-00002