

South Australia

# **Local Government (General) (Mobile Food Vendors) Variation Regulations 2017**

under the *Local Government Act 1999*

---

## **Contents**

### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Variation provisions

### **Part 2—Variation of *Local Government (General) Regulations 2013***

- 4 Insertion of regulations 25A to 25C
    - 25A Permits for business purposes—mobile food vendors
    - 25B Requirements relating to cancellation of permits
    - 25C Requirements relating to location rules
- 

## **Part 1—Preliminary**

### **1—Short title**

These regulations may be cited as the *Local Government (General) (Mobile Food Vendors) Variation Regulations 2017*.

### **2—Commencement**

These regulations will come into operation on the day on which the *Local Government (Mobile Food Vendors) Amendment Act 2017* comes into operation.

### **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 *Local Government (General) Regulations 2013*

### 4—Insertion of regulations 25A to 25C

After regulation 25 insert:

#### **25A—Permits for business purposes—mobile food vendors**

- (1) In accordance with section 224(2) of the Act, the following requirements relating to conditions of a permit for the purposes of a mobile food vending business are prescribed:
  - (a) a council is prohibited from imposing a condition restricting the kind of food that may be sold by the mobile food vending business;
  - (b) a condition imposed by a council requiring the payment of a fee in relation to the permit—
    - (i) must allow the permit holder to elect to pay either an annual or monthly fee; and
    - (ii) must not require the payment of a fee exceeding—
      - (A) in the case of an annual fee—\$2000 per year (excluding GST); or
      - (B) in the case of a monthly fee—\$200 per month (excluding GST);
  - (c) a council must ensure that the permit is subject to—
    - (i) a condition requiring the permit holder to have insurance of a kind specified by the council (such as public liability insurance); and
    - (ii) conditions requiring that the operation of the mobile food vending business not unduly interfere with—
      - (A) vehicles driven on roads; or
      - (B) vehicles parking or standing on roads; or
      - (C) a parking area for people with disabilities (within the meaning of rule 203(2) of the *Australian Road Rules*); or
      - (D) public transport or cycling infrastructure (such as bus zones, taxi zones and bike lanes); or
      - (E) other road related infrastructure; or
      - (F) infrastructure designed to give access to roads, footpaths and buildings; and
    - (iii) conditions requiring compliance with requirements under—

- (A) the *Food Act 2001*; and
  - (B) the *South Australian Public Health Act 2011*; and
  - (C) the *Environment Protection Act 1993*; and
  - (D) the *Local Nuisance and Litter Control Act 2016*; and
  - (E) the *Motor Vehicles Act 1959* and *Road Traffic Act 1961*; and
  - (F) any law or legislative provision relating to electrical or gas installations or appliances; and
  - (G) any other relevant law or legislative provision relating to health, safety or the environment.
- (2) In accordance with section 222(1a) of the Act, a council is not required to grant a permit for the purposes of a mobile food vending business under that subsection if the vehicle proposed to be used would unduly obstruct the use of public roads in a manner that cannot be adequately addressed by conditions under section 224 of the Act.

### **25B—Requirements relating to cancellation of permits**

- (1) If a council cancels a permit for the purposes of a mobile food vending business under section 225(1)(a) of the Act, the following requirements apply to the person who held the permit (prior to its cancellation):
- (a) if the person holds a permit for the purposes of a mobile food vending business granted by another council, the person must inform that council of the cancellation as soon as is reasonably practicable after receiving notice of the cancellation;
  - (b) if, during the prohibited period, the person applies to another council for a permit for the purposes of a mobile food vending business, the person must inform that council of the cancellation as soon as is reasonably practicable after receiving notice of the cancellation.
- (2) A person who fails to comply with a requirement under subregulation (1) is guilty of an offence.

Maximum penalty: \$500.

- (3) In this regulation—

***prohibited period*** means the period, specified by a council that cancels a permit for the purposes of a mobile food vending business, during which an application to the council for such a permit may not be made by or on behalf of the person who held the permit (prior to its cancellation).

### **25C—Requirements relating to location rules**

- (1) For the purposes of section 225A(2)(a) of the Act, a council, in adopting or amending its location rules—
- (a) must ensure that its location rules provide for a reasonable distance between mobile food vending businesses and fixed food businesses during the operating hours of fixed food businesses, taking into account the—
    - (i) location; and
    - (ii) number; and
    - (iii) operating hours,of fixed food businesses in the council area; and
  - (b) must take into account the effect of the operation of mobile food vending businesses on—
    - (i) vehicle and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities; and
    - (ii) the requirements relating to, and availability of, parking spaces at the locations in which mobile food vending businesses may operate under the location rules; and
    - (iii) residents and businesses at the locations in which mobile food vending businesses may operate under the location rules; and
  - (c) must ensure that its location rules are consistent with any other relevant requirement under regulation 25A (including any relevant requirement under a law or legislative provision referred to in that regulation).
- (2) A council's location rules may show the locations within the council area in which mobile food vending businesses are permitted to operate by use of maps.
- (3) A council must ensure that a copy of its location rules is published on its website.
- (4) In this regulation—
- fixed food business*** means a business the primary purpose of which is the retail sale of food or beverages that is carried on at fixed premises.

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 14 November 2017

No 307 of 2017

17LG08CS