

# Civil Liability Amendment (Food Donations) Act 2005

As at 1 July 2005

## Long Title

An Act to amend the *Civil Liability Act 2002* to make provision for protection from civil liability in respect of food donations; and for other purposes.

## 1 Name of Act

This Act is the *Civil Liability Amendment (Food Donations) Act 2005* .

## 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

## 3 Amendment of Civil Liability Act 2002 No 22

The *Civil Liability Act 2002* is amended as set out in Schedule 1.

## Schedule 1 Amendments

(Section 3)

### [1] Part 8A

Insert after Part 8:

## Part 8A - Food donors

58A Interpretation In this Part:

**donate** food includes distribute, without payment or other reward, food donated by others.

**food** , **handling** and **unsafe food** have the same meanings as they have in the *Food Act 2003* .

**personal injury** includes:

- (a) pre-natal injury, and
- (b) impairment of a person's physical or mental condition, and
- (c) disease.

58B Application of Part

- (1) This Part applies to civil liability of any kind.
- (2) This Part does not apply to civil liability that is excluded from the operation of this Part by section 3B.

58C Protection of food donors

- (1) A person who donates food (the **food donor** ) does not incur any civil liability in respect of any death or personal injury that results from the consumption of the food if:

- (a) the food donor donated the food:

- (i) in good faith for a charitable or benevolent purpose, and
- (ii) with the intention that the consumer of the food would not have to pay for the food, and
- (b) the food was safe to consume at the time it left the possession or control of the food donor, and
- (c) where the food was of a nature that required it to be handled in a particular way to ensure that it remained safe to consume after it left the possession or control of the food donor--the food donor informed the person to whom the food donor gave the food of those handling requirements, and
- (d) where the food would only have remained safe to consume for a particular period of time after it left the possession or control of the food donor--the food donor informed the person to whom the food donor gave the food of that time limit.

(2) For the purposes of this section, food is safe to consume if it is not unsafe food.

**[2] Schedule 1 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Civil Liability Amendment (Food Donations) Act 2005*

**[3] Schedule 1, Part 4A**

Insert after clause 15:

## **Part 4A - Provisions consequent on enactment of Civil Liability Amendment (Food Donations) Act 2005**

15A Application of amendments

- (1) Part 8A applies in relation to civil liability whether arising before or after the commencement of that Part.
- (2) However, Part 8A does not apply to proceedings commenced in a court before the commencement of that Part.

**Historical notes**

**Table of amending instruments**

*Civil Liability Amendment (Food Donations) Act 2005 No 16* . Second reading speech made: Legislative Assembly, 8.12.2004; Legislative Council, 6.5.2005. Assented to 18.5.2005. Date of commencement, 1.7.2005, sec 2 and GG No 77 of 24.6.2005, p 2951.