



New South Wales

# Civil Liability Amendment (Food Donations) Bill 2004

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Civil Liability Act 2002* to provide that a person does not incur civil liability for any death or personal injury resulting from the consumption of food donated by the person if:

- (a) the food has been donated in good faith for a charitable purpose with the intention that the consumer of the food would not have to pay for it, and
- (b) the food was safe to consume at the time it left the possession or control of the donor, and
- (c) the donor has informed the person to whom the food is donated of any relevant food handling requirements or time limit for its consumption.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Civil Liability Act 2002* set out in Schedule 1.

## **Schedule 1      Amendments**

**Schedule 1 [1]** inserts Part 8A in the *Civil Liability Act 2002*, which contains provisions that protect food donors from civil liability in the circumstances referred to in the Overview. The new Part provides that the expressions ***food, handling*** and ***unsafe food*** have the same meanings as they have in the *Food Act 2003*.

**Schedule 1 [2]** amends clause 1 of Schedule 1 to the Act to enable the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

**Schedule 1 [3]** inserts a new Part in Schedule 1 to the Act. It provides that the new Part 8A applies to civil liability whether arising before or after the commencement of Part 8A, but not to proceedings begun in a court before that commencement.

First print



New South Wales

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New South Wales

# **Civil Liability Amendment (Food Donations) Bill 2004**

No. , 2004

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## **A Bill for**

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.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Civil Liability Amendment (Food Donations) Act 2004</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5
<b>3 Amendment of Civil Liability Act 2002 No 22</b>	6
The <i>Civil Liability Act 2002</i> is amended as set out in Schedule 1.	7

<b>Schedule 1</b>	<b>Amendments</b>	1
		(Section 3)
<b>[1] Part 8A</b>		3
Insert after Part 8:		4
	<b>Part 8A Food donors</b>	5
	<b>58A Interpretation</b>	6
	In this Part:	7
	<i>food, handling</i> and <i>unsafe food</i> have the same meanings as they	8
	have in the <i>Food Act 2003</i> .	9
	<i>personal injury</i> includes:	10
	(a) pre-natal injury, and	11
	(b) impairment of a person's physical or mental condition, and	12
	(c) disease.	13
	<b>58B Application of Part</b>	14
	(1) This Part applies to civil liability of any kind.	15
	(2) This Part does not apply to civil liability that is excluded from the	16
	operation of this Part by section 3B.	17
	<b>58C Protection of food donors</b>	18
	(1) A person who donates food (the <i>food donor</i> ) does not incur any	19
	civil liability in respect of any death or personal injury that results	20
	from the consumption of the food if:	21
	(a) the food donor donated the food:	22
	(i) in good faith for a charitable or benevolent purpose,	23
	and	24
	(ii) with the intention that the consumer of the food	25
	would not have to pay for the food, and	26
	(b) the food was safe to consume at the time it left the	27
	possession or control of the food donor, and	28
	(c) where the food was of a nature that required it to be	29
	handled in a particular way to ensure that it remained safe	30
	to consume after it left the possession or control of the food	31
	donor—the food donor informed the person to whom the	32
	food donor gave the food of those handling requirements,	33
	and	34

	(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.	1 2 3 4 5
	(2) For the purposes of this section, food is safe to consume if it is not unsafe food.	6 7
<b>[2]</b>	<b>Schedule 1 Savings and transitional provisions</b>	8
	Insert at the end of clause 1 (1):	9
	<i>Civil Liability Amendment (Food Donations) Act 2004</i>	10
<b>[3]</b>	<b>Schedule 1, Part 4A</b>	11
	Insert after clause 15:	12
	<b>Part 4A Provisions consequent on enactment of Civil Liability Amendment (Food Donations) Act 2004</b>	13 14 15
<b>15A</b>	<b>Application of amendments</b>	16
	(1) Part 8A applies in relation to civil liability whether arising before or after the commencement of that Part.	17 18
	(2) However, Part 8A does not apply to proceedings commenced in a court before the commencement of that Part.	19 20