

Passed by both Houses



New South Wales

# Civil Liability Amendment (Food Donations) Bill 2005

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2005*



New South Wales

## **Civil Liability Amendment (Food Donations) Bill 2005**

Act No , 2005

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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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*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*Chairman of Committees of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**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.

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## 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

Schedule 1 Amendments

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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.