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TASMANIA

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PRIMARY PRODUCE SAFETY (HORTICULTURE PRODUCE) REGULATIONS 2026

STATUTORY RULES 2026, No.

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PRIMARY PRODUCE SAFETY (HORTICULTURE PRODUCE) REGULATIONS 2026

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Primary Produce Safety Act 2011*.

Dated 20 .

Governor

By Her Excellency's Command,

Minister for Primary Industries and Water

PART 1 – PRELIMINARY

1. Short title

These regulations may be cited as the *Primary Produce Safety (Horticulture Produce) Regulations 2026*.

2. Commencement

These regulations take effect on the day on which their making is notified in the *Gazette*.

3. Interpretation

In these regulations –

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accredited horticulture producer means the proprietor of a horticulture produce business who is an accredited producer;

Act means the *Primary Produce Safety Act 2011*;

berries means the following fresh berries intended for human consumption:

(a) berries from the genus Rubus;

(b) blueberries;

(c) strawberries;

berries food safety scheme – see regulation 8;

cultivated land means land that is used by a proprietor of a horticulture produce business involved in the horticulture produce production of horticulture produce for the purposes of growing or cultivating that horticulture produce;

food business has the same meaning as in the *Food Act 2003*;

full-time horticulture produce handler means a person who directly engages in the horticulture produce production –

(a) as an employee or agent of a horticulture produce business; and

(b) for 38 hours in a week;

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home horticulture activity – see regulation 4;

horticulture produce means one or more of the following produce intended for human consumption:

(a) berries;

(b) leafy vegetables;

(c) melons;

(d) seed sprouts;

horticulture produce business means a primary produce business, or proposed primary produce business, that consists, in whole or in part, of horticulture produce production, other than home horticulture activity;

horticulture produce premises means premises on which a horticulture produce business is carried on;

horticulture produce processing – see regulation 5;

horticulture produce production – see regulation 6;

horticulture producer means a person who engages in horticulture produce production;

large horticulture producer means –

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(a) a horticulture producer who undertakes horticulture produce production on cultivated land, whether the land is contiguous or otherwise, that is comprised of a total size of at least 10 hectares; or

(b) a horticulture producer with a maximum number of persons employed or engaged by the producer at any point during the 12 months preceding the calculation of the fee or the date of the application was equivalent to 51 or more full-time horticulture produce handlers;

leafy vegetables means the following leafy vegetables intended for human consumption:

(a) baby leaves;

(b) leafy herbs;

(c) lettuce;

leafy vegetables food safety scheme – see regulation 9;

medium horticulture producer means –

(a) a horticulture producer who undertakes horticulture produce production on cultivated land,

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whether the land is contiguous or otherwise, that is comprised of a total size that is at least 5 hectares but less than 10 hectares; or

(b) a horticulture producer with a maximum number of persons employed or engaged by the producer at any point during the 12 months preceding the calculation of the fee or the date of the application was equivalent to 5 to 50 full-time horticulture produce handlers;

melons means the following fresh melons intended for human consumption:

(a) honeydew melon;

(b) piel de sapo;

(c) rockmelon;

(d) watermelon;

melons food safety scheme – see regulation 10;

registered food business means a food business that is registered in accordance with Part 7 of the *Food Act 2003*;

seed sprouts means young seedlings intended for human consumption that –

(a) are grown from seeds, beans or peas; and

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(b) if grown from seed, include all, or part, of the seed;

seed sprouts food safety scheme – regulation 11

small horticulture producer means –

(a) a horticulture producer who undertakes horticulture produce production on cultivated land, whether the land is contiguous or otherwise, that is comprised of a total size exceeding 1 hectare but less than 5 hectares; or

(b) a horticulture producer with a maximum number of persons employed or engaged by the producer at any point during the 12 months preceding the calculation of the fee or the date of the application was equivalent to fewer than 5 full-time horticulture produce handlers.

4. Meaning of *home horticulture activity*

(1) In these regulations, home horticulture activity means horticulture produce production or horticulture produce processing for a non-commercial purpose.

(2) For the avoidance of doubt, home horticulture activity does not include the following:

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(a) horticulture produce production or horticulture produce processing for a commercial purpose;

(b) the supply of horticulture produce to a horticulture produce business;

(c) the supply of horticulture produce to a food business;

(d) the supply of horticulture produce at a market;

(e) the supply of horticulture produce by way of retail or wholesale.

5. Meaning of *horticulture produce processing*

(1) In these regulations, *horticulture produce processing* means one or more of the following undertaken in respect of horticulture produce that has been harvested:

(a) sorting or grading the horticulture produce;

(b) trimming or cutting the horticulture produce;

(c) treating, freezing, packing, refrigerating, storing or washing the horticulture produce;

(d) combining the horticulture produce.

(2) For the avoidance of doubt, horticulture produce processing does not include the following:

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(a) sale or service of horticulture produce by way of retail; or

(b) cooking or handling horticulture produce while preparing a meal intended for human consumption.

6. Meaning of *horticulture produce production*

In these regulations, *horticulture produce production* means one or more of the following undertaken for the purposes of supplying horticulture produce to a food business or a horticulture business:

(a) growing or cultivating horticulture produce;

(b) picking or harvesting horticulture produce;

(c) horticulture produce processing at –

(i) the premises on which the produce was grown, cultivated, picked or harvested; or

(ii) any premises that is associated with the premises referred to in subparagraph (i); or

(iii) any premises, other than the premises of a registered food business;

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(d) transportation or delivery of horticulture produce –

(i) within a horticulture produce premises; or

(ii) to a horticulture produce premises; or

(iii) from a horticulture produce premises;

(e) decontamination of horticulture produce by using a controlled environment to reduce the level of pathogenic organisms that may be present in the horticulture produce;

(f) soaking horticulture produce;

(g) germination of seed sprouts;

(h) harvesting horticulture produce;

(i) washing, drying or packing horticulture produce.

7. Prescribed *primary production activity*

For the purposes of paragraph (j) of the definition of *primary production activity* in section 5(1) of the Act, the following are prescribed as primary production activities:

(a) horticulture produce processing;

(b) horticulture produce production.

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8. Berries Food Safety Scheme

(1) These regulations establish, in Part 2, a food safety scheme in respect of berries.

(2) In any document, a reference to a berries food safety scheme is taken to be a reference to the berries food safety scheme, established in Part 2, as amended from time to time.

9. Leafy Vegetables Food Safety Scheme

(1) These regulations establish, in Part 3, a food safety scheme in respect of leafy vegetables.

(2) In any document, a reference to a leafy vegetables food safety scheme is taken to be a reference to the leafy vegetables food safety scheme, established in Part 3, as amended from time to time.

10. Melons Food Safety Scheme

(1) These regulations establish, in Part 4, a food safety scheme in respect of melons.

(2) In any document, a reference to a melons food safety scheme is taken to be a reference to the melons food safety scheme, established in Part 4, as amended from time to time.

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11. Seed Sprouts Food Safety Scheme

(1) These regulations establish, in Part 5, a food safety scheme in respect of seed sprouts.

(2) In any document, a reference to a seed sprouts food safety scheme is taken to be a reference to the seed sprouts food safety scheme, established in Part 5, as amended from time to time.

12. Periodic fees and returns

(1) For the purposes of section 16(1) of the Act –

(a) the prescribed period for which payment of the fee under that section of the Act must be paid is the period of 12 months ending on 30 June in any calendar year; and

(b) the prescribed fee under that section of the Act is the relevant annual fee specified in item 4 of the table in Schedule 1.

(2) For the purposes of section 16(2) of the Act –

(a) the date prescribed for the payment of the fee, and the lodgement of a return, under that section of the Act is 1 July immediately after the period prescribed in subregulation (1)(a); and

(b) the fee prescribed as a penalty for default under that section of the Act is the penalty for default specified in item 5 of the table in Schedule 1.

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13. Fees generally

(1) In this regulation –

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

(2) The fees specified in Schedule 1 are –

(a) unless otherwise specified, exclusive of GST; and

(b) prescribed as the fees payable in respect of the matters to which they relate.

(3) The Chief Inspector may exempt a person, or class of persons, from liability for all or part of a fee payable under the Act in one or more of the following circumstances:

(a) the horticulture produce business carried on by the person involves the export of horticulture produce, to another country, in accordance with a law of the Commonwealth;

(b) the horticulture produce business carried on by the person forms part of, or is attached to, a food business registered under the *Food Act 2003* that is carried on by that person at the same premises as the horticulture produce business;

(c) the person is an Aboriginal person engaging in a primary production activity

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of traditional or cultural significance within the Tasmanian Aboriginal community;

(d) the person holds, or has applied for, accreditation under two or more food safety schemes;

(e) the horticulture produce business carried on by the person is carried on by the person primarily for a charitable, educational or other non-commercial purpose;

(f) the circumstances are exceptional circumstances in which it would be just and equitable to exempt the person from all or part of the fee.

14. Application for accreditation to take into account certain offences

The following Acts are prescribed Acts for the purposes of section 14(3)(a)(iii) of the Act:

(a) *Agricultural and Veterinary Chemicals (Control of Use) Act 1995*;

(b) *Agricultural and Veterinary Chemicals (Tasmania) Act 1994*;

(c) *Animal (Brands and Movement) Act 1984*;

(d) *Animal Farming (Registration) Act 1994*;

(e) *Animal Health Act 1995*;

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(f) *Animal Welfare Act 1993*;

(g) *Biosecurity Act 2019*;

(h) *Environmental Management and Pollution Control Act 1994*;

(i) *Plant Quarantine Act 1997*;

(j) *Public Health Act 1997*;

(k) *Seeds Act 1985*;

(l) *Vermin Control Act 2000*;

(m) *Weed Management Act 1999*.

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PART 2 – BERRIES FOOD SAFETY SCHEME

15. Application of berries food safety scheme

(1) The berries food safety scheme applies to –

(a) all primary produce comprised, in whole or in part, of berries; and

(b) all primary production activities involving the horticulture produce production of berries.

(2) The following persons must comply with the berries food safety scheme:

(a) a person who supplies primary produce to which the berries food safety scheme applies;

(b) a person who engages in, or proposes to engage in, a primary production activity to which the berries food safety scheme applies.

16. Standard applying under berries food safety scheme

(1) A person who is required to comply the berries food safety scheme must comply with *Standard 4.2.7 – Primary Production and Processing Standard for berries* in the Food Standards Code, as amended or substituted from time to time.

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(2) Subregulation (1) is in addition to, and does not remove or replace, a requirement within another food safety scheme or standard that applies to a person referred to in subregulation (1).

17. Requirement to be accredited

(1) Subject to subregulation (2), the proprietor of a horticulture produce business involved in the horticulture produce production of berries is required to be accredited under the berries food safety scheme.

(2) The proprietor of a horticulture produce business involved in the horticulture produce production of berries is not required to be accredited under the berries food safety scheme if the proprietor –

(a) is not, or is not required to be, accredited under another food safety scheme; and

(b) has made, or proposes to make, appropriate arrangements to comply with the requirements of the Act and the berries food safety scheme before commencing, or engaging in, the horticulture produce production of berries; and

(c) has complied with the notification requirements specified in subregulation (3).

(3) For the purposes of subregulation (2)(c), a proprietor of a horticulture produce business

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referred to in subregulation (2) must notify the Chief Inspector, in a form approved by the Chief Inspector, of information in respect of –

(a) the proprietor's name and address; and

(b) the proprietor's business name and business address; and

(c) a description of each activity undertaken, or intended to be undertaken, by the proprietor in relation to the horticulture produce production of berries; and

(d) the location, or locations, at which each activity undertaken, or intended to be undertaken, by the proprietor in relation to the horticulture produce production of berries is, or will be, conducted.

Penalty: Fine not exceeding 5 penalty units.

(4) If a proprietor gives notification of information to the Chief Inspector in accordance with subregulation (3), the proprietor must notify the Chief Inspector of any change to that information so notified as soon as practicable after the change occurs.

Penalty: Fine not exceeding 5 penalty units.

18. Requirement for accreditation

It is a requirement for accreditation under the berries food safety scheme that the applicant for the accreditation –

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(a) has made appropriate arrangements to comply with the requirements of the Act and the berries food safety scheme; or

(b) proposes to make appropriate arrangements to comply with the requirements of the Act and the berries food safety scheme and has the capacity to make those arrangements before the accreditation is to commence.

19. Register of accreditation

(1) The Chief Inspector must establish a public register of the persons holding an accreditation under the berries food safety scheme.

(2) The register established under subregulation (1) is to contain particulars in respect of the following relevant matters as they relate to an accreditation granted to a horticulture producer in relation to berries:

(a) granting of accreditations;

(b) conditions attached to accreditations;

(c) variation or revocation of a condition attached to accreditations;

(d) suspension of accreditations;

(e) cancellation or revocation of accreditations;

(f) surrender of accreditations;

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(g) transfer of accreditations.

(3) The register established under subregulation (1) is to contain the following information in respect of a proprietor of a horticulture produce business involved in the horticulture produce production of berries who is not required, under regulation 17(2), to be accredited under the berries food safety scheme:

(a) the name and address of the proprietor;

(b) the business name and business address of the proprietor with respect to the proprietor's horticulture produce business involving the horticulture produce production of berries;

(c) a summary of each activity undertaken by the proprietor in relation to the horticulture produce production of berries;

(d) the location at which each activity, referred to in paragraph (c), is undertaken.

(4) The register under subregulation (1) is to be available for inspection, without charge and during normal business hours, on a written requires to the Chief Inspector.

(5) A person inspecting the register under subregulation (4) may, in payment of any reasonable fee determined by the Chief Inspector that does not exceed 50 fee units, do either or both of the following:

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(a) obtain an extract of an entry in the register;

(b) obtain a copy of anything contained in the register.

20. Requirement to prepare and implement food safety program

An accredited horticulture producer must prepare and implement a food safety program in respect of each activity involving berries for which the accredited horticulture producer holds accreditation under the berries food safety scheme.

21. Auditing requirements

(1) In this regulation –

approved berries food safety auditor means a food safety auditor approved under Part 11 of the Act to audit food safety programs in respect of berries;

approved berries food safety program means a food safety program, in respect of berries, that is an approved food safety program.

(2) An approved berries food safety program must be audited by an approved berries food safety auditor –

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(a) at intervals determined and notified by the Chief Inspector in respect of –

(i) the approved berries food safety program; or

(ii) approved berries food safety programs generally; or

(b) if no intervals are determined and notified under paragraph (a), at least once every 12 months.

(3) A notification by the Chief Inspector under subregulation (2)(a) is to be made in writing to the accredited berries producer of the approved berries food safety program.

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PART 3 – LEAFY VEGETABLES FOOD SAFETY SCHEME

22. Application of leafy vegetables food safety scheme

(1) The leafy vegetables food safety scheme applies to –

(a) all primary produce comprised, in whole or in part, of leafy vegetables; and

(b) all primary production activities involving the horticulture produce production of leafy vegetables.

(2) The following persons must comply with the leafy vegetables food safety scheme:

(a) a person who supplies primary produce to which the leafy vegetables food safety scheme applies;

(b) a person who engages in, or proposes to engage in, a primary production activity to which the leafy vegetables food safety scheme applies.

23. Standard applying under leafy vegetables food safety scheme

(1) A person who is required to comply with the leafy vegetables food safety scheme must comply with *Standard 4.2.8 – Primary Production and Processing Standard for leafy*

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vegetables in the Food Standards Code, as amended or substituted from time to time.

(2) Subregulation (1) is in addition to, and does not remove or replace, a requirement within another food safety scheme or standard that applies to a person referred to in subregulation (1).

24. Requirement to be accredited

(1) Subject to subregulation (2), the proprietor of a horticulture produce business involved in the horticulture produce production of leafy vegetables is required to be accredited under the leafy vegetables food safety scheme.

(2) The proprietor of a horticulture produce business involved in the horticulture produce production of leafy vegetables is not required to be accredited under the leafy vegetables food safety scheme if –

(a) the proprietor conducts horticulture produce production in respect of leafy vegetables at a location, or locations, that does not exceed 1 hectare in total area of cultivated land; and

(b) the horticulture produce production conducted by the proprietor is the growing or cultivation, under regulation 6(a), of leafy vegetables; and

(c) the proprietor has made, or proposes to make, appropriate arrangements to comply with the requirements of the Act

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and the leafy vegetables food safety scheme before commencing, or engaging in, the horticulture produce production of leafy vegetables.

(3) The proprietor of a horticulture produce business who, under subregulation (2), is not required to be accredited under the leafy vegetables food safety scheme must notify the Chief Inspector, in a form approved by the Chief Inspector, of the following information in respect of the proprietor:

(a) the proprietor's name and address;

(b) the proprietor's business name and business address;

(c) a description of each activity undertaken, by the proprietor in relation to the horticulture produce production of leafy vegetables;

(d) the location, or locations, at which each activity undertaken, or intended to be undertaken, by the proprietor in relation to the horticulture produce production of leafy vegetables is, or will be, conducted.

Penalty: Fine not exceeding 5 penalty units.

(4) If a proprietor gives notification of information to the Chief Inspector in accordance with subregulation (3), the proprietor must notify the Chief Inspector of any change to that

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information so notified as soon as practicable after the change occurs.

Penalty: Fine not exceeding 5 penalty units.

25. Requirement for accreditation

It is a requirement for accreditation under the leafy vegetables food safety scheme that the applicant for the accreditation –

(a) has made appropriate arrangements to comply with the requirements of the Act and the leafy vegetables food safety scheme; or

(b) proposes to make appropriate arrangements to comply with the requirements of the Act and the leafy vegetables food safety scheme and has the capacity to make those arrangements before the accreditation is to commence.

26. Register of accreditation

(1) The Chief Inspector must establish a public register of the persons holding an accreditation under the leafy vegetables food safety scheme.

(2) The register established under subregulation (1) is to contain particulars in respect of the following relevant matters as they relate to an accreditation granted to a horticulture producer in relation to leafy vegetables:

(a) granting of accreditations;

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(b) conditions attached to accreditations;

(c) variation or revocation of a condition attached to accreditations;

(d) suspension of accreditations;

(e) cancellation or revocation of accreditations;

(f) surrender of accreditations;

(g) transfer of accreditations.

(3) The register established under subregulation (1) is to contain the following information in respect of a proprietor of a horticulture produce business involved in the horticulture produce production of leafy vegetables who is not required, under regulation 24(2), to be accredited under the leafy vegetables food safety scheme:

(a) the name and address of the proprietor;

(b) the business name and business address of the proprietor with respect to the proprietor's horticulture produce business involving the horticulture produce production of leafy vegetables;

(c) a summary of each activity undertaken by the proprietor in relation to the horticulture produce production of leafy vegetables;

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(d) the location at which each activity, referred to in paragraph (c), is undertaken.

(4) The register established under subregulation (1) is to be available for inspection, without charge and during normal business hours, on a written request to the Chief Inspector.

(5) A person inspecting the register under subregulation (4) may, in payment of any reasonable fee determined by the Chief Inspector that does not exceed 50 fee units, do either or both of the following:

(a) obtain an extract of an entry in the register;

(b) obtain a copy of anything contained in the register.

27. Requirement to prepare and implement food safety program

An accredited horticulture producer must prepare and implement a food safety program in respect of each activity involving leafy vegetables for which the accredited horticulture producer holds accreditation under the leafy vegetables food safety scheme.

28. Auditing requirements

(1) In this regulation –

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approved leafy vegetables food safety auditor means a food safety auditor approved under Part 11 of the Act to audit food safety programs in respect of leafy vegetables;

approved leafy vegetables food safety program means a food safety program, in respect of leafy vegetables, that is an approved food safety program.

(2) An approved leafy vegetables food safety program must be audited by an approved leafy vegetables food safety auditor –

(a) at intervals determined and notified by the Chief Inspector in respect of –

(i) the approved leafy vegetables food safety program; or

(ii) approved leafy vegetables food safety programs generally; or

(b) if no intervals are determined and notified under paragraph (a), at least once every 12 months.

(3) A notification by the Chief Inspector under subregulation (2)(a) is to be made in writing to the accredited leafy vegetables producer of the approved leafy vegetables food safety program.

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PART 4 – MELONS FOOD SAFETY SCHEME

29. Application of melons food safety program

(1) The melons food safety scheme applies to –

(a) all primary produce comprised, in whole or in part, of melons; and

(b) all primary production activities involving the horticulture produce production of melons.

(2) The following persons must comply with the melons food safety scheme:

(a) a person who supplies primary produce to which the melons food safety scheme applies;

(b) a person who engages in, or proposes to engage in, a primary production activity to which the melons food safety scheme applies.

30. Standard applying under melons food safety scheme

(1) A person who is required to comply with the melons food safety scheme must comply with *Standard 4.2.9 – Primary Production and Processing Standard for melons* in the Food Standards Code, as amended or substituted from time to time.

(2) Subregulation (1) is in addition to, and does not remove or replace, a requirement within another

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food safety scheme or standard that applies to a person referred to in subregulation (1).

31. Requirement to be accredited

(1) Subject to subregulation (2), the proprietor of a horticulture produce business involved in the horticulture produce production of melons is required to be accredited under the melons food safety scheme.

(2) The proprietor of a horticulture produce business involved in the horticulture produce production of melons is not required to be accredited under the melons food safety scheme if –

(a) the proprietor conducts horticulture produce production in respect of melons at a location, or locations, that does not exceed 1 hectare in total area of cultivated land; and

(b) the horticulture produce production conducted by the proprietor is the growing or cultivation, under regulation 6(a), of melons; and

(c) the proprietor has made, or proposes to make, appropriate arrangements to comply with the requirements of the Act and the melons food safety scheme before commencing, or engaging in, the horticulture produce production of melons.

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(3) The proprietor of a horticulture produce business involved in the horticulture produce production of melons who, under subregulation (2), is not required to be accredited under the melons food safety scheme must notify the Chief Inspector, in a form approved by the Chief Inspector, of the following information in respect of the proprietor:

(a) the proprietor's name and address;

(b) the proprietor's business name and business address;

(c) a description of each activity undertaken, by the proprietor in relation to the horticulture produce production of melons;

(d) the location, or locations, at which each activity undertaken, or intended to be undertaken, by the proprietor in relation to the horticulture produce production of melons is, or will be, conducted.

Penalty: Fine not exceeding 5 penalty units.

(4) If a proprietor gives notification of information to the Chief Inspector in accordance with subregulation (3), the proprietor must notify the Chief Inspector of any change to that information so notified as soon as practicable after the change occurs.

Penalty: Fine not exceeding 5 penalty units.

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32. Requirement for accreditation

It is a requirement for accreditation under the melons food safety scheme that the applicant for the accreditation –

(a) has made appropriate arrangements to comply with the requirements of the Act and the melons food safety scheme; or

(b) proposes to make appropriate arrangements to comply with the requirements of the Act and the melons food safety scheme and has the capacity to make those arrangements before the accreditation is to commence.

33. Register of accreditation

(1) The Chief Inspector must establish a public register of the persons holding an accreditation under the melons food safety scheme.

(2) The register established under subregulation (1) is to contain particulars in respect of the following relevant matters as they relate to an accreditation granted to a horticulture producer in relation to melons:

(a) granting of accreditations;

(b) conditions attached to accreditations;

(c) variation or revocation of a condition attached to accreditations;

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(d) suspension of accreditations;

(e) cancellation or revocation of accreditations;

(f) surrender of accreditations;

(g) transfer of accreditations.

(3) The register established under subregulation (1) is to contain the following information in respect of a proprietor of a horticulture produce business involved in the horticulture produce production of melons who is not required, under regulation 31(2), to be accredited under the melons food safety scheme:

(a) the name and address of the proprietor;

(b) the business name and business address of the proprietor with respect to the proprietor's horticulture produce business involving the horticulture produce production of melons;

(c) a summary of each activity undertaken by the proprietor in relation to the horticulture produce production of melons;

(d) the location at which each activity, referred to in paragraph (c), is undertaken.

(4) The register established under subregulation (1) is to be available for inspection, without charge

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and during normal business hours, on a written request to the Chief Inspector.

(5) A person inspecting the register under subregulation (4) may, in payment of any reasonable fee determined by the Chief Inspector that does not exceed 50 fee units, do either or both of the following:

(a) obtain an extract of an entry in the register;

(b) obtain a copy of anything contained in the register.

34. Requirement to prepare and implement food safety program

An accredited horticulture producer must prepare and implement a food safety program in respect of each activity involving melons for which the accredited horticulture producer holds accreditation under the melons food safety scheme.

35. Auditing requirements

(1) In this regulation –

approved melons food safety auditor means a food safety auditor approved under Part 11 of the Act to audit food safety programs in respect of melons;

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approved melons food safety program means a food safety program, in respect of melons, that is an approved food safety program.

(2) An approved melons food safety program must be audited by an approved melons food safety auditor –

(a) at intervals determined and notified by the Chief Inspector in respect of –

(i) the approved melons food safety program; or

(ii) approved melons food safety programs generally; or

(b) if no intervals are determined and notified under paragraph (a), at least once every 12 months.

(3) A notification by the Chief Inspector under subregulation (2)(a) is to be made in writing to the accredited melons producer of the approved melons food safety program.

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PART 5 – SEED SPROUTS FOOD SAFETY SCHEME

36. Application of seed sprouts food safety scheme

(1) The seed sprouts food safety scheme applies to –

(a) all primary produce comprised, in whole or in part, of seed sprouts; and

(b) all primary production activities involving the horticulture produce of seed sprouts.

(2) The following persons must comply with the seed sprouts food safety scheme:

(a) a person who supplies primary produce to which the seed sprouts food safety scheme applies;

(b) a person who engages in, or proposes to engage in, a primary production activity to which the seed sprouts food safety scheme applies.

37. Standard applying under seed sprouts food safety scheme

(1) A person who is required to comply with the seed sprouts food safety scheme must comply with *Standard 4.2.6 – Primary Production and Processing Standard for Seed Sprouts* in the Food Standards Code, as amended or substituted from time to time.

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(2) Subregulation (1) is in addition to, and does not remove or replace, a requirement within another food safety scheme or standard that applies to a person referred to in subregulation (1).

38. Requirement to be accredited

The proprietor of a horticulture produce business involved in the horticulture produce production of seed sprouts is required to be accredited under the seed sprouts food safety scheme.

39. Requirement for accreditation

It is a requirement for accreditation under the seed sprouts food safety scheme that the applicant for the accreditation –

(a) has made appropriate arrangements to comply with the requirements of the Act and the seed sprouts food safety scheme; or

(b) proposes to make appropriate arrangements to comply with the requirements of the Act and the seed sprouts food safety scheme and has the capacity to make those arrangements before the accreditation is to commence.

40. Register of accreditation

(1) The Chief Inspector must establish a public register of the persons holding an accreditation under the seed sprouts food safety scheme.

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(2) The register established under subregulation (1) is to contain particulars in respect of the following relevant matters as they relate to an accreditation granted to a horticulture producer in relation to seed sprouts:

(a) granting of accreditations;

(b) conditions attached to accreditations;

(c) variation or revocation of a condition attached to accreditations;

(d) suspension of accreditations;

(e) cancellation or revocation of accreditations;

(f) surrender of accreditations;

(g) transfer of accreditations.

(3) The register established under subregulation (1) is to be available for inspection, without charge and during normal business hours, on a written request to the Chief Inspector.

(4) A person inspecting the register under subregulation (3) may, on payment of any reasonable fee determined by the Chief Inspector that does not exceed 50 fee units, do one or more of the following:

(a) obtain an extract of an entry in the register;

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(b) obtain a copy of anything contained in the register.

41. Requirement to prepare and implement food safety program

An accredited horticulture producer must prepare and implement a food safety program in respect of each activity involving seed sprouts for which the accredited horticulture producer holds accreditation under the seed sprouts food safety scheme.

42. Auditing requirements

(1) In this regulation –

approved seed sprouts food safety auditor means a food safety auditor approved under Part 11 of the Act to audit food safety programs in respect of seed sprouts;

approved seed sprouts food safety program means a food safety program, in respect of seed sprouts, that is an approved food safety program.

(2) An approved seed sprouts food safety program must be audited by an approved seed sprouts food safety auditor –

(a) at intervals determined and notified by the Chief Inspector in respect of –

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(i) the approved seed sprouts food safety program; or

(ii) approved seed sprouts food safety programs generally; or

(b) if no intervals are determined and notified under paragraph (a), at least once every 12 months.

(3) A notification by the Chief Inspector under subregulation (2)(a) is to be made in writing to the accredited seed sprouts producer of the approved seed sprouts food safety program.

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PART 6 – MISCELLANEOUS

43. Horticulture produce must be lawfully produced

(1) A person must not supply horticulture produce that has not been lawfully produced for human consumption.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 250 penalty units and, in the case of a continuing offence, a further fine not exceeding 20 penalty units for each day during which the offence continues; or

(b) an individual, a fine not exceeding 50 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.

(2) For the purposes of this regulation, horticulture produce is taken to have been lawfully produced for human consumption if –

(a) in the case of horticulture produce that has been produced outside of Australia, it has been imported lawfully into Australia; or

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(b) in the case of, and to the extent that, horticulture produce has been produced or processed, or both, within Australia, the production or processing, or both, has been carried out –

(i) if within Tasmania, in accordance with the requirements of the Act; or

(ii) if within a State or Territory of Australia other than the State of Tasmania, in accordance with any applicable corresponding law of that State or Territory.

(3) An offence against this regulation is an offence of strict liability.

44. Infringement notices

For the purposes of section 53 of the Act –

(a) an offence specified in column 1 of the table in Schedule 2 is prescribed as an offence for which an infringement notice may be served; and

(b) a penalty specified in column 2 of the table in Schedule 2 is prescribed as the penalty for a natural person for the corresponding offence specified in column 1 of the table; and

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(c) a penalty specified in column 3 of the table in Schedule 2 is prescribed as the penalty for a body corporate for the corresponding offence specified in column 1 of the table.

45. Legislation rescinded

The legislation specified in Schedule 3 is rescinded.

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SCHEDULE 1 – FEES

Regulations 12 and 13

	Matter	Fee (Fee units)
1.	Application under section 12 of the Act for accreditation of a horticulture producer	350
2.	Application under section 18 of the Act for variation of accreditation of a horticulture producer –	
	(a) if the variation does not involve the approval or variation of a food safety program	250
	(b) if the variation involves the variation of an approved food safety program for the accreditation	300
	(c) if the variation involves the approval of a new food safety program for the accreditation that is in addition to, or in substitution for, an existing approved food safety program for the accreditation	300
3.	Application under section 19 of the Act for transfer of accreditation of a horticulture producer	300
4.	Annual fee for an accredited horticulture producer –	
	(a) for a small horticulture producer	175
	(b) for a medium horticulture producer	350
	(c) for a large horticulture producer	750

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	Matter	Fee (Fee units)
5.	Penalty for default in respect of an accredited horticulture producer	75

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SCHEDULE 2 – INFRINGEMENT NOTICE OFFENCES

Regulation 44

	Column 1 Offence	Column 2 Penalty – Individual (Penalty units)	Column 3 Penalty – Body Corporate (Penalty units)
1.	Regulation 17(3)	0.5	1
2.	Regulation 17(4)	0.5	1
3.	Regulation 24(3)	0.5	1
4.	Regulation 24(4)	0.5	1
5.	Regulation 31(3)	0.5	1
6.	Regulation 31(4)	0.5	1
7.	Regulation 43	5	10

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SCHEDULE 3 – LEGISLATION RESCINDED

Regulation 45

Primary Produce Safety (Horticulture Produce) Regulations 2023 (No. 85 of 2023)

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 20 .

These regulations are administered in the Department of Natural Resources and Environment Tasmania.

EXPLANATORY NOTE
(This note is not part of the regulations)

These regulations –

(a) for the purposes of the *Primary Produce Safety Act 2011* –

(i) establish food safety schemes in respect of the following horticulture produce:

(A) berries;

(B) leafy vegetables;

(C) melons;

(D) seed sprouts; and

(ii) establish a public register of –

(A) persons holding an accreditation under those schemes; and

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(B) persons involved in the horticulture produce production of horticulture produce under those food safety schemes but not required to be accredited under the scheme; and

(iii) prescribe the accreditation requirements in respect of the primary production of that horticulture produce; and

(iv) prescribe certain fees that are payable under the Act in respect of that horticulture produce; and

(v) prescribe infringement notice offences and the penalty payable for those infringement notice offences; and

(b) rescind the *Primary Produce Safety (Horticulture Produce) Regulations 2023*.

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