



## REPUBLIC OF VANUATU

### FOOD (CONTROL) ACT [CAP 228]

#### Penalty Notice Regulation Order No. 54 of 2010

In exercise of the powers conferred on me by subsection 39A (2) of the Food Control Act [CAP 228], I, the Honourable MOSES KAHU, Minister of Health, make the following Order.

#### **1 Interpretation**

In this regulation:

**Act** means the Food (Control) Act [CAP 228];

**Food Regulation** means the Food (Control) Regulation Order No. 37 of 2007.

#### **2 Prescribed amounts for penalty notices**

- (1) For the purposes of section 39A of the Act, the prescribed amount in respect of an offence committed under a provision of the Act listed in Column 2 of Table 1 is:
- (a) the amount set out in Column 3 of that Table for a first offence under such paragraph; and
  - (b) the amount set out in Column 4 of that Table for a second offence under such paragraph; and
  - (c) the amount or penalty set out in Column 5 of that Table for a third offence under such paragraph.

<b>Table 1</b>				
Column 1 <b>Items</b>	Column 2 <b>Provisions of the Act</b>	Column 3 <b>Prescribed amount for first offence</b>	Column 4 <b>Prescribed amount for second offence</b>	Column 5 <b>Amount or Penalty for subsequent offence</b>
1	<b>2(1)(a)</b> Manufacture, import, sale or distribution of any food that has upon it any natural or added deleterious substance which renders it injurious to health.	20,000	50,000	200,000
2	<b>2(1)(b)</b> Manufacture, import, sale or distribution of any food that is unfit for human consumption	20,000	50,000	200,000
3	<b>2(1)(c)</b> Manufacture, import, sale or distribution of any food that consists in whole or in part of any unclean, putrid, repugnant, decayed, decomposed or diseased animal substance or decayed vegetable substance or is insect infested	20,000	50,000	200,000
4	<b>2(1)(d)</b> Manufacture, import, sale or distribution of any food that is adulterated	20,000	50,000	200,000
5	<b>2(2)</b> Manufacturing, preparation, preservation, packaging or storage for sale of any food under insanitary conditions	20,000	50,000	200,000
6	<b>2(3)</b> Importation, sale or distribution of any food manufactured, prepared, preserved, packaged or stored for sale under insanitary conditions	20,000	50,000	200,000
7	<b>3(1)</b> Labelling, packaging, treating, processing, selling or advertising any food in a manner that is false, misleading, deceptive or likely to create an erroneous impression regarding its character, value, quality, composition, merit or safety	20,000	50,000	200,000
8	<b>4</b> Labelling, packaging, selling or advertising any food which does not conform to the standard in such a manner as is likely to be mistaken for the food for which the standard has been prescribed	20,000	50,000	200,000
9	<b>5</b> Offering for sale, expose for sale or sell for use as animal food or for other purposes any food which has been spoilt or rendered unfit for human consumption except with the permission of, and in accordance with the directions issued by, the Chief Food Authority or such other person authorized by him in writing in that behalf	20,000	50,000	200,000

10	<b>6(1)</b> Manufacturer, distributor, a commission agent or a dealer in any food, selling that food to any vendor without giving the vendor a warranty in the prescribed form, regarding the nature, substance and quality of that food	20,000	50,000	200,000
11	<b>6(3)</b> Manufacturer or distributor of, or a commission agent or dealer in, any food gives a false warranty	20,000	50,000	200,000
12	<b>27</b> Failing to furnish information or a document that the person is required under the Act to furnish, without reasonable excuse	20,000	50,000	200,000
14	<b>28(1)(a)</b> Knowingly or recklessly furnishes information that is false or misleading in a material particular	50,000	100,000	500,000
15	<b>28(1)(b)</b> Knowingly or recklessly makes a material omission from information furnished in purported compliance with a requirement under the Act	50,000	100,000	500,000
16	<b>28(1)(c)</b> Knowingly or recklessly fabricates evidence or destroys evidence with intent to mislead examinations or investigations	50,000	100,000	500,000
17	<b>29</b> Removing, altering, tampering or interfering with any article seized under this Act without the authority of an authorized officer	50,000	100,000	500,000
18	<b>34(1)</b> Failing to provide facilities for the examination of imported food in accordance with paragraph 13(1)(g), after having been duly directed to do so by an authorized officer	20,000	50,000	200,000
19	<b>34(2)</b> Selling, offering or exposing for sale, or depositing or consigning to any person for the purposes of sale or preparation for sale, any food contrary to the purport of any mark, seal or other designation affixed under subsection 13(7) or removing, altering or obliterating any such mark, seal or designation with an intent to deceive any person	20,000	50,000	200,000
20	<b>35</b> Failing to comply with any direction given under section 14, or who in a notification under it knowingly makes a false statement	50,000	100,000	500,000
21	<b>36</b> Person in charge of a vehicle or vessel which is called upon to stop under subsection 15(1) fails to stop when so called upon	50,000	100,000	500,000
22	<b>37</b> Using or removing any food contrary to the requirements of a notice given under section 16	50,000	100,000	500,000

- (2) For the purposes of section 39A of the Act, the prescribed amount in respect of an offence committed under a provision of the Food Regulation listed in Column 2 of Table 2 is:
- (a) the amount set out in Column 3 of that Table for a first offence under such paragraph; and
  - (b) the amount set out in Column 4 of that Table for a second offence under such paragraph; and
  - (c) the amount or penalty set out in Column 5 of that Table for a third offence under such paragraph.

<b>Table 2</b>				
Column 1 <b>Items</b>	Column 2 <b>Provisions of the Food Regulation</b>	Column 3 <b>Prescribed amount for first offence</b>	Column 4 <b>Prescribed amount for second offence</b>	Column 5 <b>Amount or Penalty for subsequent offence</b>
1	<b>2(2)</b> Food handler failing to comply with the General hygiene standards prescribed by Food Authority.	2,000	5,000	20,000
2	<b>2(3)</b> Food handler failing to wash and dry hands when carrying out the following activities: after handling raw food and before handling ready to eat food, immediately after using the toilet, after using a handkerchief or tissue, after smoking, after handling raw food or any contaminated material, at the start of food handling activities.	2,000	5,000	20,000
3	<b>2(4)</b> Food handler spitting, smoking, chewing tobacco or any other substance whilst handling food.	2,000	5,000	20,000
4	<b>2(5)</b> Food handler sneezing or coughing over unprotected food or food preparation surfaces.	2,000	5,000	20,000
5	<b>2(6)</b> Food handler expelling waste or urinating in & around food premises other than toilet.	2,000	5,000	20,000
6	<b>4(1)</b> Employer allowing food handler to in food handling area when food handler is found to have a communicable disease.	20,000	50,000	200,000
7	<b>5(3)</b> Employer allowing food handler with unprotected cuts or open wound, to have direct contact with food.	20,000	50,000	200,000
8	<b>6(1)</b> Improper handling of food by food handler.	2,000	5,000	20,000

9	<b>7(1)</b> Owner of food premises that sells food other than raw fruits or vegetables, or pre-packaged mass produced foods, employs persons with no valid food safety certificate.	20,000	50,000	200,000
10	<b>8(2)</b> No food handler in the food premises with a valid food safety certificate to supervise in the food handling area	5,000	20,000	100,000
11	<b>11(1)</b> Failure of owner of food premises to take all practicable steps to ensure that his or her food handlers follow all health and hygiene obligations set out under the Food (Control) Act [CAP 228] and the Food (Control) Regulation Order No. 37 of 2007.	20,000	50,000	200,000
12	<b>11(2)</b> Failure of owner or operator of food premises to take all the practicable measures to ensure all food handlers employed at the food premises do not contaminate the food in any way, do not have unnecessary contact with ready to eat food, do not spit, smoke or use tobacco in the premises, and are provided with protective clothing.	20,000	50,000	200,000
13	<b>12</b> Handling or displaying food in such a way that food can be contaminated.	2,000	5,000	20,000
14	<b>13</b> Sale of unclean food.	2,000	5,000	20,000
15	<b>14(1)</b> Selling ready to eat food exposed.	2,000	5,000	20,000
16	<b>14(2)</b> Displaying ready to eat food less than 75cm from floor level.	20,000	50,000	200,000
17	<b>14(3)</b> Depositing trays used in connection with ready to eat food on footpath, doorway, yard or open space.	20,000	50,000	200,000
18	<b>14(4)</b> Storing ready to eat food next to raw food.	20,000	50,000	200,000
19	<b>15</b> Sale of nuts, raw fruits and vegetables less than 75cm from ground level.	2,000	5,000	20,000
20	<b>16</b> Person displaying food for sale not providing suitable protection from contamination from birds and other animals.	2,000	5,000	20,000
21	<b>17</b> Animals allowed into food premises where food is handled for sale.	20,000	50,000	200,000
22	<b>18</b> No use of tongs and other utensils when serving food.	2,000	5,000	20,000

23	<b>19</b> Serving food previously served to someone else.	20,000	50,000	200,000
24	<b>20(1)</b> Selling food that has already been thawed.	20,000	50,000	200,000
25	<b>21</b> Owner or operator of food premises failing to ensure separation of all food.	20,000	50,000	200,000
26	<b>22(1)</b> Improper storage of hot high risk food.	20,000	50,000	200,000
27	<b>22(2)</b> Improper storage of cold high risk food.	20,000	50,000	200,000
28	<b>22(3)</b> Faulty appliances used to store high risk food.	20,000	50,000	200,000
29	<b>23(1) and (2)</b> Improper storage of raw food and ingredients.	20,000	50,000	200,000
30	<b>24(1)</b> Storing hazardous substances with food items.	20,000	50,000	200,000
31	<b>24(2)</b> No clear labelling of pesticides, disinfectants and detergents as "Poison".	20,000	50,000	200,000
32	<b>25</b> Failure to protect food premises, appliances or utensils from contamination by likely sources of contamination.	20,000	50,000	200,000
33	<b>26</b> Improper or failure to properly clean articles, fittings, appliances and vehicles used to transport food.	20,000	50,000	200,000
34	<b>27</b> Failure to clean eating, drinking and any other utensil used to serve food.	20,000	50,000	200,000
35	<b>28</b> Failure to clean equipment that has been in contact with raw food or contaminated material.	20,000	50,000	200,000
36	<b>29(1) and (2)</b> Improper cleaning and disinfection of equipment and food contact surfaces.	20,000	50,000	200,000
37	<b>30(1)</b> Improper construction of food premises.	20,000	50,000	200,000
38	<b>32(1)</b> Food premises not equipped with hand washing facility.	20,000	50,000	200,000
39	<b>33</b> Sink or fixture used for cleaning or preparing food is not of sufficient size and capacity.	20,000	50,000	200,000

40	<b>34</b> Walls, ceilings, partitions and floor of food premises not made of impervious material.	20,000	50,000	200,000
41	<b>35</b> Food premises not supplied with adequate potable water.	20,000	50,000	200,000
42	<b>36</b> Food premises not equipped with proper lighting.	20,000	50,000	200,000
43	<b>37(1) and (2)</b> Food premises is not equipped with changing facilities and toilets.	20,000	50,000	200,000
44	<b>38(1)</b> Food premises not connected to reticulated sewage system.	20,000	50,000	200,000
45	<b>39</b> Improper construction of vehicle used for selling food.	20,000	50,000	200,000
46	<b>40</b> Failure to properly maintain food premises.	20,000	50,000	200,000
47	<b>42(1)</b> Improper disposal of refuse and other waste matters from food premises.	20,000	50,000	200,000
48	<b>43(1)</b> No qualified person supervising food processing.	20,000	50,000	200,000
49	<b>44(1)</b> Improper storage of packaging material.	20,000	50,000	200,000
50	<b>44(2)</b> Packaging material is not of good quality.	20,000	50,000	200,000
51	<b>44(3)</b> Poor packing conditions.	20,000	50,000	200,000
52	<b>44(5)</b> Use of printed or packaging material that contaminates food.	20,000	50,000	200,000
53	<b>45(1) and (2)</b> Food not properly protected from contaminants when being transported.	20,000	50,000	200,000
54	<b>46</b> No labelling on packaged food.	20,000	50,000	200,000
55	<b>47(1), (2), (3) and (4)</b> Statements required by the Food (Control) Regulation Order No 37 of 2007 such as name of food, net contents, instructions for use, name and address of distributor or manufacturer, ingredients, additives, used by date etc, cannot be clearly read.	20,000	50,000	200,000

56	<b>48(1)</b> Information required to be on the label of pre-packaged food are not included.	20,000	50,000	200,000
57	<b>48(2)</b> Labelling contains misleading claims.	50,000	100,000	500,000
58	<b>48(3)</b> Label contains confusing or misleading words or pectorals.	20,000	50,000	200,000
59	<b>48(4)</b> Label not include any genetically modified organisms if the product does contain GMO's.	20,000	50,000	200,000
60	<b>48(5) and (6)</b> Food that has been treated with ionising radiation or that has been fortified, is not labelled as irradiated food.	20,000	50,000	200,000
61	<b>48(7)</b> Label does not indicate that the food contains excessive fat, energy dense or high in cholesterol, if the food does contain the above.	20,000	50,000	200,000
62	<b>49(1)</b> Label is not in either Bislama, English or French language.	20,000	50,000	200,000
63	<b>49(2)</b> Translation of the label is misrepresenting the nature and quality of the food.	20,000	50,000	200,000
64	<b>50(1)</b> Name of food does not indicate the true nature of the food and is generic.	20,000	50,000	200,000
65	<b>50(2), (3) and (4)</b> Name of food not used according to Schedule 1 of the Food (Control) Order, if the name of food is included in the Code Alimentarius, legislation or common name, and is misleading or confusing to the consumer.	20,000	50,000	200,000
66	<b>50(5)</b> Food that has been treated including being dried, concentrated, reconstituted or smoked is not identified in the label.	20,000	50,000	200,000
67	<b>51(1)</b> Ingredients not included in the label.	20,000	50,000	200,000
68	<b>51(2)</b> No clear heading of ingredients.	20,000	50,000	200,000
69	<b>51(3), (4) and (5)</b> Ingredients does not appear in the manner set out in the above mentioned subclauses.	20,000	50,000	200,000
70	<b>52(1)</b> Food additives does not appearing in label despite fact that the food contains food additives.	20,000	50,000	200,000



71	<b>53(1)</b> Flavouring does not appear in label despite the fact that the food does contain flavourings.	20,000	50,000	200,000
72	<b>54(1)</b> Supplier not state added water in the label.	20,000	50,000	200,000
73	<b>55(1) and (2)</b> Supplier not state the net content of the food in metric units.	20,000	50,000	200,000
74	<b>56(1) and (2)</b> Name and address of manufacturer, packer, distributor, importer, exporter or vendor of food, does not appear on the label.	20,000	50,000	200,000
75	<b>56(3)</b> Name and address of the importer does not appear on package label of a food product imported into Vanuatu.	20,000	50,000	200,000
76	<b>57</b> Food packaging label does not have a lot identification number or lettering in the label.	20,000	50,000	200,000
77	<b>58(1)</b> Use-by date does not appear in the food package label.	20,000	50,000	200,000
78	<b>58(2)</b> Use by date in the label does not indicate the day, month and year the food expires.	20,000	50,000	200,000
79	<b>58(3)</b> Food is still being sold after its use-by date.	50,000	100,000	300,000
80	<b>59(1)</b> Failure to remove from shelves of store, hotel, restraint, food stall etc... non-high risk food that is expired within 60 days after use-by date.	20,000	50,000	200,000
81	<b>59(2)</b> Failure to remove from shelves of store, hotel, restraint, food stall etc... high risk food that is expired within 21 days after use-by date.	20,000	50,000	200,000
82	<b>60(1)</b> Instructions on use of food not included in the label.	20,000	50,000	200,000
83	<b>60(2)</b> Instructions on storage including refrigeration (if relevant) is not included in the label. This only applies to food where it is clear that such instructions for storage need to be set out in the label.	20,000	50,000	200,000

### 3 Period to pay penalty

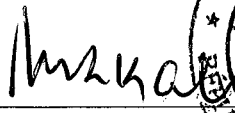
If the person served does not wish to have the matter determined by a court, the person must pay, within 21 days after receiving or being served with the notice, to

a person specified in the notice, the amount of penalty prescribed under this regulation.

**4 Commencement**

This Order commences on the day on which it is made.

Made at Port Vila this 26 day of July, 2010.

  
Honourable Moses **KAHU**  
Minister of Health

