

Food Instrument of Delegation 2025

I, **Andrew Davies, A/ Chief Executive Officer of the Food Authority**, make this Instrument of Delegation under section 109E of the *Food Act 2003*.

1 Delegation of functions

- (1) The functions conferred or imposed on the Food Authority under the Act or Regulation in Column 1 of Schedules 2, 3 and 4 are delegated to the person in the delegate level specified in Column 3 of the tables in Schedules 2, 3 and 4.

2 Interpretation

- (1) In this Instrument:

clerk grade 11/12 means a person employed as an Administrative and Clerical Officer at Grade 11 or Grade 12 under the Crown Employees (Administrative and Clerical Officers – Salaries) Award to enable the Food Authority to exercise its functions.

clerk grade 9/10 means a person employed as an Administrative and Clerical Officer at Grade 9 or Grade 10 under the Crown Employees (Administrative and Clerical Officers – Salaries) Award to enable the Food Authority to exercise its functions.

food safety officer grade 6 means a person employed as a Food Safety Officer at Grade 6 under the Crown Employees (Department of Regional NSW) Food Safety Officers Award to enable the Food Authority to exercise its functions.

function includes a power, authority or duty, and **exercise** a function includes perform a duty.

holder of the office of General Manager of a Local Council means the person appointed as general manager of a council of a local government area under section 334 of the *Local Government Act 1993*.

person in the delegate level means any person who is for the time being assigned to a role or office at a delegate level specified in Column 2 of the table in Schedule 1 and Column 3 of the tables in Schedules 2, 3 and 4, or is performing the duties and responsibilities of a role or office in that delegate level.

Senior Executive Band 1 means a person employed as Band 1 as determined by the *Government Sector Employment (Senior Executive Bands) Determination 2014* under the *Government Sector Employment Act 2013* to enable the Food Authority to exercise its functions.

the Act means the *Food Act 2003*.

the Code means the Food Standards Code.

the Regulation means the Food Regulation 2025.

- (2) The summary of a function delegated in Column 2 of Schedules 2, 3 and 4 is only for general explanation and does not limit the delegation of functions under the sections identified in Column 1 of Schedules 2, 3 and 4.

3 Revocation

The Food Instrument of Delegation 2020 signed on 20 April 2020 and published on the Food Authority's website is revoked, as is any instrument of delegation revived as a result of this revocation.

4 Commencement

This Instrument commences on the day it is signed and will remain in force until it is revoked.

Dated: 29 August 2025

A handwritten signature in black ink, appearing to be 'Andrew Davies', with a stylized flourish at the end.

Andrew Davies
A/ Chief Executive Officer
NSW Food Authority

Schedule 1 – Delegate levels

Column 1 Delegate level	Column 2 Person in the delegate level
A	Senior executive band 1
B	Clerk grade 11/12 Food safety officer grade 6
C	Clerk grade 9/10
D	The holder of the office of General Manager of a Local Council

Schedule 2 – Delegation of functions under the Act

Column 1 Section	Column 2 Summary of function delegated	Column 3 Delegate level
47	Return of seized item, if satisfied there has been no contravention of the Act or Regulation.	A, B
48	Direct the destruction, sale or disposal of seized item after forfeiture to Crown.	A, B
49	Sign certificate stating amount of costs and the manner in which they were incurred.	A,
50	Return seized item after forfeiture to Crown if Authority becomes satisfied that there has been no contravention of the Act or Regulation.	A, B
51	Make determination to pay compensation and pay compensation in relation to seized item(s).	A
60	Serve prohibition order on the proprietor of a food business and give certificate of clearance.	A, B
66	Make and send determination as to the payment of compensation and pay compensation in relation to prohibition orders.	A
66AA	Extend time for payment and waive payment of improvement notice fee.	A
75	Approve (with or without conditions) or refuse laboratories for purpose of carrying out analyses.	A, B
78	Vary conditions, suspend or cancel approval of laboratory.	A, B
80	Prepare and maintain a list of approved laboratories.	A, B
81	Approve (with or without conditions) or refuse persons to carry out analyses.	A, B
84	Vary conditions, suspend or cancel approval of analyst.	A, B
86	Prepare and maintain a list of approved analysts.	A, B
87	Authorise, approve (with or without conditions) or refuse food safety auditors.	A, B

Column 1 Section	Column 2 Summary of function delegated	Column 3 Delegate level
87A	Appoint beef labelling auditors and issue directions.	A, B
90	Vary conditions, suspend or cancel approval of food safety auditor.	A, B
93	Determine priority classification system and frequency of auditing.	A, B
97	Provide certificates of authority for food safety auditors.	A, B
98	Prepare and maintain a list of food safety auditors.	A, B
101A	Prepare and maintain list of food businesses.	C
105(1)	Ensure industry consultation undertaken for continuing operation and proposed amendment of food safety schemes.	A, B
106B	Determine qualifications in relation to food safety supervisors and be satisfied a person with determined qualifications will know how to recognise, prevent or alleviate hazards.	B
106H	Approve registered training organisations to issue food safety supervisor certificates and prepare and maintain a list of approved training organisations.	B
113	Prepare protocols for reporting by enforcement agencies, other than the Food Authority, in consultation with Food Regulation Forum.	B
113A	Keep a public record of information relating to enforcement agencies.	A, B
114	Appoint authorised officers and prepare and maintain a list of authorised officers appointed.	A, B
115	Provide certificates of authority for authorised officers.	A, B
133	Keep a register of information about offences.	B
133A	Keep a register of information about penalty notices.	B
133B	Make registers available for public inspection.	B
133C	Correct any error or omission of information in a register.	A, B
133D	Remove or restore information in a register.	A, B
133E	Add information to a register.	A, B
133F(1)	Determine applications for changes to register of offences.	B
133F(3)	Approve form of application for changes to register.	B
136A	Provide information to another enforcement agency and relevant authority.	A, B

Schedule 3 – Delegation of functions under the Regulation

Column 1 Section	Column 2 Summary of functions delegated	Column 3 Delegate level
11	Determine required units of competency, way in which a person must obtain required units and publish the determination.	B
13	Issue a food safety supervisor certificate.	B, C
14	Approve form of food safety supervisor certificate.	B
17	Determine an application to be an approved registered training organisation to issue food safety supervisor certificates, issue written approval setting out conditions of the approval, give written notice of a refusal and refund an application fee, renew approval.	B
19	Approve or refuse individuals to carry out training and assessment.	B
20	Vary conditions, impose a condition, suspend and revoke approvals.	B
33(2)	Approve form of application.	C
33(3)	Require further information if necessary for deciding application.	C
33(4)	Waive payment of application fee.	A
34	Arrange for inspection audit or assessment, and determine time and place for vehicle inspection, before deciding an application for a licence.	A, B
35	Decide applications for licences.	A, B, C
38	Vary terms and conditions of licence, impose additional conditions and charge a fee.	A, B, C
39	Suspend or cancel a licence.	A, B, C
41	Renew a licence, with or without conditions and refuse to renew a licence.	A, B, C
42(4)	Give notice to pay a licence fee or levy	C
43	Issue vehicle licensing labels.	A, B, C
46	Arrange inspections and audits of food businesses.	A, B
47	Approve (with or without conditions) a food business to engage external food safety auditor, approve form of application, revoke approval.	A, B, C
48	Increase or waive charges for inspections and audits.	A
62	Give notice of frequency of analyses and standards to be met for analyses.	A, B
92	Approve identification systems for lamb and hogget meat.	A, B
100	Determine brand issue fee and issue brands for meat.	A, B
102	Issue new brands or replace brands, where brands lost, stolen or damaged.	A, B
103	Approve manufacture or possession of brands which resemble prescribed brands for meat.	A, B
104	Authorise use of brand which resembles prescribed brand.	A, B

Column 1 Section	Column 2 Summary of functions delegated	Column 3 Delegate level
105	Approve appointment of meat safety inspectors for abattoirs and game meat primary processing plants.	A, B
107	Revoke approval of appointment of meat safety inspector at abattoir or game meat primary processing plant.	A, B
108	Give notice of frequency of analyses and standards to be met for analyses.	A, B
116	Declare that the plant products food safety scheme does not apply to a plant products business or an activity of the business and revoke a declaration.	A
117	Give notice of frequency of analyses and standards to be met for analyses.	A, B
131	Give notice of frequency of analyses and standards to be met for analyses.	A, B
136	Establish, manage and operate the NSW Shellfish Program, and ensure it is maintained and applied and prepare local shellfish programs.	B
139	Appoint local shellfish committees.	B
140	Give directions to local shellfish committees.	B
142	Arrange funding of NSW Shellfish Committee and each local committee.	B
153	Give notice of frequency of analyses and standards to be met for analyses.	A, B
169	Approve or refuse the sale of eggs obtained from a bird administered with a veterinary chemical product.	A, B
170	Approve use of equipment that complies with requirements of the NSW Food Safety Scheme Manual.	A
171	Approve use of equipment that complies with requirements of the NSW Food Safety Scheme Manual.	A
172	Give notice of frequency of analyses and standards to be met for analyses.	A, B
187	Impose an annual administration charge on non-licenced food business, refund a charge, and extend time for payment or waive payment.	A, D
Schedule 4, section 6	Approve amenities for use during processing.	A, B
Schedule 5, section 2	Approve dimensions of the brand for meat fit for human consumption.	A
Schedule 5, section 6	Approve dimensions of the brand for lamb.	A
Schedule 5, section 9	Approve dimensions for the brand for hogget.	A
Schedule 6, section 2	Approve dimensions and units of measurement in relation to the brand for game meat.	A

Column 1 Section	Column 2 Summary of functions delegated	Column 3 Delegate level
Schedule 7, section 3	Appoint or revoke a person to be the deputy of a member.	B
Schedule 7, section 4	Remove one or more members of a local committee from office.	B
Schedule 7, Section 6(5)	Determine member presence at deliberation of local committee and whether member takes part in making decision.	B

Schedule 4 – the Code

Column 1 Section	Column 2 Summary of functions delegated	Column 3 Delegate level
The entire Code (except 25, Standard 3.2.2 of the Code)	All powers or functions of a relevant authority or the appropriate enforcement agency in the Code.	A, B
25, Standard 3.2.2 of the Code	Assess any application to demonstrate that a requirement in the Code can be met by an alternative method.	A
Standard 3.2.2 of the Code (except 25, Standard 3.2.2 of the Code)	All powers or functions of a relevant authority or the appropriate enforcement agency in the Code.	D
Standard 3.2.3 of the Code	All powers or functions of a relevant authority or the appropriate enforcement agency in the Code.	D

Note. For the Regulation, section 6, modifies the Code to provide that a reference in the Code to the relevant authority or the appropriate enforcement agency are to be read as a reference to the Food Authority. It also provides that a reference to “demonstrate” is to be read to demonstrate to the satisfaction of the Food Authority.