



# Health Services

CITY OF VINCENT

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## Food Act 2008

### INTRODUCTION TO THE FOOD ACT 2008

The *Food Act 2008* (the Act) was passed on the 8 July 2008 by the Western Australian Parliament and will be implemented on the 23 October 2009. The Act will be the principal piece of legislation regulating the sale of food in Western Australia (WA) and provides food safety regulation over the entire food supply chain; a paddock to plate approach. This represents a significant shift in the direction of food regulation and management within WA. The purpose of this fact sheet is to provide an overview of some of the important changes to the new food regulatory system that the Act brings into fruition.

### APPLICATION OF THE ACT

The Act will apply to everyone involved in the sale of food in WA. Sale is defined broadly and includes activities such as:

- the supply of food as a meal to employees at the place of work in accordance with employment arrangements;
- offering of food as a prize or reward;
- the giving away of food for the purposes of advertisement;
- the supply of food under a contract together with accommodation, service or entertainment

### CHANGE IN APPROACH

The current food safety regulatory framework includes a number of legislative instruments created under the *Health Act 1911*. These include the *Health (Food Hygiene) Regulations 1993*, the *Health (ANZ Food Standards Code Adoption) Regulations 2001*, the *Health (Meat Hygiene)*

*Regulations 2001* and local government local laws. The Act will replace all of these legislative instruments.

This regulatory system was prescriptive and subsequently very inflexible. In contrast, the Act provides for an outcome based approach. In this model of food regulation, food safety outcomes are assessed which provides the food industry the opportunity to be innovative in relation to food safety management.

Furthermore, the Act clarifies that the responsibility for food safety rests on the food business.

### IMPLEMENTATION OF NATIONAL STANDARDS

The Act implements the *Australia New Zealand Food Standards Code* (the Code). This means that all food safety requirements are contained within this national code. The advantage of this approach is that it provides for national consistency; a food business in WA will need to meet the same requirements as a food business operating anywhere else in Australia. It is very important that the proprietors of all food businesses become aware of the requirements contained within Chapter 3 of the Code specifically. This chapter, known as the *Food Safety Standards*, contains the minimum food handling, hygiene and structural requirements for all food businesses. It is expected that food businesses that comply with the current legislation in terms of food premises fit out and construction will comply with the standard required in the Code. The City's Health Services will be assessing all new food premises in accordance with structural requirements of the Australian Standard 4674-2004. A copy of the standard can be obtained from: <http://infostore.saiglobal.com/store2/>

## ADMINISTRATIVE MATTERS

The Act makes significant changes to the way food safety is managed that you need to be aware of:

### Food Safety Programs

Food Safety Programs must be implemented in food businesses that are captured under *Standard 3.3.1 (Food Safety Programs for Food Service to Vulnerable Persons)* of the Code; specifically high-risk food businesses such as hospitals, nursing homes and child care centres. Although not a legal requirement for all food businesses, food safety programs are an effective food safety management tool and assist food businesses to manage their food safety risks. In addition, they are invaluable in ensuring that food businesses are able to demonstrate that all reasonable measures are being taken to produce safe and suitable food.

### Notification Requirements

All food businesses must notify the appropriate enforcement agency in writing that they plan to conduct a food business. The information required includes contact details, the nature of the food business and the location of all proposed food premises. The purpose of notification is so that enforcement agencies know of their existence can contact them if required and know the sort of food business in operation. In addition, it enables them to make a decision as to whether the food business needs to apply for registration as a food business. It is an offence not to provide this information.

### Registration

Section 109 of the Act specifies that it is an offence to conduct a food business at any premises unless the food business is registered with the relevant enforcement agency in respect of those premises. This enables the enforcement agency to be aware of all food businesses trading within its responsible area and collect information in relation to food handling so that targeted food safety education, surveillance, enforcement and awareness programs can be developed.

### Enforcement

The Act provides enforcement agencies with a number of new enforcement options, designed to assist them to manage compliance with the food standards.

Depending on the severity of food safety breaches, authorised officers from enforcement agencies may issue or initiate any of the following:

- formal warnings
- improvement notices;

- prohibition orders;
- infringement notices (fines)
- legal action through the Courts (significant increase in penalties from previous laws up to \$100,000 and 2 years imprisonment for individuals and up to \$500,000 for corporations)

## INFORMATION SESSIONS

Recent information sessions were held at the City's Administration and Civic Centre. For those who were unable to attend the sessions, information presented in the sessions can be found at the following link:

<http://www.vincent.wa.gov.au/cproot/4414/46/Food%20Act%20Info.pdf>

## FURTHER INFORMATION

It is important to be aware that the details of any successful prosecutions will be publicly listed on the Department of Health's website.

- Further Information of the Act is available online at: [www.slp.wa.gov.au](http://www.slp.wa.gov.au)
- the Code and the Food Safety Standards are available at: [www.foodstandards.gov.au](http://www.foodstandards.gov.au)
- Department of Health fact sheets and guidelines are available online: [www.public.health.wa.gov.au](http://www.public.health.wa.gov.au)
- Local Government Websites [www.walga.asn.au/about\\_lg/council\\_websites](http://www.walga.asn.au/about_lg/council_websites)

*If you require further information or assistance,  
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