

## **INTRODUCTION OF THE FOOD ACT 2008**

The Food Act 2008 (the Act) was passed on the 8<sup>th</sup> July 2008 by the Western Australian Parliament and was implemented on the 23<sup>rd</sup> October 2009. The Act is 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 letter is to provide an overview of some of the important changes of 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 former food safety regulatory framework included 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 Australian New Zealand Food Standards Code (the Code). This means that all food safety requirements are contained within the national code. The advantage of this approach is that it provides for the 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 in 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 former legislation in terms of food premises fit out and construction will comply with the standard required in the Code.

### **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 (i.e. food services to vulnerable people such as hospitals, nursing homes, child care centres, etc).

Although not a legal requirement for all food businesses, food safety programs are an effective food safety management tool to 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 Shire of Broome in the approved notification form that they plan to conduct a food business. The information required includes contact details, the nature of the business and the location of all proposed food premises. The purpose of the notification is that the Shire knows of their existence and 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 Shire of Broome in respect of those premises. Businesses that were previously exempted from registering with Shire as Eating House Premises (e.g. Hotels, B & B and those premises with Liquor Licence etc) will now be required to register.

Section 110 authorises Shire of Broome to charge a notification and/or an annual registration fee under the *Local Government Act 1995* and such fees will be communicated to proprietors as soon as they have been approved and adopted by Council. This enables the Shire 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.

As food businesses operating within the Shire of Broome you are required to complete the attached Notification/Registration form and return it to the Shire within ten working days.

On receipt of your completed form your food business will be assessed in terms of the WA Food Regulation: Food Business Risk Profiling and will be classified as either: Very Low (exempt food business), Low, Medium or High Risk.

Very Low Risk Businesses will be exempt from Section 109 of the Act and will not have

to register with the Shire of Broome but only complete a Notification form.

Low, Medium & High Risk businesses will however be registered (by way of the completed form) and will be issued with a Certificate of Registration. These premises will be subject to regular inspections and the frequency of these inspections would be based on the assessed risk.

### **Enforcement**

The Act provides Shire of Broome 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 the Shire may issue or institute any of the following:

- formal warnings
- improvement notices;
- prohibition orders;
- infringement notices (fines)
- legal action through the Courts

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

- 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)

Please note that the information contained within this letter is intended to provide an overview of some of the key changes resulting from the implementation of the Act and is therefore not exhaustive.

We trust that this information has been of assistance to you. Should you have any further queries regarding this matter, please contact the Shire of Broome Health Services at 9191 3456.