Food Act 2006

The Food Act 2006 commenced on 1 July 2006, with the exception of some provisions, which will commence on 1 July 2007. The Food Regulation 2006 has also commenced with the Food Hygiene Regulation 1989 and Food Standards Regulation 1994 no longer in effect.

A number of changes have been incorporated into the Food Act 2006 to update and improve Queensland’s food legislation. However a majority of the provisions of the previous Food Act remain unchanged.

Changes to the Food Act 2006 that are currently in force, include a new, simplified licensing system for food businesses, with exemptions from licensing for most non-profit activities.

The changes that will occur on 1 July 2007 include requirements for designated high-risk businesses including caterers and Private Hospitals, to develop and implement an accredited Food Safety Program that documents how the business will manage their food safety.

All businesses that are required to have a Food Safety Program must have compliance audits conducted, as frequently as requested by the local government to whom the Food Safety Program is accredited. However, the first audit must be conducted within six months of accreditation.

From 1 July 2007, all licensable food businesses must have a Food Safety Supervisor with demonstrated knowledge in food safety matters and skills/experience in supervising food handlers.

There will be a 12 month transitional period for Food Act 2006 requirements, for Food Safety Supervisors and Food Safety Programs for caterers, which commence on 1 July 2007. This will allow caterers to develop and implement the Food Safety Program requirements and allow people to undertake the mandatory requirements to gain recognition as a Food Safety Supervisor.

CoOL! Country of Origin Labelling

As of 8 June 2006 the new Country of Origin labelling requirements of the Food Standards Code came into force. Country of Origin labels must be on the food or on a display connected to the food. The Standard requires a label to state the country/countries of origin of the food, or that the food is a mixture of local and/or imported foods.

As of 8 December 2006, these labelling requirements are mandatory for all fish, seafood, unpackaged food and fresh fruit and vegetables, including nuts.

The requirements came into effect for pork and preserved pork, except if mixed with other ingredients, from 8 December 2006. However, food businesses are given a 12 month grace period before compliance with these requirements becomes mandatory. This is to allow food businesses the time they need to change their labelling and to train staff in the new requirements, in order to replace current labelling. The new Standard for packaged food is being phased in over a 2 year period from 8 December 2005.

It must be remembered that either the new or the existing Standard must be implemented, not a combination of both.
Suspected intentional contamination of food

Despite the high standard of food quality Queensland maintains, our food supplies can be threatened at any time by persons who commit crimes that involve intentionally contaminating our food. While rare, this type of contamination may involve the adding or mixing of harmful or poisonous substances into our food, usually with the intent to cause harm to customers and/or financial loss to food businesses. The types of people who commit these kind of crimes may include disgruntled employees, pranksters and extortionists.

To reduce risk from food that has been intentionally contaminated, Queensland Health, local government and peak food industry bodies have worked together to create a new requirement under the Food Act 2006. This part of the Food Act commenced on 13 June 2006 and requires food businesses to notify Queensland Health (phone 13HEALTH or 1343 2584) of a reasonable suspicion that food has been intentionally contaminated and to follow all directions provided. It is offence to fail to comply with this requirement.

If the food business reasonably suspects the food has been intentionally contaminated, the food business should investigate the suspicious activity immediately, remove the suspect food from service and keep it for evidence. Do not handle the food: wrap it in plastic, or place it in a plastic bag. Label the item clearly, and separate it from regular food supplies. Do not discard the food product unless instructed to do so by Queensland Health. For more information, go to the Queensland Health website at http://www.health.qld.gov.au/phs/ehu/int_contam.asp. There are also a number of information booklets available that provide guidance for responding to suspected intentional contamination of food incidents (see page 8).

Food Safety Programs

There are 5.4 million cases of foodborne illness in Australia each year, with 18,000 hospitalisations and 120 deaths. Gastroenteritis associated with foodborne illness results in 2.1 million lost days of work, 1.2 million visits to a doctor and 300,000 prescriptions for antibiotics. The implications for food businesses and food handlers are obvious.

The suspected causes of recent international outbreaks demonstrate the variety of food sources from which a food-borne outbreak can occur: spinach, raspberries, sandwiches, oysters, out of date meat (by 4 years), and lack of adequate handwashing facilities and practices.

To tackle the problem, Australia is shifting the focus away from the need for food businesses to pass routine environmental health inspections. Increasingly, food businesses must demonstrate an awareness of food safety issues and how these are managed within their businesses.

They can do this by completing and incorporating Food Safety Programs into their day-to-day operations. The documented program provides evidence of how the food business is managing their food safety.

Of course, there are costs associated with the development and documentation of Food Safety Programs. However, these costs are usually outweighed by the benefits of reduced incidence of foodborne illness and increased consumer confidence in the safety of food.

The Australia and New Zealand Food Regulation Ministerial Council has agreed to a National Food Safety Audit Policy. The Policy will promote uniformity and consistency in the management of food safety auditors and auditing within Australia. The Policy will be implemented over the next five years.

Odd Spot

Research from a Leeds University physicist has discovered why we enjoy eating crunchy foods! Each bite as well as making an audible crunch, sends inaudible ultra-soundwaves that trigger a reaction in the part of the brain that causes pleasure. The research has shown that the sound and feel of food in the mouth is as important as taste, look and smell in deciding whether we like a food.

New Food Standards

Two new food standards are now law. The first will allow Australians and New Zealanders to have access to a range of foods enriched with plant sterols. The second will allow manufacturers to make formulated beverages in Australia, not just New Zealand. These new standards are excellent examples of allowing the food industry to be innovative while also protecting public health and safety.

- **Plant sterols**

  Plant sterols reduce cholesterol uptake when eaten in sufficient amounts. Until now, plant sterols have only been allowed for use in margarines. Now, they are allowed to be added to low fat milks, low fat yoghurts and breakfast cereals. However, plant sterols must carry advisory statements that they should be consumed as part of a healthy diet and that they are not suitable for children under 5 years or pregnant or lactating women. Plant sterols do not provide additional benefits when more than 3 grams per day are consumed.

- **Formulated beverages**

  Water-based beverages with added vitamins and minerals (formulated beverages) can now be legally manufactured in Australia. These products have been on the shelves in Australia for many years, as they have been manufactured in New Zealand as dietary supplements and legally imported to Australia. Now they can be made in Australia.

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Trans Fatty Acids

The Australia and New Zealand Food Regulation Ministerial Council has received an update from Food Standards Australia New Zealand (FSANZ) on its review of the level of trans fatty acids in Australian food. This work is being done due to worldwide concern about the potential health effects of trans fatty acids, particularly those derived from partially hydrogenated vegetable oils. There has been no recently published estimates of total trans fatty acid intake in Australia or New Zealand. FSANZ expects to provide a final report on this matter to the Ministerial Council at its next meeting in May 2007.

Mandatory Fortification of foods

- **Folic Acid**

  In May 2004, the Australia and New Zealand Food Regulation Ministerial Council asked Food Standards Australia New Zealand (FSANZ) to investigate mandatory fortification with folic acid as a possible means of reducing the incidence of Neural Tube Defects (NTDs), which are serious birth defects.

  The FSANZ Final Assessment Report recommends mandatory fortification of bread with folic acid as the preferred approach in Australia and New Zealand, to further reduce the incidence of NTDs. The proposed level of mandatory fortification is 80-180 micrograms (µg) of folic acid per 100 grams of bread.

  This approach maintains current voluntary folic acid permissions except for bread which will be changed from a voluntary permission to a mandatory requirement.

  This proposal was considered at the meeting of the Australia New Zealand Food Ministerial Council on 25 October 2006. FSANZ have been asked to review the proposed standard due to technical considerations with the implementation of the standard, and compliance issues, within six months.

- **Iodine**

  Mild-to-moderate iodine deficiency is re-emerging in New Zealand, and in parts of Australia, as a result of inadequate iodine intake. In May 2004, the Australia and New Zealand Food Regulation Ministerial Council asked FSANZ to consider how mandatory fortification of the food supply can address the deficiency. Following extensive consultation, FSANZ released a draft assessment in August 2006 focusing on mandatory fortification with iodine as a means of reducing iodine deficiency. Submissions were reviewed and the final assessment was presented to the FSANZ board in late October 2006.
**Court Prosecution over False Noni Juice Health Claims**

Queensland Health has successfully prosecuted a Brisbane food retailer for making illegal health claims about noni juice being a life-saving elixir.

Brisbane Southside Population Health Unit’s Environmental Health Acting Director Bruce Morton said that Mr Yoong Nam Lee and Brisbane Fine Foods Pty Ltd of Robertson, were convicted and fined a total of $16,000 in the Holland Park Magistrates Court for breaching section 16(3) and 16(4) of the *Food Act 1981* and Standard 1.1A.2 of the Food Standards Code.

“Queensland Health received information that Brisbane Fine Foods Pty Ltd was making claims that Tropical Gold Noni juice can treat very serious and life-threatening disease like cancer, stroke and depression, through website advertisements and brochures”, he said.

“The American Cancer Society has published information on the noni plant and its products, concluding that there is no scientific evidence that noni juice is effective in preventing or treating cancer or any other disease in humans.

“This prosecution serves as a reminder and a warning to Queensland businesses that it is illegal to misrepresent health claims when selling products.

“Such claims prey on vulnerable or seriously ill people who may try anything as a last resort.

“Misrepresenting a food product to the community is irresponsible, especially when it concerns people’s health, and Queensland Health will take action with those who do not comply with the law.”

Under the National Food Standards Code it is illegal to make health claims about a food product, unless allowed under the Code, or make reference to any disease or condition.

Queensland Health are currently conducting investigations into other businesses for making illegal health claims in relation to the advertising and sale of food.

**Food slicer cross-contamination of Listeria**

An investigation was recently conducted into a confirmed case of *Listeria monocytogenes*, which identified the source of the foodborne pathogen originating from a large local catering company. The samples of diced lettuce, corned beef and chicken loaf all returned a positive result for the pathogen.

The investigation revealed that the most probable explanation for the contaminated lettuce was natural contamination from soil which was not effectively removed in the lettuce washing and disinfection process. Swabs taken from the Hobart food slicer, used to slice both the cooked meats and the lettuce, returned a positive result for *Listeria monocytogenes*, supporting the explanation that the slicer used to cut the lettuce was either not cleaned, or not cleaned effectively, before being used to slice the corned beef and chicken loaf, causing cross contamination.

Several breaches of the Food Safety Standards and non-compliances with the Food Safety Program resulted in the contamination. It appeared that the food safety program failed operationally and at three levels of management. Several hazard controls did not exist within the program, and the possible cause for the failure of the Hobart food slicer cleaning procedure included a lack of knowledge by all levels of staff.

The early investigation into this contamination prevented any further food-borne illnesses of this type occurring.

The investigation serves as a timely reminder of the importance of adequate skills and knowledge of food handlers, in light of the upcoming requirements of all food businesses to have a Food Safety Supervisor.

In light of the upcoming requirements of caterers to develop and implement a Food Safety Program for their food business, this case also demonstrates the importance of ensuring that the Food Safety Program identifies all Critical Control Points and ensures these are adequately controlled. Once the Food Safety Program has been developed, it is essential that all food handlers are adequately trained to be able to effectively implement it. This program also needs to be a living document which is updated regularly, in order to keep up with any relevant changes that occur within the food business.
Food Safety Supervisors

A Food Safety Supervisor is a person who knows how to recognize, prevent and alleviate food safety hazards of the food business; has the skills and knowledge in food safety matters relevant to the food business; and has the authority to supervise and give directions about food safety to other food handlers.

Guidelines are in the process of development to assist food businesses to determine if a person meets the definition of a Food Safety Supervisor, by:

- establishing what kind of competency will be required in relation to training, qualifications and experience, as a minimum standard to be achieved in order to meet the requirements of the skills and knowledge component of a ‘food safety supervisor’;
- establishing what experience as a supervisor will be required in relation to amount and recency of experience, current supervisory role, and the experience that has been obtained in a certain industry or sector, as a minimum standard to be achieved in order to meet the requirements of the supervisory experience component of a ‘food safety supervisor’; and
- how will it be determined that a person has the authority to supervise and give directions on food safety to food handlers.

Prescribed Infringement Notices (PINs)

It is intended that PINs will be used as an enforcement tool for offences under the Food Act 2006. Queensland Health submitted recommendations to the Department of Justice and Attorney General as to the kind of offences to which a PIN may be appropriate. These recommendations were considered and a final decision was made as to the offences for which a PIN may be issued.

National Food Safety Audit Policy Update

The Australia and New Zealand Food Regulation Ministerial Council has agreed to a National Food Safety Audit Policy. State and Territory food regulators will use the policy as the basis for their own arrangements to support the implementation of Food Safety Programs and food safety auditing requirements. The endorsement of the proposed policy will provide Queensland with an opportunity to implement a nationally consistent food safety audit system.

The main objectives of the proposed National Food Safety Audit Policy are:

- national consistency in managing auditors and auditing
- assistance for food regulators implementing regulatory food safety audit management systems, including greater sharing of resources
- simplified requirements for businesses and auditors operating in more than one jurisdiction; and
- recognition and acceptance by industry of minimum core regulatory requirements.

The following policy guidelines have been completed and are on the Food Regulation Secretariat website (http://www.health.gov.au/foodsecretariat):

- Fortification of Food with Vitamins and Minerals.
- Nutrition, Health and Related Claims.
- Food Safety Management in Australia: Food Safety Programs.
- Country of Origin labelling.
- Novel Foods.
- Addition of Caffeine to Foods.
- Primary Production and Processing.
- Policy Principles For Health and Related Claims in Food Labelling and Advertising.
## Food Reforms at a Glance

### The Requirement | Where We Are At | Comment
---|---|---
**National Food Safety Standards**

| Standard 3.1.1 | Became law in Queensland on 1 July 2001 | Requires all food businesses to own a thermometer accurate to ± 1°C |
| Interpretation and application |  |  |
| Standard 3.2.2 Food Safety Practices and General Requirements | Became law in Queensland on 1 July 2001 | Requires food handlers to have the appropriate skills and knowledge in food safety and hygiene to do their job. |
| Clause 3 Skills and Knowledge | Became law in Queensland as of 1 July 2002 |  |
| Standard 3.2.3 Food Premises and equipment | Became law in Queensland as of 1 July 2001 | Australian Standard 4674 - Design, construction and fit-out of food premises has been approved and can be used as a guide to Standard 3.2.3 requirements |
| Standard 3.2.1 Food Safety Programs | Not applied by the Food Act 2006. | This national standard has been incorporated into the Food Act 2006 for the food safety program requirements for high risk food businesses, to come into force from 1 July 2007. |

### Food Act 2006

**Food Act 2006**

Food Act 2006 commenced on 1 July 2006 with certain provisions to come into force on 1 July 2007. The Food Act 2006 commenced on 1 July 2006 and replaces the Food Act 1981 as the food legislation in Queensland (see page 1). Upcoming changes include: requirements for all food businesses to have a Food Safety Supervisor; high risk businesses such as caterers and private hospitals will be required to have a Food Safety Program; and Prescribed Infringement Notices will be introduced for certain breaches.

### Food Standards Code

**Australia New Zealand Food Standards Code**

The only set of food standards as of 1 December 2002. Recent changes include Country of Origin labelling (see page 1), and upcoming changes include a new Health Claims Standard and a nationally consistent standard covering egg production from farm to egg processing and retail. This new Standard will be called the Primary Production and Processing Standard for Eggs and Egg Products and will be included in the Food Standards Code. The fact sheets, user guides and nutritional information is available from: www.foodstandards.gov.au

### Primary Produce

**Food Production (Safety) Act 2000**

Major provisions became law in Queensland as of 25 October 2000. Legislation that governs primary produce, enforced by SafeFood Production Queensland. Phone 1800 300 815 or www.safefood.qld.gov.au

**Food Safety Schemes**

- **Meat**
  - Became law as of 1 January 2003. See the Food Production (Safety) Regulation 2002

- **Dairy**

- **Eggs**
  - Egg food safety scheme became law on 1 January 2005. Seafood scheme still being developed.

- **Seafood**

For more info on the Food Safety Schemes contact SafeFood Queensland on 1800 300 815 www.safefood.qld.gov.au
Upcoming events...

<table>
<thead>
<tr>
<th>Event</th>
<th>Contact</th>
<th>When</th>
<th>Where</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food Safety Centre of Excellence Food Allergen Bureau Seminar</td>
<td>Lyn Davies 1800 263 829 <a href="http://www.allergenbureau.net">www.allergenbureau.net</a></td>
<td>19 February 2007</td>
<td>Sydney</td>
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<td></td>
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<td>28 February 2007</td>
<td>Melbourne</td>
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<tr>
<td>40th Anniversary Annual Australian Institute of Food Safety Technology (AIFST) Convention</td>
<td><a href="http://www.aifst.asn.au">www.aifst.asn.au</a></td>
<td>24-27 June 2007</td>
<td>Melbourne Convention Centre Melbourne VIC</td>
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International news

Bioterrorism attack on food supplies

A biological or chemical attack on a country’s agriculture would have an extensive and catastrophic effect on the domestic food supply and the economy of the country. U.S. agriculture generates more than US$1 trillion per year in economic activity and provides an abundant food supply for the U.S.A and other countries. On 31 July, 2006, a New York newspaper reported that intelligence sources believe that this type of terrorist plot is being considered by members of several groups including Al-Qaeda.

After the 9/11 attacks on the World Trade Center in the U.S.A., The Bioterrorism Act of 2002 was developed and federal agencies roles and responsibilities were modified in several ways to help protect agriculture from attack. However, there are still a number of complex challenges that would limit any country’s ability to respond effectively to an attack against livestock.

Improving food standards in Asia

Australia’s efforts to improve food safety for consumers and increase trade in the Asia Pacific region have been given a major boost. Many countries in the Asia-Pacific region are struggling to harmonise their food safety standards with internationally accepted standards and are participating in a wide range of capacity building activities in an effort to fast-track their progress. However, in many cases, these activities are not driven by the highest priority needs or delivered in the most effective way.

FSANZ recently negotiated agreement among Asia Pacific Economic Cooperation (APEC) member countries to better coordinate and prioritise food safety capacity building activities in the region. This will assist member countries to focus their efforts in a more coordinated way, share capacity building resources and avoid costly duplication of activities.

National Uniformity of food standards

Did you know that the U.S.A does not have a nationally uniform Food Act? The National Uniformity for Food Coalition is asking for support for a National Uniformity for Food Act, by providing links to contact relevant U.S.A Senators.

Australia enjoys the benefits of nationally uniform food standards which provide the nation with the same high level of confidence and protection, by putting food safety in the hands of the nation’s top food scientists and food safety experts, and reducing the financial burden on industry.
**New articles and publications**

<table>
<thead>
<tr>
<th>Food Safety resource</th>
<th>Description</th>
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<tbody>
<tr>
<td>Pamphlet– Preventing &amp; Responding to Intentional Contamination of Food– Guidance for Food Industry</td>
<td>Outlines what intentional contamination of food is and how to prevent this happening and responding</td>
</tr>
<tr>
<td>Poster– What to do in a situation where food has become intentionally contaminated (food tampering incident)</td>
<td>Ideal for display in a food business as a simple guide to how to respond in a suspected food tampering incident.</td>
</tr>
<tr>
<td>Booklet– Prevent, investigate and respond to intentional contamination of food– A guide for the food industry.</td>
<td>A more detailed guide on how to respond to prevent, investigate, respond and recover from an incident involving the intentional contamination of food, as well as a quick reference guide on what to do.</td>
</tr>
<tr>
<td>Pamphlet– Does my food business comply with the Food Act 2006</td>
<td>Outlines what food businesses need to do in order to comply with the new Food Act.</td>
</tr>
<tr>
<td>Information Sheet– Answers to frequently asked questions on the Food Act 2006</td>
<td>This document has been prepared to help regulators interpret certain sections of the Food Act 2006. The questions answered in this document are based on questions frequently posed to Queensland Health.</td>
</tr>
</tbody>
</table>

**Mailing list**

Join for free or change your details

Fax or post this form or telephone the Food Act Implementation Team with the following details: (see contact details below)

- Please provide me with an electronic copy of future newsletters (provide details and email address).
- Please correct my contact details as shown below.
- I no longer wish to receive the newsletter, please remove my contact details, as shown below.

**Attn: Senior Project Officer, Food Act Implementation Team**

Name:

Address:

Company:

Email address:

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