Appointment of authorised persons under the *Food Act 2006*: expertise, experience and procedural requirements
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Introduction

When appointing an authorised person under the *Food Act 2006* there are a number of considerations and processes that must be undertaken. This document provides guidance to the administering authority on how to satisfy itself that a person is appropriately qualified, what authority the person will have under the Act, the issuing of identity cards and what happens when an authorised person ceases to hold office.

Appointing and approving Local Government authorised persons

A Local Government has two options for appointing a person, as an authorised person under the *Food Act 2006*.

These are:

(i) by resolution of the Local Government

(ii) by use of the Local Government’s powers of delegation under section 472 of the *Local Government Act 1993*.

The delegation of powers of appointment, as outlined in (ii) above, may be devolved to the Mayor, a standing committee or pursuant to section 1131 of the *Local Government Act 1993*, the chief executive officer of the Local Government.

Local governments may also choose to permit the chief executive officer, pursuant to section 1132 of the *Local Government Act 1993*, to sub-delegate this power to the next level of management.

Where a Local Government decides to delegate the power of appointment, it must be done by the formal adoption of an appropriate resolution of the Local Government.

Instrument of appointment

When appointing an authorised person under the *Food Act 2006*, the administering executive must ensure the person is provided with an instrument of appointment.

The instrument of appointment is a document which is signed and dated by an authority head or designated delegate to evidence the appointment of a person under an Act.

Appointment conditions and limits on powers

When an authorised person is appointed under the *Food Act 2006*, they have the powers given to them under the Act. The Act states that an authorised person is bound by the directions provided by the administering authority. The administering authority may limit the authorised person’s authority by imposing a condition upon the instrument of appointment. Alternatively, the administering executive may give the authorised person a signed notice detailing any conditions. Placing a condition on an instrument of appointment or issuing a signed notice may limit the authorised person’s powers under the Act. A regulation may also limit the authorised person’s powers.

An administering authority has appointed a recent graduate who has completed a Bachelor of Applied Science (Environmental Health). The graduate has the necessary expertise but limited experience. Subsequently the administering authority decides to place a condition of the person’s instrument of appointment. The condition states, “The authorised person may not apply to a magistrate for a warrant for a place without the consent of the person’s supervisor”. Thus, the authorised person has no authority to apply for a warrant for a place without the express permission of his or her supervisor.
When a Local Government is the administering authority, the authorised person only has power under the Act within the Local Government’s boundaries. In the event that the authorised person is appointed by two or more local authorities, they are subject to the directions of the chief executive officer of the Local Government for the area in which the authorised person is exercising their powers under the Act.

It should be noted that under the Food Act 2006 an administering authority is under no obligation to limit the power of an authorised person.

Issue of identity card

The Food Act 2006 requires the administering executive (Local Governments and Queensland Health) to provide each authorised person with an identity card. The card must contain the following items:

(a) a recent photo of the authorised person
(b) a copy of the authorised person’s signature
(c) identify the person as an authorised person under the Food Act 2006
(d) an expiry date for the card.

The Food Act 2006 does not prevent the administering executive from issuing a single identity card for authorisation under this Act or other legislation. For example, the identity card may simultaneously authorise a person under the Food Act 2006, Local Government Act 1993, Health Act 1937, Environmental Protection Act 1994 and Dangerous Goods Safety Management Act 2001.

Appropriate qualifications for authorised persons

Local governments or Queensland Health seeking to appoint an authorised person under the Food Act 2006 should ensure that the person to be appointed has the necessary expertise and experience. A qualification listed in Table 1 is considered to meet the expertise and experience requirements.

Appropriate qualifications

When appointing a person under the Act, an administering executive should ensure that the person has qualifications that will provide them with the necessary expertise to monitor and enforce the Act.

In regards to food qualifications (which should be a minimum of an advanced diploma or equivalent), they should contain sufficient content to ensure that the person to be authorised understands the principles of food safety and hygiene.

In regards to regulation qualifications they provide the person with an understanding of enforcement principles and practices. It should be noted that expertise in enforcement practices could also be obtained through experience.

Examples

An environmental health officer presents a qualification listed in Table 1. A former police officer who obtains a Bachelor of Food Technology could be appointed as an authorised person under the Act.

Experience

A person to be appointed under the Act should also demonstrate that they have the necessary experience to monitor and enforce its provisions. Consideration needs to be given as to the types of food businesses located within the administering authority’s jurisdiction.

Where the person to be authorised is unable to demonstrate the necessary experience, the administering authority needs to take measures that will provide the person with the experience required. One option is to establish a
mentoring program. This would allow the newly authorised person to undertake their duties while having a more experienced authorised person provide guidance. Alternatively, it may be appropriate for the person to be authorised to attend a training course with a practical component to upgrade their skills.

Qualifications that meet expertise and experience requirements

Table 1 includes the environmental health qualifications that may be presented to employers. Historically and currently, environmental health qualifications are seen as providing a suitable high standard of skills and knowledge in both food safety and hygiene and enforcement principles and practices. Typically the environmental health qualification also included work experience placements. Where this has not occurred, consideration should still be given to providing employment to graduates with support in this area.

Table 1: Qualifications that meet expertise and experience requirements for the appointment of authorised persons

<table>
<thead>
<tr>
<th>Qualification (Environmental Health)</th>
<th>Institution</th>
<th>State/Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>Associate Diploma in Health Surveying</td>
<td>Queensland University of Technology</td>
<td>Queensland</td>
</tr>
<tr>
<td>Bachelor of Health Science (Environmental Health)</td>
<td>Queensland University of Technology</td>
<td>Queensland</td>
</tr>
<tr>
<td>Bachelor of Applied Science (Environmental Health)</td>
<td>Queensland University of Technology</td>
<td>Queensland</td>
</tr>
<tr>
<td>Graduate Diploma in Environmental Health</td>
<td>Queensland University of Technology</td>
<td>Queensland</td>
</tr>
<tr>
<td>Bachelor of Science (Environmental Health)</td>
<td>Griffith University</td>
<td>Queensland</td>
</tr>
<tr>
<td>Bachelor of Applied Science (Environmental Health)</td>
<td>University of Western Sydney (Hawkesbury)</td>
<td>New South Wales</td>
</tr>
<tr>
<td>Bachelor of Applied Science (Health Protection)</td>
<td>Auckland University of Technology</td>
<td>New Zealand</td>
</tr>
<tr>
<td>Bachelor of Health Science (Environmental Health)</td>
<td>Massey University</td>
<td>New Zealand</td>
</tr>
<tr>
<td>Graduate Diploma in Environmental Health</td>
<td>Massey University</td>
<td>New Zealand</td>
</tr>
<tr>
<td>National Diploma: Environmental Health</td>
<td>Durban Institute of Technology</td>
<td>South Africa</td>
</tr>
<tr>
<td>Bachelor of Applied Science (Environmental Health)</td>
<td>Flinders University</td>
<td>South Australia</td>
</tr>
<tr>
<td>Advanced Diploma Health Science (Environmental Health)</td>
<td>Hobart Tafe</td>
<td>Tasmania</td>
</tr>
<tr>
<td>Bachelor Degree course in Science accredited by the Chartered Institute of Environmental Health</td>
<td>Conducted in England, Wales or Northern Ireland</td>
<td>United Kingdom</td>
</tr>
<tr>
<td>Bachelor Degree course in Science accredited by the Royal Environmental Health Institute of Scotland</td>
<td>Conducted in Scotland</td>
<td>United Kingdom</td>
</tr>
<tr>
<td>Bachelor of Public Health (Environmental Health)</td>
<td>Latrobe University</td>
<td>Victoria</td>
</tr>
<tr>
<td>Bachelor of Applied Science (Environmental Health)</td>
<td>Swinburne University of Technology</td>
<td>Victoria</td>
</tr>
<tr>
<td>Bachelor of Health Science (Environmental Health Management)</td>
<td>Swinburne University of Technology</td>
<td>Victoria</td>
</tr>
<tr>
<td>Bachelor of Health Science (Public Health and Environmental Health)</td>
<td>Swinburne University of Technology</td>
<td>Victoria</td>
</tr>
<tr>
<td>Bachelor of Applied Science (Environmental Health)</td>
<td>Curtin University of Technology</td>
<td>Western Australia</td>
</tr>
<tr>
<td>Bachelor of Science (Environmental Health)</td>
<td>Curtin University of Technology</td>
<td>Western Australia</td>
</tr>
<tr>
<td>Bachelor of Science (Environmental Health) / Bachelor of Science (Environmental Biology)</td>
<td>Curtin University of Technology</td>
<td>Western Australia</td>
</tr>
<tr>
<td>Diploma in Environmental Health</td>
<td>Technical Education Division, Education Department</td>
<td>Western Australia</td>
</tr>
<tr>
<td>Bachelor of Applied Science (Environmental Health)</td>
<td>Western Australian Institute of Technology</td>
<td>Western Australia</td>
</tr>
</tbody>
</table>
When an authorised person ceases to hold office

There are a several ways in which an authorised person may cease to hold office. The *Food Act 2006* stipulates when the term of office stated in a condition of office ends, the person is no longer authorised under the Act.

An authorised person’s instrument of appointment states they are authorised until the 30th June 2007. Subsequently, unless an updated instrument of appointment is approved prior to or on this date, the person would no longer be authorised under the *Food Act 2006* on the 1st July 2007.

An authorised person may resign from their position. When the authorised person’s resignation takes effect, their authorisation under the *Food Act 2006* ceases. The Act requires an authorised person to give signed notice to the administering authority of their resignation.

When a person ceases to be an authorised person, the Act requires that the person’s identity card be returned to the administering authority. The person is required to ensure the identity card is returned within 21 days after ceasing to be an authorised person. A penalty may be imposed for failing to return the identity card, unless the person has a reasonable excuse.

When an authorised person acts outside the limitations of their appointment

As previously stated, the administering executive may impose a condition of office upon a person’s instrument of appointment. If the authorised person fails to meet the condition, the authorisation of the person to act under the *Food Act 2006* would no longer be valid.

The administering executive requires the authorised person be a member of a particular professional organisation to maintain their authorisation. The authorised person fails to maintain membership of the specified organisation. Therefore, the person is no longer authorised to utilise the powers in the Act.

An authorised person has a condition imposed on their appointment which restricts them from applying for a warrant without the approval of their supervisor. The authorised person fails to comply with the condition and obtains a warrant without the approval of their supervisor. The action taken is not legal and could be challenged.

Other authorisations which may be required

Legislation other than the *Food Act 2006* may impose requirements on authorised persons before they can enter certain premises. The administering executive should ensure authorised persons meet any relevant requirements imposed by other legislation. For instance, authorised persons may be required to obtain a blue card when entering a facility with children, or hold appropriate workplace health and safety authorisation to enter construction sites.
Definitions

Administering executive\(^1\) means –

(a) for a person appointed under this Act as an authorised person by the chief executive – the chief executive; or
(b) for a person appointed under this Act as an authorised person by a chief executive officer – the chief executive officer; or
(c) for a person appointed under this Act as an authorised person by two or more chief executive officers – the chief executive officers jointly.

Authorised person means a person appointed as an authorised person under section 170 of the Food Act 2006.

Chief executive means the chief executive of Queensland Health.

Chief executive officer means the chief executive of a Local Government.

Condition of office means a condition on which the authorised person holds office.

Signed notice means a notice signed by the administering executive.

Material to support this guideline

Queensland Health has developed a range of materials to support enforcement agencies in implementing the Food Act 2006 relevant to the information in this guideline. These are referenced below and are located in the relevant sections of the Resource manual for Local Government and Queensland Health enforcement officers.

Standard Resources

- Identity card sample
- Instrument of appointment

Standard forms

N/A

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1 The definitions listed in this guideline have been extracted from the Food Act 2006. The reader should ensure that there have been no changes to the definitions in the Act when using this document.