



FOOD UNIT NOTICE

SUBJECT: *Food Act 2008* and definition of 'food business'

Notice Number: 09.07

Date of Issue: 13/10/2009

Distribution of Notice:

Food industry, food industry stakeholders, Local Government and other government departments.

Purpose:

To provide guidance as to the types of businesses subject to the requirements of the *Food Act 2008* (the Act).

Background:

The Act represents a shift in the approach to food safety regulation in Western Australia (WA). One significant change is the consolidation of all food regulation into one principal Act. The application of the Act extends over the entire food supply chain which represents a paddock to plate approach to food safety regulation. As the Act applies to anyone that is a food business, the definition of a food business now covers more food production activities than previously recognised.

Definition of a Food Business:

The Act defines a food business as:

A business, enterprise or activity that involves the handling of food intended for sale, or the sale of food, regardless of whether the business, enterprise or activity (other than a business, enterprise or activity that is primary food production) is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.



In WA, it is an offence to operate a food business unless the business is registered with the relevant enforcement agency. In most circumstances this will be the local government where the premises are located.

It is important to be aware that certain primary food production activities as prescribed within the *Food Regulations 2009* are included within this definition.

Definition of sale of food:

In order to determine whether a business is involved in any of the above mentioned activities, it is necessary to consider what the Act defines the 'sale of food' as meaning.

The Act defines this action relatively broadly; the 'sale of food' involves any of the following activities:

- Barter, offer or attempt to sell;
- Receive for sale;
- Have in possession for sale;
- Display for sale;
- Cause or permit to be sold or offered for sale;
- Send, forward or deliver for sale;
- Dispose of by any method for valuable consideration;
- Dispose of to an agent for sale on consignment;
- Provide under a contract of service;
- Supply food as a meal or part of a meal to an employee, in accordance with a term of an award governing the employment of the employee or a term of the employee's contract of service, for consumption by the employee at the employee's place of work;



- Dispose of by way of raffle, lottery or other game of chance;
- Offer as a prize or reward;
- Give away for the purpose of advertisement or in furtherance of trade or business;
- Supply food under a contract (whether or not the contract is made with the consumer of the food), together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment;
- Supply food (whether or not for consideration) in the course of providing services to patients or inmates in public institutions; and
- Sell for the purpose of resale.

As a result, a range of food handling activities will be captured under the Act that may have not been considered as food businesses prior to its introduction. For example:

- school canteens and cafeterias;
- workplace (including mine site) canteens and cafeterias;
- bed and breakfast establishments;
- lodging house kitchens;
- businesses involved in the storage of food;
- food transportation businesses;
- food businesses run by charitable and community organisations; and
- family day care centres.

Actions:

Any one that believes their business activities are now captured under the definition of a food business needs to contact the appropriate enforcement agency in order to find out about any registration or other requirements.



Useful Resources and Websites:

- Department of Health WA www.public.health.wa.gov.au
- Food Standards Australia New Zealand <http://www.foodstandards.gov.au>
- Food Regulation Secretariat <http://www.health.gov.au>

Contact the Food Unit:

Any feedback or concerns please utilise the “Food Unit Query” form which can be downloaded from our website:

http://www.public.health.wa.gov.au/2/786/3/food_informatio.pm

Email: FoodUnit@health.wa.gov.au

Ph: (08) 9388 4999

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www.public.health.wa.gov.au

Note: The information contained in this document covers the food legislation requirements for Western Australia. It is current on the date of publication but may change without notice. The Department of Health is not liable for any costs arising from or associated with decisions based on information here and users should obtain expert advice to satisfy all requirements of the relevant food legislation applicable.

