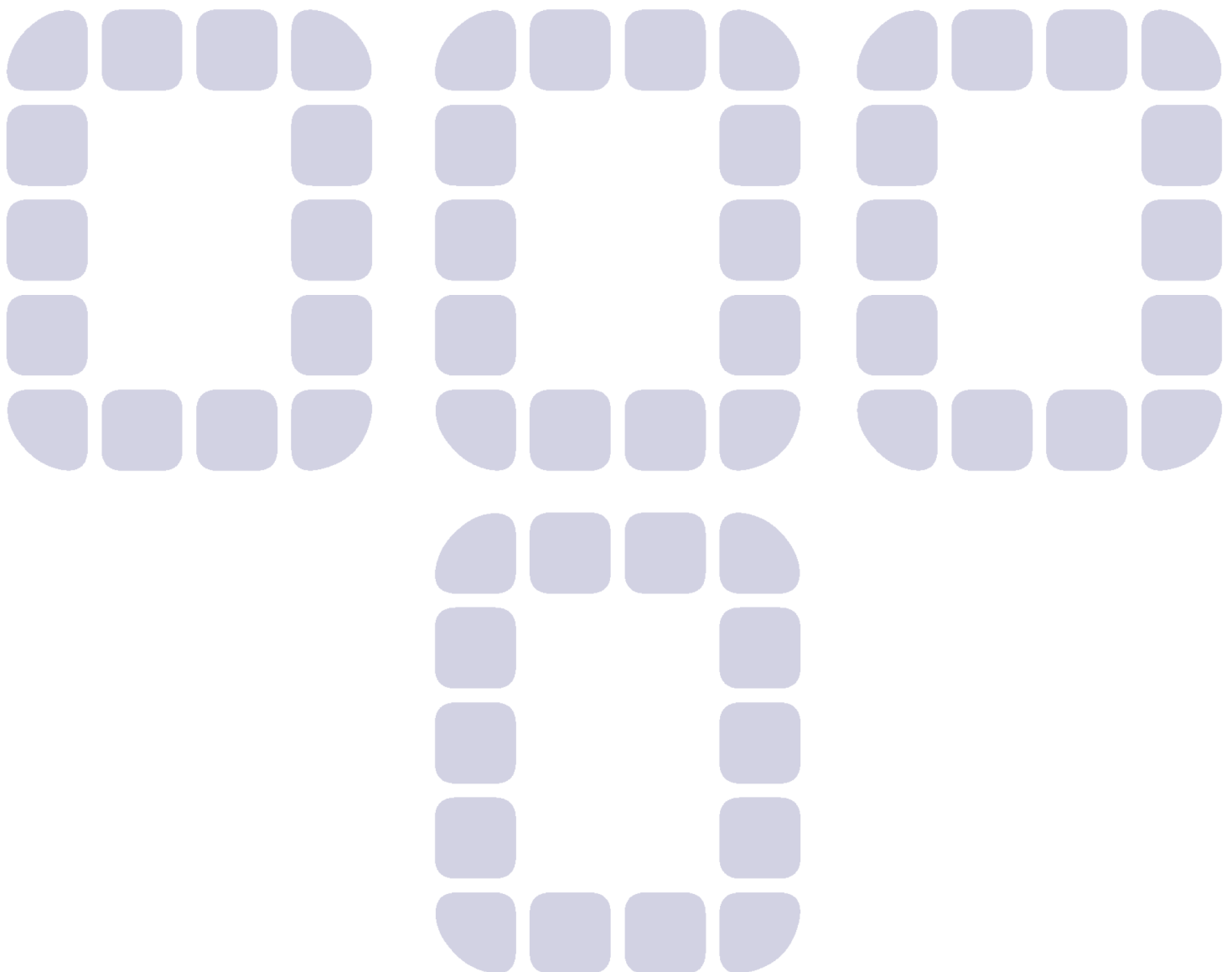


WA Food Regulation: Roles and Responsibilities of Enforcement Agencies in WA

This document provides information concerning the roles and responsibilities of enforcement agencies involved with the administration of food legislation in Western Australia.

Version 2 September 2010



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Roles and Responsibilities of Enforcement Agencies in WA

1 PURPOSE

The purpose of this information is to inform stakeholders of the regulatory roles and responsibilities of staff within the Food Unit at Department of Health (DOH) Western Australia (WA) as well as others such as the local government.

2 RESPONSIBILITIES OF FOOD UNIT

As the lead agency, the Food Unit has a key role to ensure systems are in place to:

- Provide input to the national food regulatory framework and development of food laws in Australia.
- Identify and manage risks that result in food in WA being safe and suitable and meeting national food standards.
- Provide feedback to local government in achieving best practice.

The Food Unit will develop a strategic direction for the administration of the food regulatory framework and food laws in WA, being responsible for:

- Developing a strategic plan.
- Facilitating key provisions to achieve consistent implementation of the *Food Act 2008* (the Act), *Food Regulations 2009* (the Regulations), and *Australia New Zealand Food Standards Code* (the Code).
- Coordinating the Environmental Health aspects of food recalls and investigations of food borne illness.
- Registration and assessment of certain food businesses. Under the Regulations the Food Unit will be assessing public hospitals; dairy (primary production processing, transportation); primary production of seafood (manufacturing of seafood); and food businesses not within a district.

- DOH is the Controlling Authority for the meat standard, wild game standard or a standard adopted under Regulation 18 (1) (b), (c) or (d) with regards to approving a quality assurance programme or arrangement under such standards when animals are slaughtered for human consumption at those premises.
- Compiling and collating reports received from local government on the performance of functions under the Section 121.
- Monitoring food safety and nutrition developments including the coordination of State wide food monitoring programmes.
- Input into the development of risk management tools and systems.
- Facilitating departmental and whole of government input into national policies and standards relating to food safety and nutrition in the context of public health.
- Providing food safety and nutrition related public health information.
- Informing local government, businesses, other government departments, and the community about food matters in general.
- Facilitating workshops on information, guidance and instruction on food regulation matters.
- Discussing legal options relating to the food regulation matters, but will not provide legal interpretation and / or opinions. The Food Unit suggests that legal interpretations and / or opinions should be sought from independent legal sources.
- Providing statistical data where feasible but will not provide data that is publicly available or data in other formats that have been provided previously.
- Endeavouring to give direction where relevant on risk based approaches for the assessment and monitoring of food businesses to assist with the development of fees and charges, but will not be setting rates of fees and charges for local government. Local governments have the ability under the Act to charge fees in association with the food regulatory activities and make decisions relating to the imposition of fees associated with the administration and enforcement of the Act. Fees charged by local government must be set in accordance with the *Local Government Act 1995*.

3 RESPONSIBILITIES OF OTHERS

3.1 The Chief Executive Officer (CEO), DOH

The CEO of the DOH will have prime responsibility for overseeing administration of the Act (section 116), while local governments will carry out the bulk of the enforcement and administrative activities (section 117 provides for the delegation of CEO's powers or duties under the Act, subject to conditions).

The roles and responsibilities conferred on the CEO by the Act include:

- To take measures to ensure that the Act is complied with (section 116(2)(a));
- To advise the Minister on possible changes to the Act or regulations (section 116(2)(b));
- The making of emergency orders in relation to food that presents a serious risk to health (section 31);
- The placing of a prohibition orders in relation to food handling premises, activities, sale and equipment where the order is necessary to prevent a serious danger to public health or an where an improvement notice has not been complied with (section 65);
- The approval of a number of matters including laboratories (section 82) forms (section 82), analysts (section 88), regulatory food safety auditors (section 94), priority classification systems (section 100);
- The setting of conditions on the performance of enforcement agencies (section 120); and
- The setting of guidelines in relation to the qualifications of authorised officers (section 122).

The Act provides that the CEO may delegate any duties or powers under the Act to local government, DOH staff, authorised officers or holders of offices prescribed by regulations. The CEO's powers that relate to oversighting of compliance with the Act e.g. the setting of conditions on the performance of functions by enforcement agencies, appointment of authorised officers, issuing of performance guidelines on the performance of functions and emergency powers, can only be delegated to DOH staff.

The CEO's delegations will provide for local governments, largely through

environmental health officers and authorised officers in their employ, to enforce the bulk of the Act, through assessment of food premises, auditing of food safety programs, registration of food premises, the issuing of infringement notices, improvement notices and prohibition orders, and sampling and analyses of food (sections 116 to 118).

Enforcement agencies will be required to report on the performance of their functions (clause 121(1)). The DOH will, in turn, be required to report on the performance of enforcement agencies and the CEO in the annual report required by the *Financial Administration and Audit Act 1985* (section 121(3)).

The Administrative arrangements in the Act largely reflect the current administrative arrangements with two exceptions:

- The requirement for the DOH to report on the performances of functions under the Act (section 121(3)); and
- The ability to authorise officers in addition to environmental health officers to administer the provisions of the Act, subject to guidelines relating to the qualifications and experience of authorised officers (section 122).

3.2 The Director of Environmental Health

The Director of Environmental Health is responsible for the administration of the Act which includes:

- Ensuring the Act is complied with (section 116 (2) (a));
- Advice to the Minister for changes to the Act or regulations or FSANZ proposals (section 116 (2) (b));
- Providing an annual report; and
- Reporting to the CEO (section 121) on the performance of enforcement agencies.

The Director of Environmental Health is also delegated under section 117 with regards to:

- Functions of enforcement agency;
- Issuing guidelines that describe qualifications and experience appropriate for authorised officers (section 122 (2));

- Issuing certificates of authority;
- Emergency powers;
- Approval of laboratories;
- Approval of analysts;
- Approval of Regulatory Food Safety Auditors
- Publication of names and offenders; and
- Review and report on Act.

Other functions include responsibility for:

- Powers of entry, inspection and seizure;
- Improvement notices and prohibition orders;
- Taking and analysing samples; and
- Designated officers.

3.3 The Manager of Food Unit

In addition to the roles and responsibilities of the Food Unit detailed above, the Manager of Food Unit will have a number of functions delegated to the position under section 117 of the Act and will include:

- Administration of the Act; and
- Those delegated by the CEO.

3.4 The Principal Project Officer (Legislation)

The Principal Project Officer will work with the Food Unit with regards to food legislation development and amendments and will facilitate and coordinate with:

- Senior Legal Advisor; and
- Principal Policy Officer (Legal).

3.5 Other Stakeholders

3.5.1 Local Government

Under the Regulations local government is the appropriate enforcement agency for the following:

- A food business that is conducted in premises in the local government's district or

- Animal food processing premises in the local government's district or
- A retail pet meat shop in the local government's district

Local government is responsible for the administration of the Act within its district and part of this responsibility is to report to the CEO of the DOH on the performance of functions under the Act.

4 GLOSSARY OF TERMS

Act	The <i>Food Act 2008</i>
ANZFRMC	Australia New Zealand Food Regulatory Ministerial Council
Code	<i>Australia New Zealand Food Standards Code</i>
FRSC	Food Regulation Standing Council
ISC	Food Regulation Standing Committee Implementation Sub-Committee
FSANZ	Food Standards Australia New Zealand
PIMC	Primary Industry Ministerial Council
PISC	Primary Industry Standing Committee
Regulations	The <i>Food Regulations 2009</i>

5 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>
- NSW Food Authority <http://www.foodauthority.nsw.gov.au/>
- DHS Victoria <http://www.health.vic.gov.au/foodsafety/>
- DHS South Australia <http://www.health.sa.gov.au/pehs/food-index.htm>

6 FURTHER INFORMATION

Contact the Food Unit via:

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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

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.

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