

How to Run a Healthy Business

Your legal requirements *Running a food business*

The Food Act 1984 is the legislation to make sure that the food you prepare, serve, manufacture or sell meets certain standards and is safe.

The three main objectives of the Food Act 1984 are to:

1. make sure that food is safe and suitable for sale;
2. make sure that the customer is not misled in any way when buying food;
3. apply the Food Standards Code.

As a proprietor and/or food handler working in a food business, it is in your best interest to be aware of the legal requirements under the Food Act 1984. There are offences for not following the Food Act 1984, which can lead to Council taking legal action.

It is very important to know what these offences are and the possible penalties for each one because saying that you 'didn't know' is not an excuse.

Unsafe and Unsuitable Food

Unsafe food is food that will cause harm to the person who has consumed it. This can be either through injury or illness.

- An injury from a muffin with pieces of glass inside.
- An illness such as food poisoning from a chicken sandwich that has been handled unsafely.

Unsuitable food is food that is damaged, deteriorated or perished or contains anything that is not part of the food.

For example:

- chicken fillets that are 'slimy';
- fruit that is bruised;
- cheese that is mouldy; or
- a pie found with a fly in the filling.

The penalty for handling food in a way that makes the food unsafe or unsuitable, and/or selling it, is \$40,000 for an individual or \$200,000 for a corporation. These penalties can be higher if it can be shown that the person or corporation knew what they were doing was wrong, and still did it.

Other Offences

It is an offence for a food business to:

- advertise, package or label food in a way that misleads the customer;
- sell food that is not of the same kind or make-up asked for by the customer. For example if a customer asks for gluten free bread and they are sold bread that is not gluten free;
- not follow the Food Standards Code. The Food Standards Code sets out the legal requirements for food composition, labelling of food and the Food Safety Standards. See Fact Sheets on Labelling and Food Safety Standards for more details.

Penalties for these offences are \$40,000 for an individual or \$200,000 for a corporation.

The name of the proprietor of the food business must be displayed in a place that can be easily seen by the customers. The proprietor can either be a person or a company. Failure to do so could mean a fine of up to \$1,000.

Your premises and staff cleanliness

If an Environmental Health Officer (EHO) finds your premises to be:

- unclean and dirty; or
- very run down and needing repair; or
- if a food handler is found to be unclean, you will be issued with a Food Act Order.

The Food Act Order will list what you need to do to make sure that your premises is clean, hygienic and in good repair. It will also set a time in which you have to complete the items. If you do not meet the terms of the order within the set time, you may be summoned to appear before the Magistrates Court. For the first offence a maximum penalty of \$5,000 will apply. For a second offence or more, you could be fined up to \$10,000.

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For all offences under the Food Act 1984, a summons to appear at the Magistrates Court is forwarded. The case is heard before the magistrate, who then decides if you are guilty and if so, the penalty.

Food Safety Programs

All food premises are required to submit a Food Safety Program to Health Services.

If you are not following what is written in your Food Safety Program, for whatever reason, your EHO or Auditor will advise you what needs to be improved or changed in order for your business to fully comply with your program.

If you continue not to follow your program then Council will take the necessary action under the Food Act 1984 to make sure that you do. This can include legal action that can result in Council taking away your registration.

Under the Food Act 1984 it is an offence to operate the food premises without registration. For further information read the 'About Food Safety Programs' and 'Using your Food Safety Program' fact sheets.

Food Safety Supervisor

Your business will need a Food Safety Supervisor. (Refer to 'Food Safety Supervisors' fact sheet.) You are required to provide Council with the name and qualifications of the Food Safety Supervisor when you submit your Food Safety Program.

Compliance Checks and Auditing

Under the Food Act 1984, EHO's are able to check food premises at any reasonable time. It is an offence to hinder or stop an officer who is investigating or checking your premises.

During the check the EHO is allowed, by law, to take samples for testing, take away any items (including food) that are causing unsafe or unsuitable food, and take photographs or other recordings of your premises. If requested, a person must give their full name and address.

Food Safety Standards

Under the Food Act 1984 you are also required to comply with the Food Safety Standards.

The Food Safety Standards, along with Food Safety Programs, are in place to make sure that the food you are selling is safe and suitable.

The Standards cover areas such as health, hygiene, the responsibilities of food handlers and what to do to keep food safe. It sets out the requirements for food premises fixtures, fittings and equipment.

The penalty for not complying with the Food Safety Standards is \$40,000 in the case of an individual and \$200,000 in the case of a corporation.

For further information on the Standards read 'Food Safety Standards - Food Safety Practices and General Requirements' and 'Food Safety Standards – Premises and Equipment', fact sheets.

For further information please contact your Environmental Health Officer (EHO) on 9658 8831/8815.