



Victoria Government Gazette

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Food Act 1984

INFORMATION TO BE PROVIDED BY COUNCILS TO THE DEPARTMENT OF HEALTH

Declaration under section 7D of the **Food Act 1984**

Under section 7D of the **Food Act 1984** (the Act), I, Pauline Ireland, as delegate of the Secretary to the Department of Health (the Department) –

- (a) noting that a body that represents local government has been consulted under section 7D(2) of the Act; and
- (b) after having taken into account the information provided in the course of that consultation –

declare as follows:

Information from 1 October 2010

1. the information that a council is required to provide to the Department relating to the administration of the Act for a reporting period includes the information in each of the following schedules (to the extent that it is applicable) about each relevant food premises:
 - (a) schedule 1 (registration and notification information);
 - (b) schedule 2 (food premises information);
 - (c) schedule 3 (compliance and monitoring information);
 - (d) schedule 4 (prosecution information);
 - (e) schedule 5 (complaints information);

Information from 1 January 2011

2. the information that a council is required to provide to the Department relating to the administration of the Act for a reporting period includes the information in schedule 6 (to the extent that it is applicable) about each relevant food premises;

Information from 1 January 2012

3. the information that a council is required to provide to the Department relating to the administration of the Act for a reporting period includes the information in schedule 7 (to the extent that it is applicable) about each relevant food premises;

Additional information in the first 6 months of reporting

4. the information that a council is required to provide to the Department relating to the administration of the Act about each relevant food premises includes –
 - (a) for the first reporting period – the information in clause 1 of schedule 8; and
 - (b) for the reporting period commencing on 1 January 2011 and ending on 31 March 2011 – the information in clause 2 of schedule 8;

Codes

5. where information about a relevant food premises referred to in clauses 1, 2, 3 or 4 (except the information listed in clause 2 of schedule 7) is provided in a reporting period –
 - (a) the information that a council is required to provide to the Department relating to the administration of the Act also includes the following –
 - (i) the code that has been assigned by the council to the food premises; and
 - (ii) the code assigned by the Department to the council; and
 - (b) the information referred to in paragraph (a) is to be provided in conjunction with each relevant item of information about a food premises referred to in clause 1, 2, 3 or 4;

SPECIAL

Intervals at which information is to be provided

6. the information that a council is required to provide to the Department is to be provided at the following intervals:
- the information for the first reporting period is to be provided by 31 January 2011; and
 - thereafter, the information for every other reporting period is to be provided at intervals of three months, with information for a reporting period to be provided within 7 days after the expiry of that reporting period;

Example: the information for the reporting period from 1 April 2011 to 30 June 2011 is to be provided to the Department by 7 July 2011;

Format in which information is to be provided

7. the information that a council is required to provide to the Department is to be provided electronically in an XML format.

Definitions

8. In this declaration –
- ‘**code**’ means the code (usually a number) assigned by, as the case may be –
- the council to uniquely identify a food premises, registration or notification; or
 - the Department to uniquely identify a council or approved food safety auditor –
- but does not include the name or address of any individual, proprietor of a food business, food business or food premises;
- ‘**complaint**’ means a complaint –
- about a potential breach of the Act; and
 - which is sufficient to enable an investigation –
- but does not include a complaint that is frivolous or vexatious;
- ‘**details of an enforcement action**’ includes:
- the provision of the Act or regulations under which a direction, notice, or order is made or issued;
 - in the case of an infringement notice, the infringement offence to which the notice relates; or
 - in the case of a prosecution, the alleged offences that are charged;
- ‘**enforcement action**’ includes any of the following actions or decisions under the Act:
- the making or issuing of a direction, notice or order;
 - the seizure of any article;
 - the revocation or suspension of a registration;
 - the enforcement of a written undertaking;
 - the serving of an infringement notice for an infringement offence;
 - a determination under section 19H of the frequency or intervals of assessments or audits that are to apply to a food premises instead of the default requirements; or
 - the prosecution of the commission of an alleged offence;
- ‘**first reporting period**’ means the period from 1 October 2010 to 31 December 2010;
- ‘**offence against the Act or regulations**’ includes an ancillary offence relating to an offence against the Act or regulations;
- ‘**relevant food premises**’ means a food premises for which the council is the registration authority;
- ‘**reporting period**’ means each quarter of a year, being the period of 3 months ending on 30 September, 31 December, 31 March and 30 June in that year.

Commencement

9. Subject to clauses 10 and 11, this declaration takes effect on 1 October 2010.
10. Clause 2 takes effect on 1 January 2011.
11. Clause 3 takes effect on 1 January 2012.

Dated 16 September 2010

PAULINE IRELAND
Assistant Director
Food Safety and Regulation
Department of Health

SCHEDULE 1: REGISTRATION AND NOTIFICATION INFORMATION**Decisions under Part 6**

1. If any of the following decisions were made by the council during the reporting period about a food premises under Part 6 of the Act –
 - (a) the granting of a registration or a renewal of registration;
 - (b) the acceptance of a notification in the name of a particular proprietor;
 - (c) the transfer of registration to another proprietor;
 - (d) a refusal to register, transfer or renew registration; or
 - (e) the revocation or suspension of a registration –
the nature of the decision and the date on which it took effect.
2. If a decision was made during the reporting period to grant, renew or transfer registration on a conditional basis –
 - (a) that the registration is conditional; and
 - (b) the date from which, and the period of time for which, the registration operates on a conditional basis.
3. If a decision was made during the reporting period to grant, renew or transfer registration for a period of less than 12 months, the date on which the registration will expire.

Pending renewals of registrations

4. If –
 - (a) the registration of a food premises has lapsed and has not been renewed at the conclusion of the relevant reporting period; and
 - (b) the proprietor of that premises has applied to the council under the Act to renew the registration of the premises, or the council believes that the proprietor will make such an application within a reasonable time –
the belief that the renewal of registration is pending, and, if the council formed that belief during the reporting period, the date on which the council formed that belief.

Pending transfers of registration

5. If –
 - (a) the ownership of a food premises has changed, and the registration of a food premises has not been transferred to the proprietor at the conclusion of the relevant reporting period; and
 - (b) the council has received an application under the Act to transfer the registration of the premises to the proprietor, or the council believes that the proprietor will make such an application within a reasonable time –
the belief that the transfer of registration is pending, and, if the council formed that belief during the reporting period, the date on which the council formed that belief.

Unregistered premises (not pending)

6. If the council believes that –
 - (a) a food business is operating from a food premises during the reporting period contrary to Part 6 of the Act because –
 - (i) it is not registered in accordance with that Part (including where the premises is operating whilst the registration is suspended); or
 - (ii) the proprietor has not given notification in accordance with that Part; and

(b) clauses 4 and 5 of this schedule do not apply –
the belief that the premises is operating without being registered or notified under Part 6, and,
if the council formed that belief during the reporting period, the date on which the council
formed that belief.

Closed premises

7. If the council forms the belief during the reporting period that a food premises has been permanently closed by a proprietor, that belief and the date on which the council formed that belief.

SCHEDULE 2: FOOD PREMISES INFORMATION

1. If –
 - (a) registration of a food premises is granted, renewed or transferred during the reporting period; or
 - (b) the council is notified about the operation of a food premises under Part 6 of the Act during the reporting period; or
 - (c) the council becomes aware during the reporting period that any of the following information has changed for a food premises –
the following information –
 - (d) the determination as to which class declared under section 19C the premises belongs, and the date that this determination is made; and
 - (e) in the case of a premises that is required under a declaration under section 19C to have a food safety program, whether the program in use is –
 - (i) a standard food safety program created using a template published by the Department and registered under section 19DB of the Act;
 - (ii) any other type of standard food safety program;
 - (iii) a QA food safety program; or
 - (iv) any other type of non-standard food safety program; and
- if the type of food safety program in use at the premises has changed since the last registration decision or notification under Part 6, the date that the council became aware of that change.

SCHEDULE 3: COMPLIANCE AND MONITORING INFORMATION

1. If a food safety audit or food safety assessment of a food premises is undertaken during the reporting period –
 - (a) whether a food safety audit or food safety assessment was undertaken;
 - (b) the date on which it was performed;
 - (c) whether it was performed by the council or by an approved food safety auditor who is not a delegate of the council;
 - (d) in the case of an audit (whether performed by the council or otherwise) the code assigned by the Department to the approved food safety auditor who conducted that audit;
 - (e) in the case of an assessment performed by an approved food safety auditor who is not a delegate of the council, the code assigned by the Department to that auditor; and
 - (f) the overall result of the audit or assessment, including whether any major non-compliances or critical non-compliances have been identified that must be remedied.
2. If any inspection (including any follow up after an audit) is undertaken by the council at a food premises during the reporting period –
 - (a) the date it was undertaken;
 - (b) the type of inspection (including whether the inspection is required under the Act, is a routine inspection, is conducted to follow up on matters identified in a food safety assessment or food safety audit or previous inspection, is to check whether an enforcement action has been complied with, is an inspection arising from a complaint about adulteration of food or food poisoning or the practices at or the state of a food premises, and in any other case a description of the purpose of the inspection); and
 - (c) the overall result of the inspection, including whether any major non-compliances or critical non-compliances have been identified that must be remedied.
3. If an enforcement action is taken by the council in relation to a food premises during the reporting period –
 - (a) the nature and details of the enforcement action;
 - (b) the date on which it was taken; and
 - (c) the outcome at the food premises as a result of the enforcement action being taken, including –
 - (i) the date on which the outcome becomes known to the council; and
 - (ii) whether or not any non-compliance has been remedied or an order or notice complied with.
4. The outcome at the food premises as a result of an enforcement action being taken that becomes known to the council during the reporting period (other than an outcome referred to in schedule 4 about a prosecution), including –
 - (a) the date on which the outcome becomes known to the council; and
 - (b) whether or not any non-compliance has been remedied, or an order or notice complied with.

SCHEDULE 4: PROSECUTION INFORMATION

1. If a criminal proceeding for an alleged offence under the Act or regulations in relation to a food premises is commenced during the reporting period:
 - (a) the date on which the proceeding is commenced; and
 - (b) the offence that is alleged or charged.
2. If a criminal proceeding for an alleged offence under the Act or regulations in relation to a food premises is determined (wholly or in part) by a court during the reporting period:
 - (a) the decision of the court, including whether the defendant was found guilty or not guilty, whether or not a conviction was recorded, and any sentence imposed or order made by the court; and
 - (b) the date of the decision of the court.

SCHEDULE 5: COMPLAINTS INFORMATION

1. If a complaint is received by the council about a food premises during the reporting period:
 - (a) the date on which the complaint was received; and
 - (b) the nature of the complaint, including specifying whether it relates to the handling of the food, the structure of the premises, contamination with a foreign object or chemicals, poisoning or spoilage, and in any other case a description of the type of complaint.

SCHEDULE 6: NATURE OF PREMISES AND WATER SUPPLY

1. If –
 - (a) a registration of a food premises is granted, renewed or transferred during the reporting period; or
 - (b) the council is notified about the operation of a food premises under Part 6 of the Act during the reporting period; or
 - (c) the council becomes aware during the reporting period that any of the following information has changed for a food premises –
the following information:
 - (d) the nature or type of food business operated at or from the premises, including whether the food premises is a mobile food premises; and
 - (e) if the nature or type of food business has changed since the last registration decision or notification, the date that the council became aware of that change.
2. If –
 - (a) a registration of a food premises is granted, renewed or transferred during the reporting period; or
 - (b) the council becomes aware during the reporting period that the type of water supply used at a food premises has changed –
the following information:
 - (c) whether the premises uses a public water supply or a private water supply; and
 - (d) if the type of the water supply has changed since the last registration decision, the date that the council became aware of that change.

SCHEDULE 7: TEMPORARY AND MOBILE PREMISES, AND FOOD RECALLS

1. If –
 - (a) a registration of a temporary food premises, mobile food premises or a food vending machine is granted, renewed or transferred during the reporting period; or
 - (b) the council is notified about the operation of such a food premises under Part 6 of the Act during the reporting period –
the following information:
 - (c) whether that premises is a temporary food premises, mobile food premises or a food vending machine;
 - (d) whether that premises is a component of a food business that has been registered under the one application, or notified under the one notification, under Division 4 of Part 6 of the Act; and
 - (e) if the premises has been so registered or notified, the code assigned by the council to that registration or notification and to that component.
2. If, during the reporting period, the council receives a notice, order or advice that was issued by the Department, Food Standards Australia New Zealand (FSANZ), or any other body about food that has been recalled and is not to be sold, whether under Part 7 of the Act or as part of any other process (such as a recall agreed to by a manufacturer, supplier or retailer of a food, or where required under any other law) –
 - (a) the date on which that notice, order or advice was sent to the council by the Department;
 - (b) the code assigned by the Department, FSANZ or other body to uniquely identify the recall;
 - (c) the code assigned by the Department to the council; and
 - (d) either –
 - (i) the following information:
 - A. the code that has been assigned by the council to each food premises that has been contacted by the council about the recall; and
 - B. whether, for each food premises contacted, the council did so by telephone, in writing, or by attending the premises; or
 - (ii) the number of food premises that were contacted about the recall by telephone, in writing, or by attending the premises.

SCHEDULE 8: REGISTRATION STATUS IN FIRST YEAR OF REPORTING

1. The following information about a food premises, as known to the council, as at 1 October 2010:
 - (a) whether a notification has been accepted in the name of a particular proprietor under the Act about the premises;
 - (b) whether the premises is registered under the Act, and if so the date when the registration will expire, and whether the registration is subject to conditions;
 - (c) whether the registration of the premises is suspended, and if so when the suspension took effect;
 - (d) if the registration of the premises has lapsed and has not been renewed within the required time and is unregistered, whether the council considers that the renewal of the registration is pending (because the proprietor has applied to the council to renew the registration, or the application will be made within a reasonable time);
 - (e) if the ownership of a food premises has changed, and the registration has not been transferred to the proprietor, whether the council considers that the transfer of the registration is pending (because the proprietor has applied to the council to transfer the registration, or the application will be made within a reasonable time);
 - (f) whether the premises is operating without registration or notification as required under Part 6 of the Act (in circumstances where paragraphs (d) and (e) do not apply);
 - (g) the determination as to which class declared under section 19C the premises belongs; and
 - (h) in the case of a premises that is required under a declaration under section 19C to have a food safety program, whether the program in use is –
 - (i) a standard food safety program created using a template published by the Department and registered under section 19DB of the Act;
 - (ii) any other type of standard food safety program;
 - (iii) a QA food safety program; or
 - (iv) any other type of non-standard food safety program.
 2. The following information about a food premises, as known to the council as at 1 January 2011:
 - (a) the nature or type of food business operated at or from the premises, including whether the premises is a mobile food premises; and
 - (b) in the case of a food premises that is, or is required under the Act to be, registered under Part 6, whether the premises uses a public water supply or a private water supply.
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