



# ***Food Act 2008* FACT SHEET 2**

## **Registration of a food business**

Version 1 October 2009

### **Introduction**

Section 109 of the *Food Act 2008* (the Act) specifies that it is an offence to conduct a food business at any premises unless the food business is registered with the appropriate enforcement agency in respect of those premises. This enables the enforcement agency to ensure that all food businesses trading from premises within its responsible area comply with the requirements of the *Australia New Zealand Food Standards Code* (the Code).

### **Application**

In order to comply with section 109 of the Act, a food business must ensure that any premises used in conjunction with the sale of food are approved by the appropriate enforcement agency as part of the food business's registration. The term 'premises' includes:

- (a) land;
- (b) the whole or part of any building, tent, stall or other structure (whether of a permanent or temporary nature);
- (c) a pontoon; or
- (d) a vehicle (other than a food transport vehicle while it is engaged in the transport of food).

The appropriate enforcement agency will be the local government where the premises are located. If the premises are not located within a local government district, the Department of Health will be the appropriate enforcement agency.

### **How does a food business apply for registration?**

To apply for the registration of a food business, the following is required to be submitted to the appropriate enforcement agency:

- Completed application form;
- If required, the design and fit-out specifications of the premises where food is to be handled; and
- Any other information requested by the enforcement agency that will assist in determining the risk classification of the food business.





### **Is there any fee involved?**

The enforcement agency may charge a fee for registration. If the enforcement agency is a local government, this fee may be imposed and recovered under the *Local Government Act 1995* Part 6 Division 5 Subdivision 2. The enforcement agency may also impose an annual surveillance fee.

### **What happens following application?**

After considering the application for registration of the food business, the appropriate enforcement agency may:

- Grant the application, with or without conditions, and issue a certificate of registration specifying the premises in respect of which registration is granted; or
- Refuse the application in writing setting out the reasons for refusal.

### **What is the period of registration?**

The registration of a food business in respect of any premises remains in force until cancelled. A registration may only be cancelled for one of the following reasons:

- Any annual or other fee imposed by the appropriate enforcement agency that relates to the registration of the food business in respect of those premises has not been paid,
- The food business has ceased to be conducted at those premises; or
- At the request of the holder of the certificate of registration that specifies those premises.

### **Conditions of registration**

An enforcement agency may place conditions on the registration of a food business in respect of any premises. The conditions may relate only to issues that ensure compliance with the Act.

If the appropriate enforcement agency decides to vary the conditions of registration then it must advise the holder of the certificate of registration, in writing, of the reasons and consider any submissions made by the holder of the certificate of registration.

### **What if the food business is sold?**

If the proprietor of a food business intends to sell their premises, they should request for the registration in respect of those premises to be cancelled prior to handing over control of the premises to the new proprietor. This will ensure that they do not continue to be responsible for the food business being operated from those sold premises. In addition, section 113 of the Act makes it an offence to not inform the appropriate enforcement agency of any changes to a registered food business included if the food business ceases to be conducted at those premises or if the food business is sold.





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The new proprietor must apply for a registration under the Act to the appropriate enforcement agency.

### **Important information for enforcement agencies**

Each enforcement agency must prepare and maintain a list of food businesses in respect of any premises registered by the agency. Food Businesses that are exempted from registration will be prescribed by regulations.

A food business is not required to both notify under s.107 and register under s.110; to do so creates unnecessary duplication. Section 108(b) exempts food businesses from the specific requirement to notify. Application forms for registration should request the same information as required within the Standard 3.2.2 clause 4 of the Code for consistency.

### **Further Information:**

For more information on the requirements in relation to registration, please contact the Environmental Health Officer at the local government where the premises are located or the Food Unit.

### **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](http://www.public.health.wa.gov.au/2/786/3/food_informatio.pm)

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*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.*

