



An update to Primary Producers in South Australia on the Food Safety Reform Program

This newsletter has been prepared by the Department of Human Services (DHS) to inform the Primary Industry Sector about SA's new Food Safety Reform Program. DHS thanks Primary Industries & Resources SA (PIRSA) for assistance with the preparation and distribution of this newsletter.

What is the **FOOD SAFETY** reform program?

Since 1996 Food Standards Australia New Zealand (FSANZ) has undertaken comprehensive reviews of food legislation in Australia. As a consequence all States have, or are planning to have, nationally uniform food legislation in place. SA's new food legislation which consists of the Food Act 2001, Regulations & Food Safety Standards is expected to be **operative from the beginning of December 2002**. Penalties for offences under the new Food Act are significantly higher than those applying under the 1985 Food Act.

These new laws require all SA food producers, including primary food producers, to produce safe and suitable food.

Application of the new Food Act to the **PRIMARY INDUSTRY** sector

Although all SA food industries have a responsibility to produce safe food **not every** provision of the Food Act applies to **primary food production**. Under the Food Act 2001 the food industry is categorised as either a **food business or primary food production**.

Meaning of **FOOD BUSINESS**

Under the Food Act 2001 **food business** refers to a business, enterprise or activity (excluding primary food production as detailed) that involves:-

- (a) the handling of food intended for sale; or
- (b) the sale of food

regardless or whether it is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.

Food business also includes (1), (2), (3) & (4)

Meaning of **PRIMARY FOOD PRODUCTION**

Under the Food Act 2001 **primary food production** refers to the growing, raising, cultivation, picking, harvesting, collection or catching of food:-

It covers:-

- 'on-farm and boat' activities and processes (including other premises which are part of the enterprise)
- storage of grain in silos not connected with a food processing operation
- sale of livestock at saleyards
- transport or delivery on, from or between the primary production premises
- activities regulated under primary industry legislation recognised by the Food Act; such as the Meat Hygiene Act and Dairy Industry Act

However, there are some exceptions, which change the classification from a primary food producer to a food business.

If your business is involved in the following activities then you are a **food business**:

- (1) sale or service of food direct to the public
- (2) packing or treating food under contract, or where the food has been purchased
- (3) other activities prescribed by regulation (none at this time)
- (4) any process involving the "substantial transformation" of food - this exemption is expected to be interpreted in SA as 'off farm land and boat'. In other words 'on farm land and boat' activities would be classified as primary production, off farm/boat would be food businesses - pending ratification by Regulation



More details on the FOOD ACT

The Department of Human Services (DHS) administers the Food Act.

Parts of the Food Act / Standards that apply to BOTH primary food production and food businesses:-

- Offences involving the safety, suitability and description of food
- Emergency orders where there is a serious danger to public health
- Emergency powers including orders prohibiting the cultivation or harvesting of food or the quarantine or destruction of a particular food
- Compliance with requirements of Chapter 1 & 2 of the Food Standards Code – General Food Standards & Food Product Standards (labelling & composition)

Parts of the Food Act / Standards that apply ONLY to food businesses (NOT to primary food production):-

- Compliance with requirements of Chapter 3 of the Food Standards Code - the Food Safety Standards
 - Standard 3.1.1 Interpretation & Application
 - Standard 3.2.2 Food Safety Practices & General Requirements
 - Standard 3.2.3 Premises & Equipment
- Issue and enforcement of improvement notices
- Issue and enforcement of prohibition orders
- Auditing & reporting
- Risk classification
- Notification of the existence of a food business

The legislative differences between a food business and primary food production

Q u e s t i o n s	Food Business	Primary Food Production
Food Act 2001 applies ?	Complete Act applies	Primary Production Act applies except parts 5 (improvement notices & prohibition orders), 7 (auditing) & 8 (notification)
Required to produce safe & suitable food ?	Yes	Yes
Can face prosecution & large fines & be investigated and controlled if public health is threatened pursuant to the Food Act ?	Yes	Yes
Food Standards Code applies? <ul style="list-style-type: none"> • Chapter 1 – General (<i>labelling</i>) • Chapter 2 – Product (<i>contents & composition</i>) • Chapter 3 – Food Safety Standards 3.1.1, 3.2.2, & 3.2.3 • Chapter 4 – Primary Production (<i>currently under development</i>) 	<ul style="list-style-type: none"> • Yes • Yes • Yes • May apply (some specific activities may be covered) 	<ul style="list-style-type: none"> • Yes • Yes • No • Yes (will only apply to certain activities when adopted)
Need to notify under the Food Act?	Yes	No
Primary Producer type Acts apply?	No	Yes, when applicable – eg. Meat Hygiene Act, Dairy Industry Act
Required to have food safety programs in place ?	No	Only if required under an applicable Primary Production type Act

If your business meets the “food business” criteria you need to contact your local Council, or the Department of Human Services, and obtain a copy of the ‘Food Safety Information Kit’ which will provide you with important food safety information. You will also be required to provide notification of your food business before 1 December 2003 (failure to do so is an offence and carries with it significant penalties).

A series of information sessions for food business proprietors/managers will be held in regional and metropolitan areas between the 4th November and 5th December – contact your local Council for details of sessions near you.

If your business meets the “primary food production” criteria read on.

WHAT DOES “SAFE & SUITABLE FOOD MEAN?”

The Food Act 2001 requires the entire South Australian food industry, whether they are general or primary production based, to produce safe and suitable food. Broadly speaking **safe** food means food that does not cause physical harm to consumers of the food. **Suitable** food is food that can be used for its intended use; for example doesn't have foreign material or chemicals above legal limits, is not damaged, deteriorated or perished to an extent that affects its reasonable intended use.

COUNCIL INSPECTIONS

Generally Councils will not need to inspect “primary food production” operations other than to investigate offences / complaints or to enact emergency orders or powers under the Food Act – this situation is not a common occurrence.

Under the draft Regulations, Councils will be entitled to charge inspection fees in these instances. Council inspection fees are quite separate to any fees or licencing that may be applicable under other legislation (ie. Meat Hygiene Act, Dairy Act etc.).

DHS INSPECTIONS

Department of Human Services (DHS) inspects **food businesses & primary food production businesses** in the following types of situations:

- to investigate food offences under the Food Act
- to enact emergency orders or powers under the Food Act
- for sampling programs that are initiated from time to time to assess various food products / types
- to investigate progress with food recalls
- to inspect / investigate labelling & contents of various food products
- to research particular food safety related issues

Fees are generally NOT applicable for inspections by DHS officers.

WHAT ARE THE RULES WHEN PRIMARY FOOD PRODUCERS SELL TO THE PUBLIC?

When Primary Producers sell direct to the public (includes road side stalls), they become classified as a ‘food business’ under the Food Act. This means they will be required to notify Councils of their business details, meet the hygiene standards and be subject to general food premise inspections. These businesses need to contact their local Environmental Health Officer (EHO) to discuss the requirements and obtain a copy of the ‘Food Safety Information Kit’.

The design and construction of any food premises must be appropriate for the activities for which the premises are used and be able to be effectively cleaned. The premises should also provide adequate space and, to the extent that is practical, be designed/constructed to assist the exclusion of dirt, contaminants, and pests. Your local EHO can advise you whether your premises complies with the Food Safety Standards and provide guidance on how to meet the requirements of the Standards if necessary.

EXPORT PRODUCTS & THE FOOD ACT 2001

Primary producers that export their products will be required to meet the safe and suitable food requirements under the Food Act 2001, plus relevant AQIS and State primary industry legislation (eg. Meat Hygiene Act) where applicable as well as any relevant laws in the importing country.

DISOSAL OF WASTE FOOD TO LIVESTOCK

It is an offence under the Livestock Act to dispose of a product that consists of, or contains material from, a placental mammal in a manner that livestock may gain access to it. It is also an offence to feed restricted animal material (includes all animal products except milk, milk products, tallow, gelatine or extracted oils) to ruminants.

As a result, any business which allows a livestock producer to take food scraps from their business for the purpose of feeding their livestock must ensure that there is no material from a placental mammal present in the scraps if the feed is intended for pigs, or that there is no restricted animal material present if the scraps are intended for ruminants. Non-compliance may result in a fine and/or prosecution for the business owner **as well as the farmer**. Essentially this means that only plant based foods, which have never been in contact with meat products, can legally be fed to livestock.

NATIONAL PRIMARY INDUSTRY STANDARDS

Food Standards Australia New Zealand (FSANZ) is developing **national primary product and processing standards**. The new standards will be part of **Chapter 4 of the ANZ Food Standards Code**. FSANZ has begun work on a **national Seafood Standard** and others standards are expected to follow.

PROPOSED SA PRIMARY INDUSTRY FOOD SAFETY SYSTEMS LEGISLATION

The State Government is seeking public comment on proposed food safety legislation for the primary industries sector to support trade, industry development and public health outcomes.

There are a number of key Acts administered by the Minister for Agriculture, Food & Fisheries that affect the safety and suitability of food in the primary industry sector. As government and consumer expectations for food safety have altered since these Acts were established, the government is proposing to review, and possibly combine them into a single Act. A new Act would be managed by PIRSA and would provide a framework for implementing food safety systems and standards in the SA primary industry sector. Any new primary industry food safety legislation would be recognised under the SA Food Act 2001.

A discussion paper titled '*Legislation for implementing food safety systems in the primary industry sector to support trade, industry and public health outcomes*' has been released for public consultation by PIRSA. Written submissions will be received until 6 December 2002. For enquiries regarding the discussion paper contact Barrie Paynter, PIRSA Food Safety Communication Officer on 8226 0392 or email barrie.paynter2@saugov.sa.gov.au. The discussion paper is also available on the PIRSA Food Safety Web site at www.foodsafetysa.com.au

HOW TO ACCESS COPIES OF THE FOOD LEGISLATION

- The Food Act 2001
- The Food Regulations
- The Food Safety Standards

can be accessed via the DHS website www.dhs.sa.gov.au/pehs
- click on "Food"

CONTACT DETAILS FOR FURTHER INFORMATION

General & technical queries regarding the Food Safety legislation can be made to the **Department of Human Services** (Environmental Health Branch)

Phone: 8226 7100

Fax: 8226 7102

Email: food@dhs.sa.gov.au

Post: Food Section, Environmental Health Branch DHS,
PO Box 6, Rundle Mall, ADELAIDE SA 5000.

Web site: www.dhs.sa.gov.au/pehs click on "Food"

Specific enquiries relating to the food safety implementation program and process can be made to Viv Greaves 8226 7165 or email viv.greaves@dhs.sa.gov.au.

You may also wish to contact your Industry Association or PIRSA to discuss particular matters. PIRSA's contact points are Barrie Paynter - phone 8226 0392 email, or Chris Etherton, Manager Food Safety Policy - 8226 0531 email etherton.chris@saugov.sa.gov.au

DID YOU KNOW -

- Approximately 1 in 5 employees in South Australia work in a food related business / industry
- A major research project funded by the Department of Health and Ageing indicated that there are more than 7 million cases of food poisoning in Australia each year, or, on average over 19,000 per day.