



Food for Thought

A publication prepared by the Food Unit Department of Health WA

Issue 22, Autumn 2016

Inside this issue

Changes to the Australia New Zealand Food Standards Code	1
Allergen prosecution	2
Coconut milk and related products recall.....	3
Home cooking schemes.....	4
Update on events/residential projects	5
PPP standards	6
Pesticide survey report.....	6
WA food alliance working group	7
Update: Review of the <i>Food Act 2008</i>	8
Food Unit communication ...	8

Contacts

For contributions, enquiries or feedback regarding the newsletter please feel more than welcome to contact a member of the team.

Phone: (08) 9388 4999

Fax: (08) 9382 8119

email:

foodunit@health.wa.gov.au

Changes to the *Australia New Zealand Food Standards Code*

The *Australia New Zealand Food Standards Code* (Code) was reviewed in 2013 and 2014 and a revised Code was gazetted in April 2015. This revised Code came into operation on 1 March 2016. The Code has been changed to align more closely with the offence provisions of the food acts of the various state and territory jurisdictions and to make it clearer and easier to follow. The majority of the changes have occurred in chapters one and two.

The main changes in the revised Code focus on:

- more clearly stating the requirements of the Code to align with offence provisions
- revising requirements relating to food additives, processing aids and nutritive substances to ensure that they are formatted as enforceable requirements
- revising compositional requirements to clarify when a compositional requirement is enforceable or a prerequisite to a permission
- creating a dictionary of definitions to improve the readability of the Code.

The explanatory notes and other information that were not enforceable have been removed. The schedules have also been removed from the individual standards and grouped together in a separate section at the end of the Code. It is recommended that authorised officers and other stakeholders review the revised Code and become familiar with the changes that have been made.

In the past, many authorised officers and food businesses made use of various user guides to assist in the interpretation and application of the Code. Please note, that with the implementation of the revised Code, these guidelines have been removed from the FSANZ website as of 1 March 2016. If you would like a copy of the guidelines, please contact the Food Unit.

Allergen prosecution of a food business within the City of Subiaco

Written by Erica Sella (Environmental Health Officer – City of Subiaco)

The City of Subiaco investigated a food business which failed to appropriately respond to a customer who advised staff of her allergy. Due to the seriousness of the incident, the business was recently convicted and fined under Section 16 (2) of the *Food Act 2008*. This was the first prosecution of this nature in Western Australia and known to be the third in Australia. Authorised officers have an important role in promoting allergy awareness to food businesses, helping them address the needs of customers with allergies. The City of Subiaco has taken a more pro-active approach to allergy awareness as a result of this incident.



www.zmescience.com

A complaint was received early February 2015 regarding a 24 year old woman who had suffered from anaphylaxis as a result of consuming food at a local restaurant. After advising staff of her nut allergy it was confirmed that food served was nut free. While dining at the restaurant symptoms emerged and worsened, resulting in her being admitted and treated in hospital.

As soon as the City received the complaint, authorised officers visited the premises to discuss the situation with the shift manager who was working on the day of the incident. A timeline was established and complaint details were compared. The visit confirmed the restaurant was informed of the customer's nut allergy and the restaurant advised food provided was nut free.

At the time, the food business did not have an anaphylaxis action plan or standard operating procedure to help staff respond to customer allergies or control points to prevent potential allergen contamination. A recipe for one of the meals which included nuts was available for viewing in the kitchen, and furthermore the meal was garnished with dukkha, which contained nuts. Any recipe changes were not communicated between the back and front of house staff and customer menus did not provide any indication of which items may include common allergens.

As the mother of the affected person submitted the complaint, the affected person was visited soon after speaking with restaurant employees. Officers asked what food was consumed over the past day, what was exactly communicated to staff, symptoms experienced and for proof of the allergy her general practitioner details.

Officers visited the restaurant for a second time to speak with the sous chef who allegedly made the meal containing nuts, and who was present on the day of the incident. This discussion reaffirmed that staff were informed of the customer's allergy and furthermore that staff did not have sufficient allergy awareness training.

The restaurant implemented some measures to prevent re-occurrences; however the matter was considered serious enough to warrant legal action. Although this offence had not previously been the basis of any successful prosecutions, the City believed this incident was a good test case as staff did not dispute the complainant's version of events. There was also clear evidence that the food purchased and consumed contained nuts and the premises demonstrated a lack of food allergy awareness. As a result the registered proprietor of the

restaurant was convicted and fined \$40,000 plus costs for breaching section 16 (2) of the *Food Act 2008* on the 5 February 2016.

This incident has emphasised the impact authorised officers could have when conducting routine assessments. How often are we honestly asking food businesses what their allergy response and action plan is? Although food business proprietors have the responsibility to ensure staff are allergy aware and therefore are able to respond to any allergy enquiry, officers could utilise the opportunity during routine inspections to actively communicate allergen risks. Since this incident, the City has been proactive in various ways such as participating in Allergy Awareness Week, updating our website and assessment checklist and endeavouring to ask questions which encourage businesses to think about allergies. We encourage others to do the same.

If you have any comments or suggestions, or would like to make a contribution to the next edition of the Food for Thought newsletter, please contact the Food Unit at foodunit@health.wa.gov.au or phone (08) 9388 4999.

Coconut milk and related products recall

Since September 2015, the Department of Health and affected local governments, along with other State and Territory jurisdictions have responded to two reported cases of anaphylactic reactions associated with the consumption of coconut milk products containing undeclared dairy. In these recalls, dairy protein was present in the product, but was not declared on the product label, as required under *the Australia New Zealand Food Standards Code* (the Code).



www.allergenbureau.net

As of August 2015, there have been 26 (undeclared allergen) food recalls connected with coconut milk products, 24 associated with imported products; including powders, clear and non-clear juice drinks and creams. Recalls have been initiated by food businesses located in four States, being WA, NSW, VIC and QLD. Two recalls have nevertheless ceased, at the request of the recall sponsors, and subsequent agreement of the relevant State/Territory, of which one was here in WA.

The response to this incident had a number of challenges, including, but not limited to:

- identifying importers of coconut milk products
- selecting which coconut milk products to assess
- undertaking labelling assessments of suspected products
- submitting suspected products for laboratory analysis (allergen detection) which made an allergen-related health claim or had no declaration of allergens
- subsequently, what to do if undeclared allergens were identified
- allocation of resources to enable enforcement agencies to respond proportionately to the risk

During the investigation, a number of WA-based importers operating unregistered food businesses have been brought to the attention of the relevant local governments. The

Department of Health understands that all unregistered food business importers that were identified during the response have now been registered.

Outcomes from the investigation carried out in WA are as follows:

- 36 local governments provided assistance following a request from the Department of Health
- 11 local governments submitted samples from WA-based importers which were located within 9 different jurisdictions
- 42 samples in total were submitted for laboratory allergen detection analysis
- test results concluded that in 3 WA food recalls, there were four affected products within two local governments
- one recall affecting one product has ceased following a request by the food recall sponsor (importer) and another recall process was completed

A whole-of-government approach was taken to respond to the coconut milk issue. The Department of Health co-ordinated a cross-jurisdictional response by supporting local governments in both identifying affected importers and assessing undeclared allergen non-compliances within the Code. The Department of Health would like to thank all local governments involved in the investigation.

Home cooking schemes

The Food Unit has been made aware of proposed schemes that will enable 'home cooks' to sell food via a web-based application to other members of the public. These schemes can enable consumers to review meals/leftovers made by a home cook on an app, purchase the food and then negotiate a delivery/collection option.

The Food Unit has written to app developers, whether based in WA or interstate, to advise of legislative requirements that would apply to 'home cooks' who sign up to the scheme. This approach has been similar to that of other State and Territory governments.



www.pinterest.com

'Home cooks' participating in these schemes are food businesses and are to comply with the Food Act, including:

- receiving a Certificate of Registration from the appropriate enforcement agency prior to operating
- demonstrating that food safety risks are being managed
- meeting the food safety requirements of the Code, especially Standard 3.2.2 and 3.2.3
- ensuring that food labelling and declaration requirements are complied with
- permitting authorised officers to enter and inspect the premises at any reasonable time for the purposes of compliance monitoring

Local governments should be mindful these schemes will likely commence in the near future and it is hoped app developers will provide transparent compliance information to food businesses.

Management of temporary and mobile food businesses and food prepared in residential environments

The Food Unit has been working closely with local government and industry representatives to address administrative and compliance challenges relating to the management of food safety in certain situations.

There is an opportunity to develop electronic tools that will streamline food safety management including a centralised register for temporary and mobile food businesses in WA. Such a register could enable local governments to quickly access administrative and compliance information relating to temporary and mobile food businesses.



www.moneycrashers.com

However, based on feedback the immediate priority of the project groups will be to:

1. Review guidance materials and approved forms relating to Part 9 – Registration of the *Food Act 2008*, including:
 - strengthen guidance on the intent and application of registration
 - determine what information should be on the notification form to enable local governments to make informed assessments and decisions
 - provide information on the process of granting or refusing a registration application
 - detail conditions that should or could be placed on a Certificate of Registration
 - review how notification of certain changes can be effectively communicated and assessed
 - consider how priority classification relates to registration
2. Review the Risk Profiling Guideline to assist authorised officers to assess applications, including:
 - assessment of skills and knowledge
 - overarching risk principles relating to inherent and actual risk
 - risk assessment of manufacturing and processing steps
 - linking risk assessment with registration

The Food Unit and some local government members have also engaged in early discussions with the newly formed WA Mobile Food Vendors Association. It has been encouraging to observe industry representatives wanting to take a proactive and cooperative approach on this matter. The work of these project groups will be consulted to stakeholders in the near future.

Primary production and processing standards for eggs, poultry and seed sprouts

The Food unit is currently developing guidance material specific to eggs, poultry and seed sprouts. It is intended for the material to be a useful starting point, designed to assist local government enforcement agencies and food businesses with the implementation of the chapter 4 standards of the *Australia New Zealand Food Standards Code*.



It will include general information on registration, compliance and application of the standards. There will also be a section titled 'useful tools' which will include examples of templates and links for further reading relevant to each of the products. Once completed, the material will be available on the Department of Health's website.

Update for Eggs

- The [egg fact sheet](#) has been updated and is now available in version 2 August 2015
- Currently 51 food businesses are on the egg register
 - Of these 51, 32 food businesses have notified the Department of Health via the application form
 - Some businesses have one, two or three stamps
 - The register is not publicly available, but can be accessed by contacting the Food Unit
 - There are no exemptions to Standard 4.2.5. Egg stamping applies to all egg producers/processors captured by the standard

Monitoring agricultural chemical residue levels in fresh fruit and vegetables

The report on [Monitoring Agricultural Chemical Residue Levels in Fresh Fruit and Vegetables](#) is now available on the Department of Health website.

This report provides the culmination of many years of work shared by local government and the Department of Health, providing a summary of results of surveys conducted in 2009, 2011, 2013 and 2015. The purpose of the surveys was to monitor the level of agricultural chemical residues on fresh fruit and vegetables available for sale in the market for compliance with the maximum residue limits (MRLs) prescribed under Standard 1.4.2 of the *Australia New Zealand Food Standards Code*.

Overall, the test results indicated that food safety risks associated with agricultural chemical residues in fresh fruit and vegetables were low, with a 90% compliance rate. Other information gathered from investigations found that overall food safety risks were being managed by industry, where the majority of fruit and vegetable suppliers participated in an industry-based horticultural residue testing program. Lessons learnt from the surveys included the need to improve traceability from grower to retail, which was consistent with proposals by Food Standards Australia New Zealand to examine traceability requirements for all industry sectors and supply chains.

WA food alliance working group

The WA Food Alliance Working Group (the Alliance) was reconvened in July 2015, following a call for nomination of local government members in March 2015.

Local Government members of the Alliance

In total eight nominations for Local Government members were accepted. The Local Government members of the Alliance are:

- Chiat Chew – Melville
- Vicki Chui – Kwinana
- Paul Clifton – Kalgoorlie-Boulder
- David Cook – Swan
- Tanya Gillett – Busselton
- Sue Judd – WALGA/ Cockburn
- Molefi Nong – Victoria Park
- David Wilson – Joondalup



www.rockfordbuzz.com

The first meeting of the re-formed Alliance

The first meeting of the re-formed Alliance was held on 24 July 2015 with the main items for discussion being:

- terms of Reference
- providing input on issues for inclusion in the discussion paper for the review of the *Food Act 2008*
- WA Regulatory Food Safety Auditor Framework Review Project. Tanya Gillett and Sue Judd nominating to sit on the WA Food Safety Auditing Framework Reference Group
- food regulation of temporary and mobile food businesses project with Chiat Chew, David Cook and Tanya Gillett nominating to provide input into this project
- food regulation in residential environments project with Paul Clifton, Tanya Gillett and David Wilson nominating to provide input into this project

Purpose of the Alliance

The terms of Reference for the group have not yet been finalised however, it is anticipated that the Alliance will serve as an important link between the Department of Health and local government enforcement agencies.

The Alliance will not replace the need for wider community engagement but will provide a valuable tool for the Department of Health in understanding the point of view of enforcement agencies when making decisions.

Its primary purpose will be to guide the consistent and practical administration of the *Food Act 2008* and its subsidiary legislation within Western Australia. It will have focus on system wide management rather than individual local government matters.

You are encouraged to discuss any issues that you may have with regard to the enforcement of the *Food Act 2008* with your representatives on the Alliance.

Update on the review of the *Food Act 2008*

Work is continuing on the [review of the *Food Act 2008*](#). The current focus is on drafting the discussion paper.

The following work has been completed:

- review of the food safety legislation and enforcement in other jurisdictions
- receiving input regarding relevant issues for inclusion in the discussion paper from local government representatives of the WA Food Alliance Working Group
- reviewing and documenting the departmental issues for inclusion in the discussion paper
- reviewing and documenting the current operation and enforcement of the *Food Act 2008* for inclusion in the discussion paper

It is anticipated that the discussion paper will be ready for circulation by mid to late April 2016.

Food Unit communication

Please note that the [Self-service food display fact sheet](#) is now available on the Department of Health website.

Below is a summary of communication by the Food Unit during the past three months and also upcoming communication for the next three months:

Past three months	Next three months
Food Safety Week (8 – 11 November 2015)	Update on the guidance material on Primary Production and Processing standards for eggs, poultry and seed sprouts
Coconut milk and related product recalls	Release of consultation paper on the review of the <i>Food Act 2008</i>
Monitoring agricultural chemical residue levels in fresh fruit and vegetable report	Consultation relating to a review of registration and risk profiling guidance – these are outcomes of the management of temporary and mobile food business and food prepared in residential environments projects
Release of the self-service food display fact sheet	Update on the review of the WA Regulatory Food Safety Auditor Framework
Release of the correspondence regarding the changes to the <i>Australia New Zealand Food Standards Code</i>	