

11. COUNCIL SUBMISSION ON DOMESTIC FOOD REVIEW PAPER

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PURPOSE OF REPORT

1. The purpose of this report is to advise the Council of the progress of the Domestic Food Review and to request approval of staff recommendations for submissions on the latest discussion document, (Paper 9), copies of which are separately enclosed for Councillors.
2. Note: This report deals only with the proposed implementation of Food Control Plans over the transitional period and does not comment on the effects of the proposals on the Council. This will be the subject of a further report in the near future.

EXECUTIVE SUMMARY

3. Following three years of review, the Government has agreed to the New Zealand Food Safety Authority (NZFSA) proposals to redesign New Zealand's domestic food regulatory system. All food sold in New Zealand is included, whatever its source and however it reached the point of sale, and whether for profit or for charity.
4. In practical terms, this means NZFSA will develop a new Food Bill, clarify the roles and responsibilities of the regulators; introduce a range of risk-based tools designed to help food operators manage food safety and suitability, and develop education and training requirements for food operators.
5. Drafting the changes to the law will now begin, and the transition to the new regime is expected to begin in July 2008 and take about five years.
6. NZFSA has released a discussion paper which describes the proposals to implement the changes, including when each food sector is expected to be brought into the new system, and is asking for views on the transition proposals.
7. "Domestic Food Review: Transition Policy and Related Implementation" is Paper 9 of the Domestic Food Review. It provides a transition policy to move from the present food regulatory regime to the proposed new food regulatory regime to enhance the safety and suitability of food in New Zealand. The central focus of the transition policy will be to set out the arrangements that will apply to:

'Persons' in the food industry (means any food producer, processor, seller or importer) who are currently subject to regulation under the Food Act 1981. Those who are covered by the Food Act but who are not currently required to be registered.
8. Under the proposed food regulatory regime, 'persons' would be required to operate under one of the following risk management tools: a Food Control Plan, National Programme (both regulatory tools) or Food Handler Guidance (non-regulatory educational material, eg for one-off charitable fundraisers etc).
9. The Domestic Food Review covered government involvement in all aspects of the safety and suitability of food produced, processed, manufactured, transported, imported and traded in New Zealand. It included all food sold in New Zealand, whatever its source and however it reached the point of sale.
10. The way forward, as agreed by the Government, is for all 'persons' covered by the Domestic Food Review being required to have a registered Food Control Plan or be covered by a National Programme, or have Food Handler Guidance (non-regulatory tool) apply to them. Food Control Plans will either be based on an NZFSA approved off-the-peg Food Control Plan or be custom-made by 'persons'.

11. As a result of the Domestic Food Review, the Government has agreed to the writing of new food legislation, regulations and supporting specifications that will explicitly place obligations on all 'persons' to meet safety and suitability requirements through application of the new regime.
12. A transition policy is needed for all 'persons' to change from the present system to the new food regulatory regime. With the variety of starting positions, the variety of solutions, and the large number of 'persons' involved, a pragmatic phased approach to transition is needed. One of the key reasons a longer transition period has been proposed is to take into account the availability of resources, including technically skilled staff at NZFSA, territorial authorities, third-party agencies and within those businesses required to have a Food Control Plan.
13. The commencement date for the new Food Bill is proposed to be 1 July 2008 and the transition period will conclude in 2013; thus a five-year transition period is being provided before the new rules are fully in place.
14. Implementation of Food Control Plans will be eased by the use of off-the-peg Food Control Plans. This will mean that 'persons' will not have to bear the costs of individual plan development, nor need to have these independently evaluated. It is proposed that off-the-peg Food Control Plans will be available at least nine months prior to the registration date for that food sector, and the 'person's' Food Control Plan will be submitted for registration at least three months before the registration date. 'Persons' are therefore given six months to complete an off-the-peg Food Control Plan.
15. Paper 9 describes the food sectors proposed for registration of Food Control Plans on a year by year basis for each of the five years of the implementation period.
16. Staff suggest that the types of food sectors suggested for year one would mean a very large number of premises being transferred in the first year and recommend submissions on this matter.

FINANCIAL AND LEGAL CONSIDERATIONS

17. As previously noted, the effects of the proposed changes on the Council will be the subject of a separate report.
18. The review proposes certain obligations for territorial authorities in terms of the registration and verification of Food Control Plans.
19. In general terms, it is intended that the cost of registration and verification of Food Control Plans will be met by the registration fees that will be set by the Council.

STAFF RECOMMENDATION

It is recommended that the Council approve and endorse as a Council submission the staff comments attached.

BACKGROUND TO PROPOSALS IN PAPER 9

Additional Information on the Transitional Policy and Related Implementation Discussion Document

Food Control Plan registration process

20. Off-the-peg Food Control Plans will be available directly from NZFSA and through territorial authorities at least nine months prior to the registration date for that food sector. All applicable parts of an off-the-peg Food Control Plan are to be completed in full. This includes an application for Food Control Plan registration. Both are to be submitted to the regulator for registration at least three months before the notified registration date. The regulator will have a period of three months to register Food Control Plans lodged by 'persons'.
21. The registration review process is needed to check whether:
 - the Food Control Plan is appropriate to the operation;
 - the Food Control Plan contains all the components and information needed; and
 - the holder of the Food Control Plan (usually the business owner) is a 'fit and proper person'.
22. NZFSA will develop off-the-peg Food Control Plans where this is most efficient because of commonality among products and processes across a significant number of food producers. Off-the-peg Plans will be developed according to the timetable proposed in Tables 3.1 through 3.5 in the Discussion Paper. (See Table 3.1 below)

Food Control Plans require external verification

23. External verification is designed to ensure that a 'person's' Food Control Plan is being properly implemented and that the operations comply with the registered Food Control Plan.
24. External verification will involve a physical inspection of the premises and a review of all components of the Food Control Plan by a recognised agency or individual. Verification will check that the Food Control Plan is being followed, is appropriate to how the 'person' operates, and the 'person' is managing and minimising food hazards adequately.
25. Verifications will be performed by recognised third-party verifiers, territorial authorities or NZFSA's Verification Agency. In the open market for Food Control Plan verification, verifiers will be recognised on the basis of being accredited to the proposed new verification/evaluation standard based on key elements of ISO 17020, plus additional criteria required by NZFSA (under development).
26. Territorial authorities will primarily perform verification of registered off-the-peg Food Control Plans within their jurisdiction and as a transitional arrangement they will be granted an exclusive external verification role for off-the-peg Food Control Plans. To do this level of verification territorial authorities will have a graduated programme for meeting the verification/evaluation standard.

Why is a transition period needed?

27. Approximately 30,000 'persons' nationally will be affected by the Food Bill. These 'persons' start from different regulatory and operating positions. Some have a registered food safety programme under the Food Act 1981, some are subject to the Food Hygiene Regulations 1974, and others are exempt from premises registration.
28. The Food Bill will offer several options for ensuring food safety and suitability, including Food Control Plans, National Programmes and Food Handler Guidance.
29. With the variety of starting positions, the variety of solutions, and the large number of 'persons' involved, a pragmatic phased approach to transition is needed. For example, it is estimated that more than 100,000 occasional food businesses nationally will be covered by Food Handler Guidance.

30. In addition, the level of resources and skills at NZFSA, territorial authorities, third-party agencies and among 'persons', also make a case for a staged implementation of the Food Bill regime.
31. Accordingly, a five year transition period is proposed to:
- Allow 'persons' time to change to the new regime in a measured way; and
Accommodate the need to build capability to develop and implement tools, systems and guidance amongst all stakeholders('persons', agencies and regulator).

When will 'persons' be affected?

32. NZFSA is working towards commencement of the transition period from 1 July 2008, with the implementation of Food Control Plans and National Programmes to be phased in over a period of five years from that date. As the legislative time line for adoption of the new food regulatory regime is presently uncertain, NZFSA has chosen not to specify precise registration dates for food sectors. These dates will be determined after more detailed planning and consultation, and will be notified at least one year in advance.
33. Tables 3.1 through 3.5 contain the food sectors identified by NZFSA, together with the main risk management tool to apply to each sector, and a general indication of the time period for 'persons' in each sector to register Food Control Plans (if required) under the new regime. The allocation of food sectors to time periods is primarily based on the Risk Ranking and Prioritisation Model, with the higher-risk food sectors transitioned first.
34. **Table 3.1: Food sectors proposed for registration in Year 1 of transition**

Food Sector Description/Example Risk Management Tool
<p>(i) Food service – on-site catering Businesses providing food service where food is served to large numbers of people simultaneously. Food is prepared and served at the same venue. Examples: defence catering, prison catering, boarding schools, university and college catering, in-house catering (e.g. at clubs and similar venues), certain 'rent-a-chef' operations. This does not include restaurants offering buffet services, which are included in general food service.</p>
<p>(ii) Food service – off-site catering Businesses primarily providing food services at a venue other than where the food was prepared. They may have equipment and vehicles to transport meals and snacks to venues/events. Examples: office/corporate catering, gala meals, functions where food is brought into clubs or community halls.</p>
<p>(iii) Food service – general Businesses providing meals, snacks and beverages to customers for immediate consumption on premises, home delivery or take-away. Examples: café, restaurant, permanent workplace canteen, large food chains, ice-cream shop, bars/pubs/clubs, delivery of pizzas or other meals, school dining room.</p>
<p>(iv) Fresh salad manufacturer (ready to- eat) Business making fresh salads (not for direct retail sale), including green salads, fruit salads, potato salad, bean salad, rice/pasta/grain-based salads. Includes fresh herbs and spices, fresh sprouts.</p>
<p>(v) Providers to vulnerable populations (1) Manufacturers Manufactured products specifically targeted for vulnerable populations. Example: infant formula, baby foods</p>

Table Footnote:

(1) 'Vulnerable populations' are defined as children under five years of age, elderly people over 65 years of age, pregnant women, and people with compromised immune systems.

Estimated numbers to transfer in Year 1

35. There are over 2,000 food premises registered with the Christchurch City Council under the Food Hygiene Regulations 1974. It is estimated that in excess of 50% of these (1200) would fall under (iii) above and would need to be transferred in Year One.
36. In addition, premises that come under (i) are currently exempt from registration by the Council, as are certain classes of premises that would come under (iii) such as school dining rooms. As these are not registered with the Council we can only estimate the numbers involved. It is considered this would be at least 200+ premises.
37. That means there would be at least 1400 premises that would need to move to off-the-peg food control plans in year one. Whilst the extent of Council involvement in the change over from registration of premises (as at present) to registration of food control plans is unknown at this time, it is expected to be considerable.
38. NZFSA will develop the off-the-peg food control plans and will doubtless be undertaking a publicity and educational campaign to ensure 'persons' are aware of what they need to do. However, the Council will be the first point of contact for all enquiries and it is anticipated that there will be a need for one-on-one discussions with the proprietors of many premises.
39. For this reason it is suggested that the number of food sectors proposed to be transferred in year one be reduced, in order that both councils and the food industry can gain experience in the new process without being overwhelmed by the sheer volume of numbers involved.

OPTIONS

45. The Council's options are:
 1. Make no submission
 2. Submit in support of the proposal without comment
 3. Submit in support of the proposal with the attached comments as a formal Council submission.
 4. Submit in support in such other manner as the Council may determine.

PREFERRED OPTION

46. That the Council endorse the attached comments as a formal Council Submission, (Option 3)