



# Thinking about starting a food manufacturing business?

Version 1 - December 2017

This fact sheet is provided to assist you to understand food legislation requirements when starting a new food manufacturing business. The information is provided in the format of frequently asked questions.

## 1. Who do I need to contact to start a food business?

You should contact a *Food Act 2008 (WA)* (Food Act) authorised officer (authorised officer) from the local government where your food business is to be located. Your local government is the enforcement agency responsible for monitoring compliance with the food legislation, and your food business must be registered under the Food Act with the enforcement agency prior to operating. Contact details for local governments can be found on the [Department of Local Government and Communities website](#)<sup>1</sup>.

## 2. What legislation do I need to comply with?

- The Food Act is the main piece of legislation regulating the manufacture and sale of food in Western Australia.
- The Food Act is supported by the Food Regulations 2009 (WA) (the Food Regulations).
- The [Australia New Zealand Food Standards Code \(the Code\)](#)<sup>2</sup> has Standards which cover a range of requirements including those for premises and equipment, food handling practices, hygiene, cleanliness, labelling and a whole range of other requirements for the preparation and provision of food for sale.
- You should be aware that some local governments also have local laws and planning and building requirements that may apply to your food business.
- The [Small Business Development Corporation](#)<sup>3</sup> may be able to provide additional advice.

## 3. Will there be a cost to register a food business?

The Food Act provides local governments with the ability to charge fees in association with food regulatory activities such as registration, notification and surveillance. Registration fees must be set in accordance with the *Local Government Act 1995*. You should contact the relevant local government for more information about fees. More information can be found on the [Fees and charges under the Food Act 2008 \(WA\)](#)<sup>4</sup> fact sheet.

## 4. How would I know that the proposed kitchen is a suitable premises?

You are required to ensure that your premises complies with the requirements of Standard 3.2.3 of the Code – Food Premises and Equipment. An authorised officer from the relevant local government has the authority and expertise to assess compliance with this Standard.

## 5. What type of food can I make in a domestic kitchen?

In most cases, a domestic kitchen would not comply with the Code unless suitable changes to design and construction are made and risks of contamination are managed. Once deemed compliant, the kitchen would be considered a 'food premises' (i.e. a commercial kitchen) in

<sup>1</sup> <https://www.dlgs.wa.gov.au/AdviceSupport/Pages/Local%20Government%20Directory.aspx>

<sup>2</sup> <http://www.foodstandards.gov.au/code/Pages/default.aspx>

<sup>3</sup> <https://www.smallbusiness.wa.gov.au/>

<sup>4</sup> [http://ww2.health.wa.gov.au/Articles/F\\_I/Fees-and-charges-under-the-Food-Act-2008-WA](http://ww2.health.wa.gov.au/Articles/F_I/Fees-and-charges-under-the-Food-Act-2008-WA)

accordance with the food legislation and an authorised officer would have the power to enter and conduct an assessment of the kitchen at any reasonable time. In most cases the design and construction of food premises based in a residential setting would only be appropriate for low risk food manufacturing activities, such as:

- Jams and marmalades
- Flour based products (such as biscuits, scones, buns, shortbread)
- Nougats
- Fudges
- Meringues
- Turkish delights
- Pickled onions
- Chutneys, relishes and sauces (that are heat treated by boiling or cooking)
- Herb vinegars (with a pH of less than 4.5)
- Dry curry powder mixes and all other spices and mixes (if ingredients are purchased from an approved food business)
- Cakes (which do not contain potentially hazardous foods such as cream, or do not require refrigeration, or do not require further food preparation activities such as cake decorating)
- Repacking of bulk packaged low risk confectionary products.

The above examples will still be subject to assessment by an authorised officer to determine the risk that may be associated with individual recipes.

## **6. Will my skills and knowledge be assessed?**

Clause 3 of Standard 3.2.2 of the Code requires food businesses to ensure that food handlers and people that supervise food handling operations have skills and knowledge in food safety and food hygiene matters to ensure that the manufactured food is safe. The skills and knowledge must be commensurate with work activities being undertaken, therefore the greater the risk of your food manufacturing activities the greater the skills and knowledge required. Skills and knowledge can be assessed by an authorised officer through assessment of information provided about the food safety risks, and how they will be controlled to ensure the safety of the manufactured food.

## **7. What type of information do I need to submit to register my food business?**

You may be asked to submit design and fit-out specifications and any other information the enforcement agency requires to assess your business. This should include detailed recipes for each food product (such as quantities of each ingredient used, detailing the manufacturing process such as time and temperature used for each cooking step), information on food storage, cleaning procedures, product shelf life determination, product labelling, and your food recall procedure. This information should demonstrate your food premises, food product and skills and knowledge comply with the food legislation.

## **8. Will my confidential manufacturing or commercial secrets be protected?**

The Food Act protects information relating to manufacturing or commercial secrets that authorised officers obtain as an exercise of their powers under the Food Act, and it can only be disclosed for the purposes of the Food Act, as detailed in Section 142 of the Food Act.

## **9. Why do I need to have a written food recall procedure?**

In accordance with clause 12 of Standard 3.2.2 of the Code, all food manufacturers, wholesalers and importers of food in Australia must have a system in place to ensure the recall of unsafe food. This system must be set out in a written document that can be made available to an authorised

officer upon request. Further information can be found in the Food Standards Australia New Zealand (FSANZ) [Food Industry Recall Protocol](#)<sup>5</sup>(PDF 1.84MB).

## **10. How do I determine the shelf life of a product?**

You are required to determine the shelf life of your product as detailed in Standard 1.2.5 of the Code. The most accurate way is to have the product analysed at a National Association of Testing Authorities (NATA) accredited laboratory where a detailed report of the product shelf life can be provided.

## **11. What type of information do I need to put on the product packaging?**

The product must be labelled in compliance with Part 1.2 of the Code – Labelling and other information requirements.

## **12. How can I demonstrate that my product is safe?**

You are required to have sufficient skills and knowledge in order to minimise or eliminate the risks associated with your food manufacturing activities. Regular microbiological testing can demonstrate whether a product is microbiologically safe for human consumption. The acceptable microbiological limits and the types of microbiological tests that should be carried out are listed under Standard 1.6.1 and Schedule 27 of the Code – Microbiological limits in food.

## **13. Do I need to have a documented food safety management system?**

The food legislation requires certain food businesses to have a documented system to identify and control their food safety hazards (such as a food safety program or an approved arrangement). These businesses include, for example:

- manufacturers of fermented meat products
- manufacturers of dairy products
- processors of ready-to-eat food for service to vulnerable persons

Standards 3.2.1 - *Food Safety Programs*, and 4.1.1 – *Primary production and processing standards preliminary provisions* of the Code define the food businesses required to have a documented food safety system. Your local government enforcement agency will be able to advise whether your food business is required have a documented food safety system.

For all other food manufacturers, the recommended best practice approach is to develop and implement a documented food safety management system.

## **14. Who can I contact if I need help understanding and complying with the legal requirements?**

An Authorised Officer from the relevant local government can provide information on compliance with the food legislation. For help with how to achieve compliance you should consider engaging a food safety consultant with a strong background in food product development and compliance with the food legislation, and/or seek your own legal advice.

---

<sup>5</sup> <http://www.foodstandards.gov.au/publications/Documents/FSANZFoodRecallProtocol2014.pdf>

**This document can be made available in alternative formats on request for a person with a disability.**

© Department of Health 2017

Copyright to this material is vested in the State of Western Australia unless otherwise indicated. Apart from any fair dealing for the purposes of private study, research, criticism or review, as permitted under the provisions of the *Copyright Act 1968*, no part may be reproduced or re-used for any purposes whatsoever without written permission of the State of Western Australia.