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## INFORMATION NOTE

### Regulation of Food Premises in New South Wales, Australia

#### 1. Background

1.1 This information note aims to provide information on the licensing, regulation and enforcement of food safety standards of food premises in Australia. While food safety standards and policies are developed at the national level by the Food Standards Australia New Zealand (ANZFA), enforcement is the responsibility of state, territory and local governments. This information note focuses on the related policies of New South Wales (NSW). NSW is chosen because, with a population of 6.4 million, it is the most densely populated state in Australia.

#### 2. Licensing of Food Premises <sup>1</sup>

2.1 In NSW, there is no need to obtain a licence to set up a food premise. The applicant only needs to submit a development application together with necessary plans and operation details including the hours of trade to the Local Council. In Sydney, for instance, the Local Council is responsible for co-ordinating the different authorities, including State Health Department, the State Department of Urban Environment and Planning, Sydney Waters, Environmental Protection Authority and the New South Wales Fire Brigade, to examine and approve the application.

2.2 If there is any delay in the approval process or if the application is rejected, the applicant can appeal to the Land and Environmental Court.

#### 3. Regulation of Food Safety Standards in Food Premises

##### Regulatory Bodies

3.1 ANZFA is the statutory authority which develops and reviews regulatory policies for food premises in the country. The enforcement of the laws is carried out by state, territory and local governments whose food inspectors ensure the public health and food safety of the premises.

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<sup>1</sup> Eva Liu, Vicky Lee and Elyssa Wong, *Licensing of Food Premises*, Research and Library Services Division of the Legislative Council Secretariat, 23 July 1999.

3.2 Both the administration and enforcement of food safety standards in food premises in NSW are primarily the duties of food inspectors, employed by Public Health Units (PHU) within the Area Health Services under the Department of Health.

### Governing Laws

3.3 In NSW, the Food Act 1989 (the Food Act) is the principal legislation regulating food for sale for human consumption and its safety.

3.4 The Food Act stipulates the standard of food safety and the manners in which food products are produced, stored and distributed.

3.5 The Food Act also stipulates the power of food inspectors and the Director-General of NSW Department of Health, as well as the procedures of food inspection, sampling and analysis, seizure of hazardous food, and closure of non-compliant food premises.

### Regulatory Requirements

3.6 An owner of a food premise is required to fulfil the regulatory requirements on:

- (a) food handling and food processing, such as food supply, storage, packaging, distribution, disposal, cleaning and sanitizing;
- (b) food premises, such as location, ventilation, construction, sewage and waste disposal, water supply, cleanliness of appliances, animals and pests control; and
- (c) food hygiene practices, such as contamination-free environment, temperature control of stored food and displayed food, and health and hygiene of food handlers.

3.7 Food inspectors have the power to enter food premises and carry out examination of food and premises to ensure compliance with regulations. Samples of food products can be taken for inspections. The owner will be informed and given a certification of the result of the analysis.

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#### 4. Enforcement of Food Safety Standards in Food Premises

4.1 In NSW, food inspectors from PHU are responsible for investigating complaints concerning food and food premises, making routine inspections of food premises, conducting surveys or spot checks of food for compliance with the legislation. Anyone may lodge a complaint about the food safety standards of food premises to PHU by phone or email.

4.2 In handling breaches of the food safety laws, relevant considerations, including co-operativeness of the premise owner, resources available to the enforcement agency and visibility of violations, are taken into account to determine the appropriate action. Verbal warnings are usually given when a breach is identified. If no remedial action is taken by the premise owner after verbal warnings, a written warning will be followed.

4.3 Failure to rectify the problems or incompliance with food safety laws may result in fines and imprisonment. PHU also has the power to seize food or issue closure orders for the premises if deemed necessary.

#### New Approach

4.4 Australia is in the process of adopting a nationally consistent approach to food safety standards in food premises. The goal of ANZFA is to formulate a policy such that the responsibility of safeguarding food safety standards in food premises is shared among food premise owners and state and territory health officials. In achieving this end, ANZFA proposes that food premises should be required to implement a food safety programme based on Hazard Analysis and Critical Control Points (HACCP), a principle-based approach defined by the Codex Alimentarius Commission<sup>2</sup>. This new food safety programme aims to provide a regulatory framework for safe and hygienic production, storage, transportation, retailing and handling of food in premises.

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Prepared by Diana Wong  
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Tel: 2869 9372

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<sup>2</sup> For details of HACCP, please refer to the research paper by Eva Liu, Vicky Lee and Elyssa Wong, *Food Safety Control and Environmental Hygiene in the US and the UK*, Research and Library Services Division of the Legislative Council Secretariat, 18 May 1999.

## **References**

1. Web site of the Food Standards Australia New Zealand.  
<http://www.foodstandards.gov.au>.
2. Web site of the SafeFood New South Wales. <http://www.safefood.nsw.gov.au>.
3. Web site of the Productivity Commission of Australia. <http://www.pc.gov.au>.
4. Web site of the Australia Food and Grocery Council. <http://www.afgc.org.au>.
5. Web site of the Australasian Legal Information Institute.  
<http://www.austlii.edu.au>.