

#### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The object of this Bill is to amend the Food Act 2003 (the Principal Act):

(a) to require the proprietors of certain food businesses to appoint food safety supervisors who hold certain qualifications and have the authority to supervise food handling, and

(b) to require that those appointments be notified to relevant enforcement agencies, and

(c) to allow the Food Authority to approve registered training organisations to issue food safety supervisor certificates to persons who have the prescribed qualifications, and

(d) to make other amendments to facilitate the administration of the Act.

#### Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

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#### Schedule 1 Amendment of Food Act 2003 No 43

#### Amendments relating to food safety supervisors

Schedule 1 [4] inserts proposed Division 3 into Part 8 of the Principal Act which contains the following provisions relating to food safety supervisors:

Proposed section 106 contains definitions of terms used in the proposed Division.

In particular, relevant enforcement agency for a food business means the enforcement agency specified on the Food Authority's website as the relevant enforcement agency for food businesses of the same class. Enforcement agencies under the Principal Act are the Food Authority, local councils and certain other bodies that are appointed under the Act as enforcement agencies and bodies prescribed by the regulations (currently, the Lord Howe Island Board). Temporary premises means premises comprising a tent or stall or the like from which food is sold by retail on an occasional basis only, such as for a fete, fair, market or other event.

Proposed section 106A provides that the proposed Division applies to ready-to-eat food that is potentially hazardous but does not apply to certain prepackaged food.

Proposed section 106B sets out the criteria for appointing a person as a food safety supervisor for premises or for a mobile catering business. The person must hold a food safety supervisor certificate and have the authority to supervise the relevant food handling activities and ensure that the handling is done safely. In the case of a food safety supervisor for premises, the person must not hold the position of food safety supervisor for any other premises. In the case of a food safety supervisor for a mobile catering business, the person must not hold the position of food safety supervisor for any other business. A food safety supervisor certificate is a certificate issued in accordance with the regulations by a registered training organisation approved under proposed section 106H or by another person or body prescribed by the regulations.

Proposed section 106C requires the proprietor of a food business to ensure that, before food to which the proposed Division applies is processed and sold by retail at premises in the course of carrying on the business, at least one food safety supervisor is appointed for the premises. The proposed section also requires the proprietor to ensure that at least one person continues to be appointed as food safety supervisor for the premises at all times at which food to which the proposed Division applies is processed and sold from the premises in the course of carrying on the business. A

defence is provided in cases where a food safety supervisor ceases to be appointed for the premises and the relevant food handling activities are not carried out on the premises on more than 30 days after that occurs.

Proposed section 106D requires the proprietor of a mobile catering business to ensure that, before food to which the proposed Division applies is processed in the course of carrying on the business at least one food safety supervisor is appointed for the business. The proposed section also requires the proprietor to ensure that at least one food safety supervisor continues to be appointed for the business at all times that food to which the proposed Division applies is processed in the course of carrying on

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the business. A defence is provided in cases where a food safety supervisor ceases to be appointed for the business and the relevant food handling activities are not carried out on more than 30 days after that occurs.

Proposed section 106E requires the proprietor of a food business to give notice to the relevant enforcement agency of the appointment of a food safety supervisor. The requirement does not apply to the appointment of a food safety supervisor for temporary premises or for premises that are a vehicle or vessel from which food is sold at more than one location.

Proposed section 106F requires the proprietor of a food business to give notice to the relevant enforcement agency of a change in the particulars provided in relation to a food safety supervisor. The requirement does not apply to a food safety supervisor for temporary premises or for premises that are a vehicle or vessel from which food is sold at more than one location.

Proposed section 106G requires the proprietor of a food business for which a food safety supervisor is required to be appointed to keep a copy of the relevant food safety supervisor certificate and produce it for inspection on the request of an authorised officer of an enforcement agency.

Proposed section 106H enables the Food Authority to approve registered training organisations (within the meaning of the Vocational Education and Training Act 2005) to issue food safety supervisor certificates. Regulations may be made in relation to approvals.

Proposed section 106I enables regulations to be made in respect of certain fees and charges under the proposed Division and provides that no fee or charge is payable in relation to the giving of notice under proposed section 106E or 106F.

Proposed section 106J enables the regulations to provide for exemptions from all or any of the provisions of the proposed Division.

Schedule 1 [5] amends section 113A of the Principal Act to require the Food Authority to keep records of relevant enforcement agencies for the purposes of proposed Division 3 of Part 8.

Schedule 1 [9] amends Schedule 2 to the Principal Act to provide for specific savings and transitional provisions relating to the operation of proposed Division 3 of Part 8 and, in particular, to provide 12 month lead-in times for the new offences under the proposed Division.

Schedule 1 [1]–[3] make consequential amendments.

Other amendments

Schedule 1 [6] amends section 133F of the Principal Act to give the Food Authority the power to remit the whole or part of any fee accompanying an application to correct or add to particulars on, or remove particulars from, the register of offences.

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Schedule 1 [7] inserts proposed section 137 into the Principal Act to provide for the

way in which documents may be served under that Act.  
Schedule 1 [8] amends Schedule 2 to the Principal Act to enable the regulations to prescribe savings and transitional provisions as a consequence of the enactment of the proposed Act.