



Delivering a **Healthy WA**



Government of **Western Australia**  
Department of Health

# ***Food Act 2008* FACT SHEET 3**

## **Exempted Food Businesses**

Version 1 December 2009

### **Introduction**

The *Food Act 2008* (the Act) provides for certain types of food businesses to be exempt from the requirements of registration. These types of food businesses are prescribed within the *Food Regulations 2009* (the regulations).

Exempted food businesses, although not subject to registration requirements, are still subject to the notification requirements contained within Standard 3.2.2 of the *Australia New Zealand Food Standards Code* (the Code).

They **must** notify the appropriate enforcement agency of their intention to undertake food business activities prior to doing so.

### **How does an exempt food business notify?**

To notify an exempt food business, the following information must be submitted to the appropriate enforcement agency:

- Contact details of the food business including the name of the food business and the name and business address of the proprietor of the food business;
- The nature of the food business;
- The location of all food premises of the food business that are within the jurisdiction of the enforcement agency;
- Any other information deemed necessary by the enforcement agency; and
- Any fee set by the enforcement agency.

Enforcement agencies will have their own notification form; so it is important to contact the appropriate enforcement agency in order to find out their notification requirements.

### **What is the purpose of notification?**

Notification ensures that anyone handling food intended for sale is provided with appropriate information and guidance on how to prepare food safely. It also assists such persons in understanding their legal obligations in relation to selling food to the public.

The notification process also ensures that enforcement agencies are aware of all food business activities being conducted within their district; which is important for food safety surveillance and compliance activities.

### **What types of food businesses are exempt from registration?**

The regulations prescribe a number of food businesses as exempt from registration. These are businesses that:

- Are conducted solely for charitable or community purposes and prepare non-potentially hazardous foods or foods that, after being appropriately cooked, are served for immediate consumption (*regulation 10*);
- Sell certain packaged food (*regulation 11*);



- Provide complimentary drinks in conjunction with another kind of business (*regulation 12*);
- Form part of premises registered under the Commonwealth *Export Control Act 1982* (*regulation 13*).

### Is there a fee for notification?

With the exception of food businesses conducted **solely** for charitable and community purposes, an enforcement agency can impose and recover a fee for notification under the *Local Government Act 1995* Part 6 Division 5 Subdivision 2.

### Information for enforcement agencies

- All food businesses must comply with the requirements of the Act. The exemption for certain food businesses only applies to the requirement for registration. All of the enforcement and compliance mechanisms available to enforcement agencies under the Act can still be utilised for exempted food businesses.
- Each enforcement agency must prepare and maintain a list of food business notified to the agency in respect of any premises.
- Section 107 only applies to those food businesses that fit within the categories of exemptions contained within the regulations. All other food businesses must apply for registration under section 110. Section 110 provides the mechanism for approval of a food business. Section 108(b) specifically states that any food business that is required to be registered is exempt from s.107 and the notification requirements of Standard 3.2.2 clause 4.

### Further Information:

For more information on the requirements in relation to registration, please contact the Environmental Health Officer at the local government where the premises are located or the Food Unit.

### Contact the Food Unit:

Any feedback or concerns please utilise the “Food Unit Query Form” which can be downloaded from our website [http://www.public.health.wa.gov.au/2/786/3/food\\_informatio.pm](http://www.public.health.wa.gov.au/2/786/3/food_informatio.pm)

Email: [foodunit@health.wa.gov.au](mailto:foodunit@health.wa.gov.au)

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*Note: The information contained in this document covers the food legislation requirements for Western Australia. It is current on the date of publication but may change without notice. The Department of Health is not liable for any costs arising from or associated with decisions based on information here and users should obtain expert advice to satisfy all requirements of the relevant food legislation applicable.*

