



Queensland

Food Amendment Act 2006

Act No. 33 of 2006



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Food Amendment Act 2006

Act No. 33 of 2006

An Act to amend the *Food Act 2006*

[Assented to 8 June 2006]

The Parliament of Queensland enacts—**1 Short title**

This Act may be cited as the *Food Amendment Act 2006*.

2 Act amended

This Act amends the *Food Act 2006*.

3 Insertion of new ch 11, pt 3A

Chapter 11—

insert—

‘Part 3A Suspected intentional contamination of food**‘271A Definitions for pt 3A**

‘In this part—

intentional contamination, of food, means contamination of the food by a person who intends to contaminate the food, including by adding, mixing or putting a deleterious or poisonous substance or thing into the food.

potentially contaminated food see section 271C(1)(a).

responsible person, for a food business, means—

- (a) if the food business is carried on by a licensee—the licensee; or
- (b) otherwise—
 - (i) if the food business is carried on by an entity that is not a non-profit organisation—the proprietor of the food business; or
 - (ii) if the food business is carried on by a non-profit organisation that is a corporation—the corporation; or

- (iii) if the food business is carried on by a non-profit organisation that is an unincorporated entity—the chairperson, manager or other governing officer of the entity.

‘271B Reporting suspected intentional contamination of food

- ‘(1) This section applies if the responsible person for a food business reasonably suspects food sold, or intended for sale, in the course of carrying on the food business has been intentionally contaminated.
- ‘(2) The responsible person must, unless the person has a reasonable excuse, orally notify the chief executive of the suspected intentional contamination immediately after first forming the reasonable suspicion.
Maximum penalty—200 penalty units.
- ‘(3) It is not a reasonable excuse for the person not to comply with subsection (2) that complying with the subsection might tend to incriminate the person.
- ‘(4) However, subject to subsection (5), if the person is an individual, the following is not admissible in evidence against the person in any civil or criminal proceeding—
 - (a) information given to the chief executive by the person under subsection (2) about the suspected intentional contamination (*primary evidence*);
 - (b) any information, or document or other thing, obtained as a direct or indirect result of primary evidence (*derived evidence*).
- ‘(5) Subsection (4) does not prevent primary evidence or derived evidence being admitted in evidence against the person—
 - (a) in criminal proceedings about the falsity or misleading nature of the primary evidence; or
 - (b) in a proceeding against the person for an offence against section 271C(2) or 271D(6).

‘271C Potentially contaminated food must not be disposed of

- ‘(1) This section applies if—
- (a) the responsible person for a food business reasonably suspects food sold, or intended for sale, in the course of carrying on the food business has been intentionally contaminated (the *potentially contaminated food*); and
 - (b) when the responsible person first forms the reasonable suspicion, not all of the potentially contaminated food has been sold or otherwise disposed of.
- ‘(2) The responsible person must, unless the person has a reasonable excuse, ensure all of the potentially contaminated food not already sold or otherwise disposed of when the person first forms the reasonable suspicion is not disposed of.
- Maximum penalty—200 penalty units.
- ‘(3) The requirement under subsection (2) stops applying if the responsible person is given a direction under section 271D(2) about disposal of the potentially contaminated food.

‘271D Chief executive may give direction

- ‘(1) This section applies if the responsible person for a food business gives the chief executive notice under section 271B.
- ‘(2) The chief executive may give the responsible person a reasonable direction about identifying the source of the contamination of, and preventing or minimising the risk to public health or safety caused by, the potentially contaminated food.
- ‘(3) Without limiting subsection (2), the direction may be about—
- (a) the handling of—
 - (i) the potentially contaminated food; or
 - (ii) food that may have been handled with or near the potentially contaminated food, or at a place or using equipment that may have come into contact with the potentially contaminated food; or

- (b) the isolation or disposal of food mentioned in paragraph (a); or
 - (c) procedures to be performed in relation to testing of the potentially contaminated food.
- ‘(4) The direction may be given orally or by notice.
- ‘(5) If the direction is given orally, the chief executive must as soon as practicable confirm the direction by notice.
- ‘(6) A responsible person who is given a direction under subsection (2) must comply with the direction, unless the person has a reasonable excuse.
- Maximum penalty—200 penalty units.’.

4 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

‘intentional contamination, for chapter 11, part 3A, see section 271A.

potentially contaminated food, for chapter 11, part 3A, see section 271C(1)(a).

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

responsible person, for chapter 11, part 3A, see section 271A.’.