

Queensland



FOOD PRODUCTION (SAFETY) BILL 2000

Queensland



**FOOD PRODUCTION (SAFETY) BILL
2000**

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2000

A BILL

FOR

An Act to establish Safe Food Production QLD and provide for food safety matters relating to the production of primary produce, and for other purposes

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Division 1—Introduction

3

Short title

4

1. This Act may be cited as the *Food Production (Safety) Act 2000*.

5

Commencement

6

2.(1) Parts 5 to 8 and part 12, division 1,¹ commence on a day to be fixed by proclamation.

7

8

(2) The *Acts Interpretation Act 1954*, section 15DA,² does not apply to part 12, division 1.

9

10

Division 2—Objects and application

11

Main objects of Act

12

3. The main objects of this Act are—

13

(a) to establish Safe Food Production QLD; and

14

(b) to ensure the production of primary produce is carried out in a way that—

15

16

(i) makes the primary produce fit for human or animal consumption; and

17

18

¹ Part 5 (Accreditation), part 6 (Auditing), part 7 (Serious food safety offences), part 8 (Enforcement, investigations and offences) and part 12, division 1 (Repeal of *Dairy Industry Act 1993*)

² *Acts Interpretation Act 1954*, section 15DA (Automatic commencement of postponed law)

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(ii) maintains food quality; and	1
(c) to provide for food safety measures for the production of primary produce consistent with other State laws relating to food safety.	2 3
Act binds all persons	4
4. This Act binds all persons, including the State and, so far as the legislative authority of the Parliament permits, the Commonwealth and the other States.	5 6 7
Food Act 1981 not affected	8
5. This Act is in addition to, and does not limit, the <i>Food Act 1981</i> .	9
Exemption from application of Act	10
6.(1) This Act does not apply to primary produce or the production of primary produce—	11 12
(a) at premises on or from which primary produce is sold by retail, other than—	13 14
(i) meat retail premises; or	15
(ii) other premises on which the production of primary produce is the predominant activity carried out on the premises; or	16 17
<i>Example for subparagraph (ii)—</i>	18
A packing shed, situated on an apple orchard, that is used to wash and pack apples but from which a person may occasionally sell apples by retail.	19 20 21
(b) in vehicles on or from which primary produce is sold by retail, other than—	22 23
(i) meat retail vehicles; or	24
(ii) other vehicles in which the production of primary produce is the predominant activity carried out in the vehicle.	25 26
(2) Also, this Act does not apply to—	27
(a) primary produce possessed by an individual for the individual's	28

Food Production (Safety)

own use; or	1	
(b) the production of primary produce carried out by an individual if the primary produce is not—	2 3	
(i) supplied, or intended for supply; or	4	
(ii) used, or intended for use, as food for paying guests.	5	
(3) In this section—	6	
“meat retail premises” means retail premises, or part of a retail premises, on or from which meat processing is carried out, or meat is sold, other than retail premises on or from which all meat sold on the premises is—	7 8 9 10	
(a) sold ready for immediate consumption; or	11	
(b) prepackaged meat.	12	
<i>Example of ‘part of retail premises’—</i>	13	
A meat section in a supermarket.	14	
“meat retail vehicle” means a vehicle on or from which meat is sold, other than meat ready for immediate consumption.	15 16	
“prepackaged meat” means meat fully enclosed in a sealed package that—	17	
(a) prevents the escape of anything that may leak from the meat; and	18	
(b) is made of durable material and resistant to breakage during normal handling; and	19 20	
(c) is sealed so that any opening and re-sealing of the package is easily seen.	21 22	
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7. The dictionary in the schedule defines particular words used in this Act.	25 26	

Meaning of “dairy produce”	1
8. “Dairy produce” means—	2
(a) milk of a bovine animal, camel, goat or sheep, or other milk prescribed under a regulation; or	3 4
(b) a product consisting substantially of milk or milk solids and prescribed under a regulation to be dairy produce.	5 6
<i>Examples of a ‘product’ for paragraph (b)—</i>	7
Butter, cheese, yoghurt and flavoured milk.	8
 Meaning of “meat”	 9
9.(1) “Meat” is raw food that is the whole or part of a killed animal.	10
(2) “Meat” does not stop being meat merely because its nature is changed, otherwise than by cooking, or it is mixed with another substance.	11 12
(3) However, “meat” does not include smallgoods.	13
<i>Examples of ‘meat’—</i>	14
Marinated meat, meat rissoles, meat sausages and stir-fry lamb mix.	15
 Meaning of “primary produce”	 16
10.(1) “Primary produce” means—	17
(a) food produced by the production of primary produce; or	18
(b) an animal, plant or other organism intended for human or animal consumption; or	19 20
(c) raw material taken from an animal, plant or other organism for food.	21 22
(2) However, “primary produce” does not include a raw material mentioned in subsection (1)(c) unless the raw material is in substantially the same condition as when it was taken from the animal, plant or other organism.	23 24 25 26
<i>Example of a raw material ‘in substantially the same condition’ as when it was taken from a plant—</i>	27 28
A whole apple.	29

Meaning of “production of primary produce”	1
11.(1) The “production of primary produce” includes the following—	2
(a) the growing, cultivation, picking, harvesting, collection or catching of animals, plants or other organisms;	3 4
(b) the transportation or delivery of primary produce;	5
(c) the freezing, packaging, refrigeration, storage, treating or washing of primary produce;	6 7
(d) the dismembering, filleting, peeling or shucking of seafood, or adding brine to seafood;	8 9
(e) the boiling of crustaceans;	10
(f) the pasteurisation or homogenisation of milk, or manufacturing of other dairy produce;	11 12
(g) the making of smallgoods;	13
(h) meat processing or rendering;	14
(i) the processing of primary produce—	15
(i) intended for consumption by a domestic animal; or	16
(ii) intended for consumption by another animal if the animal, or any part or product of the animal, is intended for human consumption.	17 18 19
(2) Subject to subsection (1), “production of primary produce” does not include a process, including, for example, manufacturing or canning, in which the nature of the primary produce is substantially changed.	20 21 22
(3) In this section—	23
“treating”, of primary produce, means—	24
(a) enhancing the appearance of the primary produce, including, for example, by waxing or oiling it; or	25 26
(b) dealing with the primary produce solely to kill bacteria or germs in the primary produce, or to ripen it.	27 28
<i>Examples for paragraph (b)—</i>	29
1. Using ultraviolet light to kill bacteria or germs.	30
2. Using gas to ripen bananas.	31

Meaning of “substantially changed” 1

12. The nature of primary produce is “**substantially changed**” if— 2

(a) any thing done to the primary produce markedly increases its shelf life; or 3
4

(b) any food is added to it. 5

PART 2—SAFE FOOD PRODUCTION QLD 6*Division 1—Establishment* 7**Establishment** 8

13.(1) Safe Food Production QLD (“**Safe Food**”) is established. 9

(2) Safe Food— 10

(a) is a body corporate; and 11

(b) has a seal; and 12

(c) may sue and be sued in its corporate name. 13

(3) Safe Food does not represent the State. 14

(4) Safe Food is an exempt public authority under the Corporations Law. 15

Division 2—Functions and powers 16**Functions** 17

14. The functions of Safe Food are as follows— 18

(a) to regulate, under food safety schemes, the production of primary produce to ensure primary produce is safe for human and animal consumption; 19
20
21

(b) to advise, or make recommendations to, the Minister about— 22

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(i) food safety matters relating to the production of primary produce; and	1 2
(ii) the development or implementation of food safety schemes;	3
(c) to monitor the hygiene and operating procedures of premises, vehicles, plant and equipment used for production of primary produce;	4 5 6
(d) to encourage businesses engaged in the production of primary produce—	7 8
(i) to minimise food safety risks by developing and maintaining food safety programs; and	9 10
(ii) to develop and adopt quality assurance measures for the primary produce;	11 12
(e) to approve or audit quality assurance measures mentioned in paragraph (d)(ii);	13 14
(f) to approve food safety programs;	15
(g) to grant accreditations;	16
(h) to approve and train individuals to carry out audits to monitor compliance with food safety schemes;	17 18
(i) to review audits mentioned in paragraph (h);	19
(j) to commission research relating to food safety matters for primary produce.	20 21
General powers	22
15.(1) Safe Food has all the powers of an individual and may, for example, do the following—	23 24
(a) enter into contracts;	25
(b) acquire, hold, deal with, and dispose of, property;	26
(c) appoint and act through agents and attorneys;	27
(d) employ staff and engage consultants;	28
(e) charge for services and facilities it supplies;	29

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(f) join and participate in industry associations;	1
(g) do anything else necessary or convenient to be done for, or in connection with, the performance of its functions.	2 3
(2) Without limiting subsection (1), Safe Food has the powers given to it under this or another Act.	4 5
(3) However, Safe Food may not acquire shares or another interest in an entity holding an accreditation under this Act.	6 7
(4) Safe Food may exercise its powers inside or outside Queensland, including outside Australia.	8 9
Delegation	10
16.(1) Safe Food may delegate its powers to a committee or employee of Safe Food.	11 12
(2) However, Safe Food may delegate the power only if satisfied the committee members or employees are appropriately qualified.	13 14
(3) In this section—	15
“ appropriately qualified ”, for a committee member or an employee, includes having the qualifications, experience or standing appropriate to exercise the power.	16 17 18
<i>Example of ‘standing’—</i>	19
An employee’s seniority level within the staff of Safe Food.	20
Ministerial direction	21
17.(1) The Minister may give Safe Food a written direction about the performance of Safe Food’s functions or exercise of its powers, or written notice of a public sector policy, if satisfied it is necessary to give the direction or notice in the public interest.	22 23 24 25
(2) Safe Food must ensure the direction or policy is complied with.	26
(3) However, before giving the direction or notice the Minister must—	27
(a) consult with Safe Food; and	28
(b) ask Safe Food to advise whether, in its opinion, complying with	29

the direction or notice would not be in its financial interest. 1

(4) The Minister must gazette a copy of the direction or notice within 2
21 days after the direction or notice is given. 3

Division 3—Administration 4

Appointment of chief executive officer 5

18.(1) The Minister must appoint a chief executive officer of Safe Food. 6

(2) The chief executive officer is to be appointed for a term of no more 7
than 5 years. 8

Conditions of appointment 9

19. The chief executive officer holds office on the conditions not 10
provided for by this Act that are decided by the Minister. 11

Qualifications for appointment 12

20.(1) The Minister may appoint a person as the chief executive officer 13
only if satisfied the person has the necessary experience or expertise to be 14
the chief executive officer. 15

(2) A person is not qualified to be or to continue as the chief executive 16
officer if the person— 17

(a) is an undischarged bankrupt or is taking advantage of the laws in 18
force for the time being relating to bankrupt or insolvent debtors; 19
or 20

(b) is convicted of an indictable offence, whether on indictment or 21
summarily; or 22

(c) becomes incapable of performing the duties of the chief executive 23
officer because of physical or mental incapacity; or 24

(d) is not able to manage a corporation because of the Corporations 25
Law, section 229; or 26

- (e) is named in the register held by the Australian Securities and Investments Commission under the Corporations Law, section 243.³

Vacation of office

21. The office of the chief executive officer becomes vacant if the chief executive officer—

- (a) dies; or
- (b) resigns office by notice given to the Minister; or
- (c) ceases to be qualified to be the chief executive officer.

Division 4—Responsibilities of chief executive officer and other matters about Safe Food

Chief executive officer to manage Safe Food’s affairs and prepare business plans

22.(1) The chief executive officer of Safe Food must manage the affairs of Safe Food and prepare a business plan each year.

(2) The business plan must cover Safe Food’s operations for the year in which the plan is prepared and the 2 following years.

(3) The business plan must include details of the following matters for the period covered by the plan—

- (a) the food safety schemes under this Act, and any food safety schemes being developed, including, for example, projected cost structures and funding arrangements for each scheme;
- (b) Safe Food’s funding arrangements for food safety activities carried out by Safe Food other than in connection with a food safety scheme;
- (c) Safe Food’s administrative costs;

³ Corporations Law, sections 229 (Certain persons not to manage corporations) and 243 (Register of disqualified company directors and other officers)

- (d) the projected funding required from the State to ensure compliance with this Act; 1
2
- (e) how Safe Food intends to ensure its activities in connection with food safety schemes are managed on a cost-recovery basis. 3
4

Chief executive officer to give business plans to Minister 5

23.(1) The chief executive officer must, within 2 months after the date of assent, give the Minister a copy of the first business plan prepared by the chief executive officer. 6
7
8

(2) The chief executive officer must give the Minister a copy of other business plans by 31 March in the year in which the plan is prepared. 9
10

Application of other Acts 11

24.(1) Safe Food is— 12

(a) a statutory body under the *Financial Administration and Audit Act 1977* and the *Statutory Bodies Financial Arrangements Act 1982*; 13
14
and 15

(b) a unit of public administration under the *Criminal Justice Act 1989*. 16
17

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B⁴ states the way in which Safe Food's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*. 18
19
20

⁴ *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts)

PART 3—FOOD SAFETY ADVISORY COMMITTEE 1*Division 1—Establishment and functions* 2**Establishment** 3

25. The Food Safety Advisory Committee (the “**advisory committee**”) is established. 4
5

Functions 6

26. The advisory committee’s functions are— 7

(a) to give advice, or make recommendations, to Safe Food or the Minister about— 8
9

(i) the development and making of food safety schemes or regulations under this Act; and 10
11

(ii) any matter relating to Safe Food’s functions; and 12

(iii) any matter relating to food safety or the operation of this Act that is referred to the committee by Safe Food or the Minister; and 13
14
15

(b) any other functions prescribed under a regulation. 16

Division 2—Membership 17**Membership of committee** 18

27.(1) The advisory committee consists of the following members— 19

(a) the chief executive officer of Safe Food; 20

(b) the chief executive of the department; 21

(c) the chief executive of the department through which the *Food Act 1981* is administered; 22
23

(d) a number of persons, each of whom represents an organisation that represents the interests of a section of an industry to which a 24
25

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food safety scheme, or a proposed food safety scheme, relates;	1
(e) any other person appointed by the Minister as a committee member.	2 3
(2) The chief executive officer of Safe Food is the chairperson of the committee.	4 5
(3) The members mentioned in subsection (1)(d) must be appointed by the Minister.	6 7
(4) The Minister may appoint a person under subsection (1)(e) only if satisfied the person has experience or expertise in 1 or more of the following—	8 9 10
(a) food technology;	11
(b) agricultural science, aquacultural science, food science or veterinary science;	12 13
(c) human nutrition;	14
(d) microbiology or epidemiology;	15
(e) design, implementation, management or auditing of food safety schemes, food safety programs or other matters relating to food safety;	16 17 18
(f) the production or sale of primary produce;	19
(g) consumer advocacy;	20
(h) environmental or public health;	21
(i) business, public administration or risk management.	22
Term of appointment	23
28. An appointed member is to be appointed for a term of no more than 3 years.	24 25
Conditions of appointment	26
29. A member holds office on the conditions not provided for by this Act that are decided by the Minister.	27 28

Division 3—Proceedings

1

Conduct of business

2

30. Subject to this division, the advisory committee may conduct its business, including its meetings, in the way it considers appropriate.

3

4

Time and place of first meeting

5

31. The Minister may call the first meeting of the advisory committee at the time and place the Minister decides.

6

7

Chief executive officer to invite committee members

8

32.(1) The chief executive officer must invite the members mentioned in section 27(1)(b) and (c) to each advisory committee meeting.

9

10

(2) If a meeting is called to consider a matter relating to a food safety scheme, or a proposed food safety scheme, the chief executive officer must invite to the meeting the members mentioned in section 27(1)(d) who represent the section of an industry to which the scheme relates.

11

12

13

14

(3) The chief executive officer may invite to a meeting other members the chief executive officer believes appropriate for the matters to be considered at the meeting.

15

16

17

Quorum

18

33. A quorum for a meeting of the advisory committee is the number equal to half the number of its members invited to the meeting plus 1 or, if half the number of members is not a whole number, the next highest whole number.

19

20

21

22

Presiding at meetings

23

34.(1) The chief executive officer is to preside at all meetings of the advisory committee at which the chief executive officer is present.

24

25

(2) If the chief executive officer is not present at a meeting, a delegate of the chief executive officer is to preside.

26

27

Conduct of meetings	1
35.(1) A question at an advisory committee meeting is decided by a majority of the votes of the members present.	2 3
(2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.	4 5 6
(3) A member present at the meeting may abstain from voting.	7
(4) The committee may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meeting.	8 9 10 11
(5) A member who takes part in a meeting under subsection (4) is taken to be present at the meeting.	12 13
Minutes	14
36. The advisory committee must keep minutes of its proceedings.	15
Disclosure of interests by committee members	16
37.(1) This section applies to a member of the advisory committee if—	17
(a) the member has an interest in a matter being considered, or about to be considered, by the committee; and	18 19
(b) the interest could conflict with the proper performance of the member’s duties about the consideration of the matter.	20 21
(2) As soon as practicable after the relevant facts come to the member’s knowledge, the member must disclose the nature of the interest to a meeting of the committee.	22 23 24
Maximum penalty—50 penalty units.	25
(3) Unless the Minister or the committee otherwise directs, the member must not—	26 27
(a) be present when the committee considers the matter; or	28

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- (b) take part in a decision of the committee about the matter. 1
- Maximum penalty—50 penalty units. 2
- (4) The member must not be present when the committee is considering whether to give a direction under subsection (3). 3
4
- Maximum penalty—50 penalty units. 5
- (5) If there is another member who must, under subsection (2), also disclose an interest in the matter, the other member must not— 6
7
- (a) be present when the committee is considering whether to give a direction under subsection (3); or 8
9
- (b) take part in making the decision about giving the direction. 10
- Maximum penalty—50 penalty units. 11
- (6) A disclosure under subsection (2) must be recorded in the committee’s minutes. 12
13
- (7) In this section— 14
- “**interest**”, of a committee member, relating to a matter under consideration does not include— 15
16
- (a) for a committee member mentioned in section 27(1)(d)—an interest the member has in common with members of the organisation represented by the committee member; or 17
18
19
- (b) for a committee member mentioned in section 27(1)(e)—an interest the member has in common with persons of similar experience or expertise as the member. 20
21
22

Division 4—Subcommittees 23**Subcommittees** 24

38.(1) The advisory committee may establish subcommittees to help the committee perform its functions. 25
26

(2) The advisory committee may appoint members of a subcommittee. 27

(3) At least 1 of the members must be a member of the advisory committee. 28
29

- (4) The function of a subcommittee is to advise and make recommendations to the advisory committee about matters, within the scope of the advisory committee's functions, referred by the advisory committee to the subcommittee. 1
2
3
4
- (5) The subcommittee may decide incidental matters not provided for under this Act, including, for example, the way the subcommittee must conduct its business or meetings. 5
6
7

PART 4—FOOD SAFETY SCHEMES AND PROGRAMS

8
9

Division 1—Food safety schemes

10

Making food safety schemes

11

39.(1) The Governor in Council may make a food safety scheme. 12

(2) A food safety scheme may be made about any of the following— 13

- (a) how production of primary produce is to be carried out, including, for example, the temperatures at which primary produce must be kept; 14
15
16
- (b) the premises, vehicles, plant or equipment used, or intended to be used, for the production of primary produce; 17
18
- (c) prohibiting activities associated with the production of primary produce; 19
20
- (d) the classification, marking or other identification of primary produce; 21
22
- (e) the wholesomeness, testing or analysis of primary produce; 23
- (f) sanitation, hygiene and the prevention of disease in primary produce; 24
25
- (g) the blending or mixing of dairy produce or meat with any other thing; 26
27

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(h) the persons who are to have accreditation for the production of primary produce;	1 2
(i) the preparation and implementation of food safety programs to ensure compliance with the food safety scheme;	3 4
(j) the auditing and approval of food safety programs mentioned in paragraph (i);	5 6
(k) the recall of primary produce;	7
(l) the qualifications, skills or expertise required of a person to handle primary produce;	8 9
(m) the giving of information or returns relating to food safety matters to Safe Food;	10 11
(n) reviewing the operation of food safety schemes;	12
(o) fees payable to Safe Food;	13
(p) the adoption of standards about food safety;	14
(q) any other matter relevant to food safety issues relating to the production of primary produce.	15 16
(3) Before a food safety scheme is made, the Minister and Safe Food must consult with the advisory committee about the proposed scheme.	17 18
(4) Failure to comply with subsection (3) does not affect the scheme's validity.	19 20
(5) A food safety scheme is subordinate legislation.	21
(6) A food safety scheme may provide that contravention of the scheme is an offence and prescribe a maximum penalty, of not more than 50 penalty units, for the offence.	22 23 24
Contents of food safety schemes	25
40.(1) A food safety scheme must state the following—	26
(a) the primary produce to which the scheme applies;	27
(b) who must be accredited under the scheme and who must comply with the scheme;	28 29

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-
- (c) who must prepare and maintain a food safety program under the scheme; 1
2
 - (d) the aspects of the production of primary produce to which the scheme applies; 3
4
 - (e) the auditing requirements under the scheme. 5
 - (2) Without limiting subsection (1), a food safety scheme may— 6
 - (a) state whether a person may engage in the production of primary produce to which the scheme applies without an approved food safety program; and 7
8
9
 - (b) identify a standard about food safety applying to an industry to which the scheme relates, including, for example, a standard about food hygiene practices, training for safe food handling and operating procedures for plant and equipment used in the industry. 10
11
12
13
14

Division 2—Food safety programs 15**Food safety programs** 16

41.(1) This section applies to a person who must prepare and maintain a food safety program under a food safety scheme. 17
18

- (2) The food safety program must— 19
 - (a) identify significant food safety hazards associated with the production of primary produce carried out by the person; and 20
21
 - (b) state how the hazards are to be monitored and controlled; and 22
 - (c) state how hygienic and safe conditions for the primary produce are to be monitored and maintained; and 23
24
 - (d) state how often the program is to be reviewed by the person; and 25
 - (e) contain details about the provision of training for staff, if any, who deal with the primary produce; and 26
27
 - (f) contain any other information prescribed under the food safety scheme. 28
29

- (3) The person must keep a copy of the food safety program at each place to which the program relates. 1
2
- Maximum penalty—50 penalty units. 3

PART 5—ACCREDITATION 4

Division 1—Preliminary 5

Purpose of accreditation system 6

42. The purpose of the accreditation system established under this part is to ensure the production of primary produce is carried out in a way that makes the primary produce safe for human and animal consumption. 7
8
9

Authority given by accreditation 10

- 43.(1) An accreditation authorises the holder of the accreditation to produce primary produce— 11
12
- (a) stated in the accreditation; and 13
 - (b) on the conditions stated in the accreditation and under this Act. 14
- (2) The accreditation does not authorise the holder of the accreditation to do anything prohibited under another Act. 15
16

Division 2—Obtaining accreditation 17

Application for grant or renewal of accreditations 18

- 44.(1) A person may apply to Safe Food for an accreditation or renewal of an accreditation. 19
20
- (2) The application must be— 21
- (a) in the approved form; and 22

-
- (b) accompanied by the following— 1
 - (i) the prescribed fee; 2
 - (ii) a description of the activities carried out, or proposed to be 3
carried out, by the applicant in connection with the 4
production of primary produce; 5
 - (iii) a description of the premises, vehicles, plant or equipment 6
used, or proposed to be used, by the applicant for the 7
activities mentioned in subparagraph (ii); 8
 - (iv) if the applicant is required under a food safety scheme to 9
prepare and maintain a food safety program for the activities, 10
a copy of the food safety program. 11

Additional information for applications 12

45.(1) Safe Food may, by written notice, ask the applicant to— 13

- (a) give it further reasonable information or documents about the 14
application by the reasonable date stated in the notice; or 15
- (b) allow an authorised officer to inspect premises, vehicles, plant or 16
equipment used, or proposed to be used, by the applicant. 17

(2) Safe Food may refuse the application if the applicant does not give it 18
the further information or documents by the stated day, or allow the 19
inspection, without reasonable excuse. 20

(3) If Safe Food agrees, the applicant may amend the application before 21
Safe Food has finished considering it. 22

Deciding applications 23

46.(1) Safe Food must consider the application and either grant or renew 24
the accreditation, with or without conditions, or refuse the application. 25

(2) However, Safe Food may also grant a temporary accreditation under 26
section 47. 27

Temporary accreditations

47.(1) Before Safe Food grants an accreditation under section 46(1), it may grant to the applicant a temporary accreditation.

(2) The temporary accreditation remains in force until the earlier of the following happens—

- (a) the end of the period stated in the temporary accreditation;
- (b) the accreditation applied for is granted, or the application is refused, under section 46(1).

(3) The stated period must not be more than 2 months after the grant of the temporary accreditation.

(4) A reference in this Act to an accreditation includes a reference to a temporary accreditation.

Grant or renewal of accreditations

48.(1) If Safe Food decides to grant or renew the accreditation, it must, within 14 days after making the decision, give the applicant—

- (a) the accreditation; and
- (b) if Safe Food decides to impose conditions on the accreditation, a written notice stating—
 - (i) the decision and the reasons for it; and
 - (ii) that the applicant may appeal against the decision; and
 - (iii) how to appeal.

(2) The accreditation must state the place at which the applicant may produce the primary produce stated in the accreditation.

(3) If the applicant must prepare and maintain a food safety program under a food safety scheme, Safe Food may grant or renew the accreditation only if satisfied the applicant's food safety program complies with the food safety scheme.

(4) If Safe Food grants the accreditation, the applicant's food safety program becomes the approved food safety program for the accreditation.

Refusal of applications

49. If Safe Food decides to refuse the application, it must, within 14 days after making the decision, give the applicant a written notice stating—

- (a) the decision and the reasons for it; and
- (b) that the applicant may appeal against the decision; and
- (c) how to appeal.

Conditions of accreditations

50.(1) Safe Food may impose conditions on the accreditation it decides are reasonable and relevant having regard to the food safety scheme relating to the activities carried out by the applicant in connection with the production of primary produce.

(2) Without limiting subsection (1), the accreditation must state that the accreditation holder must—

- (a) comply with the food safety scheme; and
- (b) allow an auditor to enter the place stated in the accreditation to conduct an audit under this Act.

(3) The accreditation must also state the fees or other charges payable to Safe Food under the accreditation.

(4) The accreditation remains in force, unless sooner cancelled or suspended, for 1 year.

Division 3—Amendment, suspension or cancellation of accreditations**Amendment—grounds**

51. Safe Food may amend an accreditation, including, for example, by adding a further condition to the accreditation—

- (a) with the written agreement of the accreditation holder; or
- (b) if Safe Food believes the amendment is necessary or desirable to ensure the production of primary produce is carried out in a way

that makes the primary produce safe for human or animal consumption and section 53 has been complied with. 1
2

Suspension or cancellation—grounds 3

52. Safe Food may suspend or cancel an accreditation if the chief executive officer believes on reasonable grounds— 4
5

- (a) the accreditation was granted in error or because of a materially false or fraudulent document, statement or representation; or 6
7
- (b) the holder of the accreditation— 8
 - (i) has committed, or is committing, an offence against this Act; or 9
10
 - (ii) has not complied with a condition of the accreditation; or 11
 - (iii) has not paid a prescribed fee or other amount payable to Safe Food. 12
13

Amendment, suspension or cancellation—procedure 14

53.(1) Before amending, suspending or cancelling an accreditation, Safe Food must give the holder of the accreditation a written notice inviting the holder to show why the accreditation should not be amended, suspended or cancelled (the “**proposed action**”). 15
16
17
18

- (2)** The notice must state the following— 19
- (a) the proposed action; 20
 - (b) the grounds for the proposed action; 21
 - (c) the facts and circumstances forming the basis for the grounds; 22
 - (d) if the proposed action is suspension of the accreditation, the proposed suspension period; 23
24
 - (e) if the proposed action is to amend the accreditation, the proposed amendment; 25
26
 - (f) that representations may be made about the notice; 27
 - (g) how the representations may be made; 28
 - (h) where the representations may be made or sent; 29

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-
- (i) a day and time for making the representations or a period within which the representations must be made. 1
2
- (3) The stated day or period must be, or must end, at least 28 days after the notice is given. 3
4
- (4) If, after considering all representations made within the stated period, the chief executive officer still considers the proposed action should be taken, Safe Food may— 5
6
7
- (a) if the proposed action is to amend the accreditation—amend the accreditation; and 8
9
- (b) if the proposed action is to suspend the accreditation—suspend the accreditation for no longer than the proposed suspension period; and 10
11
12
- (c) if the proposed action is to cancel the accreditation—cancel the accreditation or suspend it for a period. 13
14
- (5) This section does not apply if the accreditation is amended under section 51(a). 15
16

Immediate suspension 17

54.(1) This section applies if the chief executive officer believes on reasonable grounds the holder of an accreditation has committed, or is committing, a serious food safety offence. 18
19
20

(2) Safe Food may immediately suspend the accreditation by written notice given to the holder. 21
22

(3) The notice must state the reason for the decision. 23

(4) Safe Food must, within 7 days after giving the notice under subsection (2), give the holder a notice under section 53(2). 24
25

(5) The accreditation is suspended under this section until the earlier of the following happens— 26
27

(a) Safe Food gives the holder a notice of Safe Food’s decision under section 53(4); 28
29

(b) the end of 60 days after the notice under subsection (2) was given to the holder. 30
31

Notice and effect of amendment, suspension or cancellation

55.(1) If Safe Food amends, suspends or cancels an accreditation under section 53, notice and particulars of the amendment, suspension or cancellation must be given to the accreditation holder.

(2) The notice must state—

- (a) the decision and the reasons for it; and
- (b) that the holder may appeal against the decision; and
- (c) how to appeal.

(3) An amendment takes effect from the day stated in the notice.

(4) If Safe Food suspends the accreditation, it is ineffective during the period of suspension.

(5) The suspension—

- (a) may be for the period Safe Food decides; and
- (b) has effect from—
 - (i) the day the notice is given; or
 - (ii) if a later day is stated in the notice—the stated day.

(6) If Safe Food cancels the accreditation, it ceases to have effect from—

- (a) the day the notice is given; or
- (b) if a later day is stated in the notice—the stated day.

Return of amended, suspended or cancelled accreditations

56.(1) If Safe Food amends, suspends or cancels an accreditation, it may, by written notice, ask the holder of the accreditation to give the accreditation to Safe Food by the reasonable day stated in the notice.

(2) The holder must comply with the notice unless the holder has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

(3) After amending an accreditation, Safe Food must return it to the holder.

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(4) If a suspended accreditation is returned to Safe Food, Safe Food must give the accreditation to the holder at the end of the suspension period. 1
2

Division 4—Surrender 3**Surrender of accreditations** 4

57.(1) The holder of an accreditation may surrender the accreditation by written notice given to Safe Food. 5
6

(2) The accreditation must accompany the notice. 7

PART 6—AUDITING 8*Division 1—Preliminary* 9**Purpose of auditing system** 10

58. The purpose of the auditing system established under this part is to ensure places and activities associated with the production of primary produce comply with this Act. 11
12
13

Auditors' authority 14

59. An approval as an auditor under this part authorises the holder of the approval to conduct audits under this Act. 15
16

Division 2—Obtaining approval 17**Applications for approval as auditor** 18

60.(1) An individual may apply to Safe Food for an approval, or renewal of an approval, as an auditor. 19
20

(2) The application must be— 21

- (a) in the approved form; and 1
- (b) accompanied by the prescribed fee. 2

Additional information for applications 3

61.(1) Safe Food may, by written notice, ask the applicant to give it 4
further reasonable information or documents about the application by the 5
reasonable date stated in the request. 6

(2) Safe Food may refuse the application if the applicant does not give it 7
the further information or documents by the stated day, without reasonable 8
excuse. 9

(3) If Safe Food agrees, the applicant may amend the application before 10
Safe Food has finished considering it. 11

Deciding applications 12

62.(1) Safe Food must consider the application and either grant or renew 13
the approval, with or without conditions, or refuse the application. 14

(2) However, Safe Food may grant or renew the approval only if 15
satisfied— 16

- (a) the applicant has the necessary expertise or experience to carry out 17
the functions of an auditor; and 18

- (b) if the Minister has given Safe Food a written notice of a public 19
sector policy relating to the approval of auditors under 20
section 17(1),⁵ the policy has been complied with. 21

(3) Without limiting subsection (2), in deciding whether the applicant has 22
the necessary expertise or experience Safe Food may have regard to any 23
guidelines about auditing practices approved by Safe Food. 24

(4) Safe Food may only approve guidelines mentioned in subsection (3) 25
if it has consulted with the advisory committee about the guidelines. 26

⁵ Section 17 (Ministerial direction)

Grant or renewal of approvals

63. If Safe Food decides to grant or renew the approval, it must, within 14 days after making the decision, give the applicant—

- (a) the approval; and
- (b) if Safe Food imposes conditions on the approval, a written notice stating—
 - (i) the decision and the reasons for it; and
 - (ii) that the applicant may appeal against the decision; and
 - (iii) how to appeal.

Refusal of applications

64. If Safe Food decides to refuse the application, it must, within 14 days after making the decision, give the applicant a written notice stating—

- (a) the decision and the reasons for it; and
- (b) that the applicant may appeal against the decision; and
- (c) how to appeal.

Term of approvals

65. An approval remains in force, unless sooner cancelled or suspended, for 1 year.

*Division 3—Amendment, suspension or cancellation of approvals***Amendment—grounds**

66. Safe Food may amend an approval or add a further condition to the approval—

- (a) with the written agreement of the approval holder; or
- (b) if Safe Food believes the amendment is necessary or desirable to ensure appropriate auditing of places or activities associated with

the production of primary produce and section 68 has been
 complied with. 1
 2

Suspension or cancellation—grounds 3

67. Safe Food may suspend or cancel an approval if Safe Food believes
 on reasonable grounds that— 4
 5

- (a) the approval was granted in error or because of a materially false
 or fraudulent document, statement or representation; or 6
 7
- (b) the holder of the approval— 8
 - (i) has committed, or is committing, an offence against this Act;
 or 9
 10
 - (ii) has, within 5 years, been convicted of an indictable offence,
 whether on indictment or summarily; or 11
 12
 - (iii) has not complied with a condition of the approval; or 13
 - (iv) has not paid a prescribed fee or other amount payable to Safe
 Food. 14
 15

Amendment, suspension or cancellation—procedure 16

68.(1) Before amending, suspending or cancelling an approval, Safe
 Food must give the holder of the approval a written notice inviting the
 holder to show why the approval should not be amended, suspended or
 cancelled (the “**proposed action**”). 17
 18
 19
 20

- (2)** The notice must state the following— 21
- (a) the proposed action; 22
 - (b) the grounds for the proposed action; 23
 - (c) the facts and circumstances that are the basis for the grounds; 24
 - (d) if the proposed action is suspension of the approval, the proposed
 suspension period; 25
 26
 - (e) if the proposed action is to amend the approval, the proposed
 amendment; 27
 28
 - (f) that representations may be made about the notice; 29

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-
- (g) how the representations may be made; 1
- (h) where the representations may be made or sent; 2
- (i) a day and time for making the representations or a period within 3
which the representations must be made. 4
- (3) The stated day or period must be, or must end, at least 28 days after 5
the notice is given. 6
- (4) If, after considering all representations made within the stated period, 7
the chief executive officer still considers the proposed action should be 8
taken, Safe Food may— 9
- (a) if the proposed action is to amend the approval—amend the 10
approval; and 11
- (b) if the proposed action is to suspend the approval—suspend the 12
approval for no longer than the proposed suspension period; and 13
- (c) if the proposed action is to cancel the approval—cancel the 14
approval or suspend it for a period. 15
- (5) This subsection does not apply if an approval is amended under 16
section 66(a). 17
- Immediate suspension of approvals** 18
- 69.(1)** This section applies if the chief executive officer believes on 19
reasonable grounds the holder of an approval is not competent to conduct 20
audits under this Act. 21
- (2) Safe Food may immediately suspend the approval by written notice 22
given to the holder. 23
- (3) The notice must state the reason for the decision. 24
- (4) Safe Food must, within 7 days after giving the notice under 25
subsection (2), give the holder a notice under section 68(2). 26
- (5) The approval is suspended under this section until the earlier of the 27
following happens— 28
- (a) Safe Food gives the holder a notice of Safe Food’s decision under 29
section 68(4); 30

- (b) the end of 60 days after the notice under subsection (2) was given to the holder. 1
2

Notice and effect of amendment, suspension or cancellation 3

70.(1) If Safe Food amends, suspends or cancels an approval under section 68, notice and particulars of the amendment, suspension or cancellation must be given to the approval holder. 4
5
6

(2) The notice must state— 7

(a) the decision and the reasons for it; and 8

(b) that the holder may appeal against the decision; and 9

(c) how to appeal. 10

(3) An amendment takes effect from the day stated in the notice. 11

(4) If Safe Food suspends the approval, it is ineffective during the period of suspension. 12
13

(5) The suspension— 14

(a) has effect from— 15

(i) the day the notice is given; or 16

(ii) if a later day is stated in the notice—the later day; and 17

(b) may be for the period Safe Food decides. 18

(6) If Safe Food cancels the approval, it ceases to have effect from— 19

(a) the day the notice is given; or 20

(b) if a later day is stated in the notice—the later day. 21

Return of amended, suspended or cancelled approvals 22

71.(1) If Safe Food amends, suspends or cancels an approval, it may, by written notice, ask the holder of the approval to give the approval to Safe Food by the reasonable day stated in the notice. 23
24
25

(2) The holder must comply with the notice unless the holder has a reasonable excuse for not complying with it. 26
27

Maximum penalty—40 penalty units. 28

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(3) After amending an approval, Safe Food must return it to the holder. 1

(4) If a suspended approval is returned to Safe Food, Safe Food must 2
give the approval to the holder at the end of the suspension period. 3

Division 4—Surrender 4**Surrender of approvals** 5

72.(1) The holder of an approval may surrender the approval by written 6
notice given to Safe Food. 7

(2) The approval must accompany the notice. 8

Division 5—Identity cards and register 9**Auditor's identity card** 10

73.(1) Safe Food must give each auditor an identity card. 11

(2) The identity card must— 12

(a) contain a recent colour photograph of the auditor; and 13

(b) contain a copy of the auditor's signature; and 14

(c) identify the individual as an auditor under this Act; and 15

(d) state the conditions of the auditor's approval; and 16

(e) state the day, if any, on which the approval expires. 17

Register of auditors 18

74.(1) Safe Food must keep a register of auditors. 19

(2) The register must contain the following information about each 20
auditor— 21

(a) the auditor's name; 22

(b) the conditions, if any, of the auditor's approval; 23

(c) any other information decided by Safe Food. 24

(3) Safe Food must ensure the register is available for inspection by members of the public during normal office hours at Safe Food's head office. 1
2
3

Division 6—Audit reports and auditors' responsibilities 4

Audit reports 5

75.(1) An auditor must, within 14 days after completion of an audit under this Act, give a copy of the report about the audit to— 6
7

(a) Safe Food; and 8

(b) the person audited. 9

Maximum penalty—50 penalty units. 10

(2) The audit report must include the following information— 11

(a) the auditor's name; 12

(b) the day the audit started; 13

(c) the day the audit was completed; 14

(d) the duration of the audit; 15

(e) the address of, or other information sufficient to identify, the place at which the audit is conducted; 16
17

(f) details of the activities audited, and the food safety scheme or food safety program relevant to the audit; 18
19

(g) whether, in the auditor's opinion— 20

(i) the activities comply with the food safety scheme relating to the activities; or 21
22

(ii) the auditor needs to conduct a further audit in relation to the person's food safety program; 23
24

(h) the reasons that the auditor considers the activities comply, or do not comply, with the food safety scheme. 25
26

Responsibilities of auditors	1
76.(1) If, in the course of conducting the audit, the auditor forms a reasonable belief a person has committed, or is committing, an offence against this Act, the auditor must inform Safe Food of—	2 3 4
(a) the person’s name and address; and	5
(b) details about the facts and circumstances giving rise to the belief.	6
(2) If the offence is a serious food safety offence, the auditor must inform Safe Food—	7 8
(a) immediately after the auditor forms the reasonable belief unless the auditor has a reasonable excuse for not informing Safe Food immediately; or	9 10 11
(b) if the auditor has a reasonable excuse for not informing Safe Food immediately—immediately after the reasonable excuse ceases to have effect.	12 13 14
Maximum penalty—1 300 penalty units.	15
(3) If the offence is another offence, the auditor must inform Safe Food—	16 17
(a) within 7 days after the auditor forms the reasonable belief unless the auditor has a reasonable excuse for not informing Safe Food within 7 days; or	18 19 20
(b) if the auditor has a reasonable excuse for not informing Safe Food within 7 days—within 7 days after the reasonable excuse ceases to have effect.	21 22 23
Maximum penalty for subsection (3)—100 penalty units.	24

PART 7—SERIOUS FOOD SAFETY OFFENCES 25

Supply of unsafe primary produce 26

77. A person must not supply primary produce that the person knows, or 27

ought reasonably to know, is unsafe.	1
Maximum penalty—3 000 penalty units or imprisonment for 2 years.	2
Production of unsafe primary produce	3
78. A person must not engage in the production of primary produce if the person knows, or ought reasonably to know, the primary produce would be unsafe after production.	4 5 6
Maximum penalty—3 000 penalty units or imprisonment for 2 years.	7
Unauthorised production of primary produce	8
79.(1) This section applies only to a person engaged in the production of primary produce to which a food safety scheme applies.	9 10
(2) The person must not engage in the production of the primary produce other than under an accreditation.	11 12
Maximum penalty—2 000 penalty units or imprisonment for 2 years.	13
Supply of unwholesome meat or seafood	14
80.(1) A person must not supply meat or seafood ready for human consumption, or preparation for human consumption, if the person knows, or ought reasonably to know, the meat or seafood is unwholesome.	15 16 17
Maximum penalty—1 000 penalty units or imprisonment for 1 year.	18
(2) In this section—	19
“ unwholesome ” means the meat or seafood is in a condition, or contains a substance, a consumer would ordinarily regard as making the meat or seafood unfit for human consumption.	20 21 22
Meat substitution	23
81. A person must not, during meat processing, do something to the meat—	24 25
(a) with the intention of deceiving someone else about the species of animal the meat is from; or	26 27

- (b) that the person knows, or reasonably to know, is likely to result in someone else being deceived about the species of animal the meat is from.

Maximum penalty—1 500 penalty units.

Supply of equipment or other things

82.(1) This section applies to equipment or another thing that, if used for the purpose for which it is designed or intended to be used, is likely to make primary produce unsafe when the primary produce is supplied to someone.

(2) A person must not supply the equipment or thing if the person knows, or ought reasonably to know, that the equipment or thing is likely to make the primary produce unsafe.

Maximum penalty—650 penalty units.

PART 8—ENFORCEMENT, INVESTIGATIONS AND OFFENCES

Division 1—Enforcement and investigations

Subdivision 1—Authorised officers

Appointment and qualifications of authorised officers

83.(1) Safe Food may appoint any of the following persons to be an authorised officer—

- (a) an employee of Safe Food;
- (b) a public service employee;
- (c) an employee of a local government if the local government approves of the appointment;
- (d) an employee of the Commonwealth or another State;

- (e) an employee of an entity— 1
 - (i) established under a law of the Commonwealth or another 2
State with functions relating to food safety matters; and 3
 - (ii) prescribed under a regulation. 4

(2) However, Safe Food may appoint a person as an authorised officer 5
only if satisfied the person has the necessary expertise or experience to be an 6
authorised officer. 7

Functions and powers of authorised officers 8

84.(1) An authorised officer has the function of conducting investigations 9
and inspections to monitor and enforce compliance with this Act. 10

(2) An authorised officer has the powers given under this or another Act. 11

(3) The powers of an authorised officer may be limited— 12

- (a) under a regulation; or 13
- (b) under a condition of appointment; or 14
- (c) by notice of Safe Food given to the authorised officer. 15

Conditions of appointment of authorised officers 16

85.(1) An authorised officer holds office on the conditions stated in the 17
officer's instrument of appointment. 18

(2) An authorised officer— 19

- (a) if the appointment provides for a term of appointment, ceases to 20
hold office at the end of the term; and 21
- (b) may resign by signed notice of resignation given to Safe Food. 22

Authorised officer's identity card 23

86.(1) Safe Food must give each authorised officer an identity card. 24

(2) The identity card must— 25

- (a) contain a recent colour photograph of the authorised officer; and 26

(b) contain a copy of the authorised officer's signature; and 1

(c) identify the person as an authorised officer under this Act. 2

(3) This section does not prevent the giving of a single identity card to a person for this Act and other Acts. 3
4

Failure to return identity card 5

87. A person who ceases to be an authorised officer must return the person's identity card to Safe Food as soon as practicable, but within 15 business days, after ceasing to be an authorised officer, unless the person has a reasonable excuse for not returning it. 6
7
8
9

Maximum penalty—10 penalty units. 10

Production or display of identity card 11

88.(1) An authorised officer may exercise a power under this Act in relation to someone else only if the authorised officer— 12
13

(a) first produces his or her identity card for the person's inspection; 14
or 15

(b) has the identity card displayed so it is clearly visible to the person. 16

(2) However, if for any reason it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity. 17
18
19

(3) Failure to comply with this section does not effect the validity of the exercise of the power. 20
21

Subdivision 2—Power to enter places 22

Power to enter places 23

89.(1) An authorised officer may enter a place if— 24

(a) its occupier consents to the entry; or 25

(b) it is a public place and the entry is made when it is open to the public; or 26
27

-
- (c) the entry is authorised by a warrant; or 1
 - (d) the authorised officer enters the place under section 116(2).⁶ 2
 - (2) For the purpose of asking the occupier of a place for consent to enter, 3
an authorised officer may, without the occupier’s consent or a warrant— 4
 - (a) enter land around premises at the place to an extent that is 5
reasonable to contact the occupier; or 6
 - (b) enter part of the place the authorised officer reasonably considers 7
members of the public ordinarily are allowed to enter when they 8
wish to contact the occupier. 9

Subdivision 3—Procedure for entry 10

Entry with consent 11

90.(1) This section applies if an authorised officer intends to ask an 12
occupier of a place to consent to the authorised officer or another authorised 13
officer entering the place under section 89(1)(a). 14

(2) Before asking for the consent, the authorised officer must tell the 15
occupier— 16

- (a) the purpose of the entry; and 17
- (b) that the occupier is not required to consent. 18

(3) If the consent is given, the authorised officer may ask the occupier to 19
sign an acknowledgment of the consent. 20

(4) The acknowledgment must state— 21

- (a) the occupier has been told— 22
 - (i) the purpose of the entry; and 23
 - (ii) that the occupier is not required to consent; and 24
- (b) the purpose of the entry; and 25
- (c) the occupier gives the authorised officer consent to enter the place 26
and exercise powers under this division; and 27

⁶ Section 116 (Emergency powers)

- (d) the time and date the consent was given. 1
- (5) If the occupier signs the acknowledgment, the authorised officer must 2
immediately give a copy to the occupier. 3
- (6) A court must find the occupier of a place did not consent to an 4
authorised officer entering the place under this division if— 5
- (a) an issue arises in a proceeding before the court whether the 6
occupier of the place consented to the entry under 7
section 89(1)(a); and 8
- (b) an acknowledgment mentioned in subsection (4) is not produced 9
in evidence for the entry; and 10
- (c) it is not proved by the person relying on the lawfulness of the 11
entry that the occupier consented to the entry. 12

Application for warrant 13

91.(1) An authorised officer may apply to a magistrate for a warrant for a 14
place. 15

(2) The application must be sworn and state the grounds on which the 16
warrant is sought. 17

(3) The magistrate may refuse to consider the application until the 18
authorised officer gives the magistrate all the information the magistrate 19
requires about the application in the way the magistrate requires. 20

Example— 21

The magistrate may require additional information supporting the application to be 22
given by statutory declaration. 23

Issue of warrant 24

92.(1) The magistrate may issue a warrant only if the magistrate is 25
satisfied there are reasonable grounds for suspecting— 26

- (a) there is a particular thing or activity (the “**evidence**”) that may 27
provide evidence of an offence against this Act; and 28
- (b) the evidence is at the place, or, within the next 7 days, may be at 29
the place. 30

(2) The warrant must state—	1
(a) that a stated authorised officer may, with necessary and reasonable help and force—	2 3
(i) enter the place and any other place necessary for the entry; and	4 5
(ii) exercise the authorised officer’s powers under this division; and	6 7
(b) the offence for which the warrant is sought; and	8
(c) the evidence that may be seized under the warrant; and	9
(d) the hours of the day or night when the place may be entered; and	10
(e) the date, within 14 days after the warrant’s issue, the warrant ends.	11 12
Special warrants	13
93.(1) An authorised officer may apply for a warrant (a “ special warrant ”) by phone, fax, radio or another form of communication if the authorised officer considers it necessary because of—	14 15 16
(a) urgent circumstances; or	17
(b) other special circumstances, including, for example, the authorised officer’s remote location.	18 19
(2) Before applying for the special warrant, the authorised officer must prepare an application stating the grounds on which the warrant is sought.	20 21
(3) The authorised officer may apply for the special warrant before the application is sworn.	22 23
(4) After issuing the special warrant, the magistrate must promptly fax a copy (a “ facsimile warrant ”) to the authorised officer if it is reasonably practicable to fax the copy.	24 25 26
(5) If it is not reasonably practicable to fax a copy to the authorised officer—	27 28
(a) the magistrate must tell the authorised officer—	29
(i) what the terms of the special warrant are; and	30

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-
- (ii) the date and time the special warrant is issued; and 1
- (b) the authorised officer must complete a form of warrant (a 2
“warrant form”) and write on it— 3
- (i) the magistrate’s name; and 4
- (ii) the date and time the magistrate issued the special warrant; 5
and 6
- (iii) the terms of the special warrant. 7
- (6)** The facsimile warrant, or the warrant form properly completed by the 8
authorised officer, authorises the entry and the exercise of the other powers 9
stated in the special warrant issued. 10
- (7)** The authorised officer must, at the first reasonable opportunity, send 11
to the magistrate— 12
- (a) the sworn application; and 13
- (b) if the authorised officer completed a warrant form—the 14
completed warrant form. 15
- (8)** On receiving the documents, the magistrate must attach them to the 16
special warrant. 17
- (9)** A court must find the exercise of the power by an authorised officer 18
was not authorised by a special warrant if— 19
- (a) an issue arises in a proceeding before the court whether the 20
exercise of the power was authorised by a special warrant; and 21
- (b) the warrant is not produced in evidence; and 22
- (c) it is not proved by the person relying on the lawfulness of the 23
entry that the authorised officer obtained the warrant. 24
- Warrants—procedure before entry** 25
- 94.(1)** This section applies if an authorised officer named in a warrant 26
issued under this division for a place is intending to enter the place under the 27
warrant. 28
- (2)** Before entering the place, the authorised officer must do or make a 29
reasonable attempt to do the following things— 30

-
- | | |
|--|---------------|
| (a) comply with section 88(1); ⁷ | 1 |
| (b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 93(6), a copy of the facsimile warrant or warrant form; | 2
3
4 |
| (c) tell the person the authorised officer is permitted by the warrant to enter the place; | 5
6 |
| (d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force. | 7
8 |
| (3) However, the authorised officer need not comply with subsection (2) if the authorised officer reasonably believes that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated. | 9
10
11 |

Subdivision 4—Powers after entering a place

General powers after entering places

- | | |
|---|----------------|
| 95.(1) This section applies to an authorised officer who enters a place. | 14 |
| (2) However, if an authorised officer enters a place to get the occupier's consent to enter the place, this section applies to the authorised officer only if the consent is given or the entry is otherwise authorised. | 15
16
17 |
| (3) For monitoring or enforcing compliance with this Act, the authorised officer may— | 18
19 |
| (a) search any part of the place; or | 20 |
| (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or | 21
22 |
| (c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or | 23
24 |
| (d) copy a document at the place; or | 25 |
| (e) take into or onto the place any person, equipment and materials the authorised officer reasonably requires for the exercise of a power under this division; or | 26
27
28 |

⁷ Section 88 (Production or display of identity card)

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- (f) require the occupier of the place, or a person at the place, to give the authorised officer reasonable help to exercise the authorised officer's powers under paragraphs (a) to (e); or
- (g) require the occupier of a place, or a person at the place, to give the authorised officer information to help the authorised officer ascertain whether the Act is being complied with.
- (4) When making a requirement mentioned in subsection (3)(f) or (g), the authorised officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

Failure to help authorised officer

96.(1) A person required to give reasonable help under section 95(3)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) A person has a reasonable excuse if complying with the requirement might tend to incriminate the person.

Failure to give information

97.(1) A person required to give information under section 95(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) A person has a reasonable excuse if complying with the requirement might tend to incriminate the person.

Subdivision 5—Power to seize evidence**Definition for sdiv 5**

98. In this subdivision—

“owner”, of a seized thing, includes the person entitled to possession of it.

Seizing evidence

99.(1) This section applies if—

(a) an authorised officer—

(i) is authorised to enter a place under this division only with the consent of the occupier or a warrant; and

(ii) the authorised officer enters the place after obtaining the necessary consent or warrant; or

(b) the authorised officer enters the place under section 116(2).⁸

(2) If the authorised officer enters the place with the occupier's consent, the authorised officer may seize a thing at the place if—

(a) the authorised officer reasonably believes the thing is evidence of an offence against this Act; and

(b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

(3) If the authorised officer enters the place with a warrant, the authorised officer may seize the evidence for which the warrant was issued.

(4) The authorised officer may seize anything else at the place if the authorised officer reasonably believes—

(a) the thing is evidence of an offence against this Act; and

(b) the seizure is necessary to prevent the thing being—

(i) hidden, lost or destroyed; or

(ii) used to continue, or repeat, the offence.

(5) Also, the authorised officer may seize a thing at the place if the authorised officer reasonably believes it has just been used in committing an offence against this Act.

Securing seized things

100. Having seized a thing, an authorised officer may—

⁸ Section 116 (Emergency powers)

-
- (a) move the thing from the place where it was seized (the “**place of seizure**”); or 1
2
 - (b) leave the thing at the place of seizure but take reasonable action to 3
restrict access to it; or 4
 - (c) if the thing is equipment—make it inoperable. 5

Examples of restricting access to a thing— 6

- 1. Sealing a thing and marking it to show access to it is restricted. 7
- 2. Sealing the entrance to a place where the thing is situated and marking it to 8
show access to it is restricted. 9

Example of making equipment inoperable— 10

Dismantling equipment or removing a component of equipment without which the 11
equipment is not capable of being used. 12

Tampering with seized things 13

101.(1) If an authorised officer restricts access to a seized thing, a person 14
must not tamper with the thing, or something restricting access to the thing, 15
without an authorised officer’s approval. 16

Maximum penalty—100 penalty units. 17

(2) If an authorised officer makes seized equipment inoperable, a person 18
must not tamper with the equipment, without an authorised officer’s 19
approval. 20

Maximum penalty—100 penalty units. 21

(3) In this section— 22

“**tamper**” includes attempt to tamper. 23

Powers to support seizure 24

102.(1) To enable a thing to be seized, an authorised officer may require 25
the person in control of it— 26

- (a) to take it to a stated reasonable place by a stated reasonable time; 27
and 28
- (b) if necessary, to remain in control of it at the stated place for a 29
stated reasonable period. 30

(2) The requirement—	1
(a) must be made by notice in the approved form; or	2
(b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by a notice in the approved form as soon as practicable.	3 4 5
(3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.	6 7
(4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.	8 9 10
Maximum penalty for subsection (4)—50 penalty units.	11
Receipts for seized things	12
103.(1) As soon as practicable after an authorised officer seizes a thing, the authorised officer must give a receipt for it to the person from whom it was seized.	13 14 15
(2) However, if for any reason it is not practicable to comply with subsection (1), the authorised officer must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.	16 17 18
(3) The receipt must describe generally each thing seized and its condition.	19 20
(4) This section does not apply to a thing if it is impracticable, or would be unreasonable, to give the receipt, having regard to the thing's nature, condition and value.	21 22 23
Authorised officer may dispose of seized primary produce	24
104.(1) This section applies to primary produce seized under section 99 ⁹ if an authorised officer believes on reasonable grounds that the primary produce poses a health risk to any person or animal, or is otherwise unfit for consumption or sale.	25 26 27 28

⁹ Section 99 (Seizing evidence)

(2) The authorised officer may, with the chief executive officer's approval, destroy or dispose of the primary produce in a way decided by the authorised officer. 1
2
3

(3) If the authorised officer destroys or disposes of primary produce under subsection (2), the officer must give the owner of the primary produce a notice stating— 4
5
6

(a) the primary produce has been destroyed or disposed of; and 7

(b) the reason for the destruction or disposal; and 8

(c) that the owner may claim compensation under section 121 for loss or damage caused by the destruction or disposal. 9
10

Forfeiture by authorised officer 11

105.(1) A thing that has been seized under this subdivision is forfeited to Safe Food if the authorised officer who seized the thing— 12
13

(a) can not find its owner, after making reasonable inquiries; or 14

(b) can not return it to its owner, after making reasonable efforts. 15

(2) In applying subsection (1)— 16

(a) subsection (1)(a) does not require the authorised officer to make inquiries if it would be unreasonable to make inquiries to find the owner; and 17
18
19

(b) subsection (1)(b) does not require the authorised officer to make efforts if it would be unreasonable to make efforts to return the thing to its owner. 20
21
22

Example for paragraph (b)— 23

The owner of the thing has migrated to another country. 24

(3) Regard must be had to a thing's nature, condition and value in deciding— 25
26

(a) whether it is reasonable to make inquiries or efforts; and 27

(b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable. 28
29

Forfeiture on conviction

106.(1) On conviction of a person for an offence against this Act, the court may order the forfeiture to Safe Food of anything owned by the person and seized under this subdivision.

(2) The court may make any order to enforce the forfeiture it considers appropriate.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

Dealing with forfeited things

107.(1) On forfeiture of a thing to Safe Food, the thing becomes Safe Food's property and may be dealt with by Safe Food as it considers appropriate.

(2) Without limiting subsection (1), Safe Food may destroy or dispose of the thing.

Recovering costs of destruction or disposal

108. Any reasonable cost or expense incurred by Safe Food in destroying or disposing of a thing under this division is a debt owing to Safe Food by—

- (a)** if the thing is destroyed or disposed of under section 104(2)—the owner of the thing immediately before its seizure; and
- (b)** if the thing is destroyed or disposed of under section 107—the owner of the thing immediately before its forfeiture.

Return of seized things

109.(1) If a seized thing is not forfeited, or destroyed or disposed of under section 104(2),¹⁰ the authorised officer must return it to its owner—

- (a)** at the end of 6 months; or
- (b)** if a proceeding for an offence involving the thing is started within

¹⁰ Section 104 (Authorised officer may dispose of seized primary produce)

6 months—at the end of the proceeding and any appeal from the proceeding. 1
2

(2) Despite subsection (1), unless the thing is forfeited, or destroyed or disposed of under section 104(2), the authorised officer must immediately return a thing seized to its owner if the authorised officer stops being satisfied— 3
4
5
6

(a) its continued retention as evidence is necessary; or 7

(b) its continued retention is necessary to prevent the thing being used to continue, or repeat, the offence. 8
9

Access to seized things 10

110.(1) Until a seized thing is forfeited, destroyed or disposed of under section 104(2) or returned, an authorised officer must allow its owner to inspect it and, if it is a document, to copy it. 11
12
13

(2) Subsection (1) does not apply if it is impracticable, or would be unreasonable, to allow the inspection or copying. 14
15

Subdivision 6—Power to obtain information 16

Power to require name and address 17

111.(1) This section applies if— 18

(a) an authorised officer finds a person committing an offence against this Act; or 19
20

(b) an authorised officer finds a person in circumstances that lead, or has information that leads, the authorised officer to reasonably suspect the person has just committed an offence against this Act. 21
22
23

(2) The authorised officer may require the person to state the person's name and residential address. 24
25

(3) When making the requirement, the authorised officer must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse. 26
27
28

(4) The authorised officer may require the person to give evidence of the 29

correctness of the stated name or residential address if the authorised officer reasonably suspects the stated name or address to be false. 1
2

Failure to give name or address 3

112.(1) A person of whom a requirement is made under section 111 must comply with the requirement, unless the person has a reasonable excuse. 4
5
6

Maximum penalty—50 penalty units. 7

(2) A person does not commit an offence against subsection (1) if— 8

(a) the person was required to state the person's name and residential address by an authorised officer who suspected the person had committed an offence against this Act; and 9
10
11

(b) the person is not proved to have committed the offence. 12

Power to require information 13

113.(1) This section applies if an authorised officer reasonably believes— 14

(a) an offence against this Act has been committed; and 15

(b) a person may be able to give information about the offence. 16

(2) The authorised officer may, by notice given to the person, require the person to give information about the offence to the authorised officer at a stated reasonable place and at a stated reasonable time. 17
18
19

(3) The person must comply with a requirement under subsection (2), unless the person has a reasonable excuse. 20
21

Maximum penalty—50 penalty units. 22

(4) It is a reasonable excuse for a person not to give information if giving the information may tend to incriminate the person. 23
24

Power to require production of documents 25

114.(1) An authorised officer may require a person to make available for inspection by an authorised officer, or produce to the authorised officer for inspection, at a reasonable time and place nominated by the authorised 26
27
28

officer, a document required to be kept by the person under this Act. 1

(2) The authorised officer may keep the document to copy it. 2

(3) If the authorised officer copies a document mentioned in 3
subsection (1), or an entry in the document, the authorised officer may 4
require the person responsible for keeping the document to certify the copy 5
as a true copy of the document or entry. 6

(4) The authorised officer must return the document to the person as 7
soon as practicable after copying it. 8

Failure to produce documents 9

115.(1) A person required to make available, or produce, for inspection a 10
document under section 114(1) must comply with the requirement, unless 11
the person has a reasonable excuse. 12

Maximum penalty—50 penalty units. 13

(2) A person has a reasonable excuse if complying with the requirement 14
might tend to incriminate the person. 15

Subdivision 7—Emergency powers of authorised officers 16

Emergency powers 17

116.(1) This section applies if an authorised officer is satisfied on 18
reasonable grounds— 19

(a) the production of primary produce is being carried out at a place, 20
other than a place, or part of a place, used only for residential 21
purposes; and 22

(b) it is necessary to exercise powers under this section to avoid an 23
imminent risk of death or serious illness of any person from the 24
primary produce. 25

(2) The authorised officer may, without a warrant or the consent of the 26
occupier of the place, enter the place. 27

(3) Before entering the place, the authorised officer must do or make a 28
reasonable attempt to do the following things— 29

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-
- (a) comply with section 88(1);¹¹ 1
- (b) tell the person the authorised officer is permitted under this Act to 2
enter the place; 3
- (c) give the person an opportunity to allow the authorised officer 4
immediate entry to the place without using force. 5
- (4) However, the authorised officer need not comply with subsection (3) 6
if the authorised officer reasonably believes that immediate entry to the place 7
is required to avoid an imminent risk of death or serious illness of any 8
person. 9
- (5) Also, the authorised officer may in relation to the primary produce— 10
- (a) direct a person at the place to take stated reasonable steps within a 11
stated reasonable period in relation to the primary produce; or 12
- (b) take the reasonable steps; or 13
- (c) authorise another person to take the reasonable steps. 14
- (6) The direction may be given orally or by written notice. 15
- (7) However, if the direction is given orally, the authorised officer must 16
as soon as practicable confirm the direction by written notice given to the 17
person. 18
- (8) When giving the direction under subsection (5)(a), the authorised 19
officer must warn the person it is an offence not to comply with the 20
direction unless the person has a reasonable excuse. 21
- (9) If the authorised officer takes the steps, the officer may also exercise 22
any of the powers of an authorised officer under this division. 23
- (10) The authorised officer may exercise the powers mentioned in 24
subsections (2), (5)(b) and (9) (the “**emergency powers**”) with the help, 25
and using the force, that is necessary and reasonable in the circumstances. 26
- (11) In exercising or attempting to exercise emergency powers, an 27
authorised officer must take all reasonable steps to ensure the officer causes 28
as little inconvenience to any person at the place, and does as little damage, 29
as is practicable in the circumstances. 30
- (12) This section does not limit any power an authorised officer has apart 31

¹¹ Section 88 (Production or display of identity card)

from this section.

(13) If an authorised officer authorises a person to take steps under subsection (5)(c)—

- (a) the person may exercise the powers mentioned in subsection (9); and
- (b) the authorised officer must inform the person—
 - (i) of the steps the person is authorised to take; and
 - (ii) of the person’s powers under this section.

Failure to comply with authorised person’s directions in emergency

117. A person to whom a direction is given under section 116(5)(a) must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

Subdivision 8—Power to require compliance

Compliance notice

118.(1) This section applies if an authorised officer reasonably believes a person—

- (a) is committing an offence against this Act; or
- (b) has committed an offence against this Act.

(2) The authorised officer may give the person a notice (a “**compliance notice**”) requiring the person to—

- (a) stop committing the offence; or
- (b) stop committing the offence and rectify the matter; or
- (c) rectify the matter.

(3) The compliance notice must state—

- (a) that the authorised officer believes the person—
 - (i) is committing an offence against this Act; or

-
- (ii) has committed an offence against this Act; and 1
- (b) the offence the authorised officer believes is being, or has been, 2
committed; and 3
- (c) briefly, how it is believed the offence is being, or has been 4
committed; and 5
- (d) if the notice requires the person to rectify a matter— 6
- (i) the matter the authorised officer believes is reasonably 7
capable of being rectified; and 8
- (ii) the reasonable steps the person must take to rectify the 9
matter; and 10
- (iii) the stated reasonable period in which the person must take 11
the steps. 12
- (4) The person must comply with the compliance notice unless the 13
person has a reasonable excuse. 14
- Maximum penalty—300 penalty units. 15
- (5) If the person does, or does not do, something in contravention of the 16
compliance notice, the authorised officer may take any reasonable action to 17
stop the contravention. 18
- (6) Any reasonable cost or expense incurred by the authorised officer in 19
doing anything under subsection (5) may be recovered as a debt owing to 20
Safe Food by the person if the person is convicted of the offence mentioned 21
in subsection (3)(b). 22
- (7) If the compliance notice requires the person to rectify a matter relating 23
to an offence against this Act, the person can not be prosecuted for the 24
offence if the person rectifies the matter within the period stated in the 25
notice. 26

Division 2—Other enforcement provisions 27

Restraining orders 28

- 119.(1)** Safe Food may bring a proceeding in the District Court for an 29
order to restrain a person from continuing or repeating a particular activity. 30

(2) The court may make an order under subsection (1) if satisfied—	1
(a) the person will commit an offence against this Act if the person continues or repeats the activity; and	2 3
(b) the activity may adversely affect the health of persons or animals.	4
(3) If a person fails to comply with an order under this section, the person commits an offence against this subsection.	5 6
Maximum penalty for subsection (3)—1 000 penalty units.	7
Notice of damage	8
120.(1) This section applies if—	9
(a) an authorised officer damages property when exercising or purporting to exercise a power; or	10 11
(b) a person (the “ other person ”) acting under the direction or authority of an authorised officer damages property.	12 13
(2) The authorised officer must immediately give notice of particulars of the damage to the person who appears to the authorised officer to be the owner of the property.	14 15 16
(3) If the authorised officer believes the damage was caused by a latent defect in the property or circumstances beyond the authorised officer’s, or other person’s, control, the authorised officer may state the belief in the notice.	17 18 19 20
(4) If, for any reason, it is impracticable to comply with subsection (2), the authorised officer must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.	21 22 23
(5) This section does not apply to damage the authorised officer reasonably believes is trivial.	24 25
(6) In this section—	26
“ owner ”, of property, includes the person in possession or control of it.	27
Compensation	28
121.(1) A person may claim compensation from Safe Food if the person	29

Food Production (Safety)

- incurs loss or damage because of the exercise or purported exercise of a power under this part. 1
2
- (2) Without limiting subsection (1), compensation may be claimed for loss or damage incurred in complying with a requirement made of the person under this part. 3
4
5
- (3) Compensation may be claimed and ordered to be paid in a proceeding— 6
7
- (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or 8
9
- (b) for an offence against this Act brought against the person claiming compensation. 10
11
- (4) A court may order compensation to be paid only if satisfied it is just to make the order in the circumstances of the particular case. 12
13

Division 3—Offences 14**False or misleading statements** 15

122.(1) A person must not state anything to an authorised officer that the person knows is false or misleading in a material particular. 16
17

Maximum penalty—60 penalty units. 18

(2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was, without specifying which, false or misleading. 19
20
21

False or misleading documents 22

123.(1) A person must not give an authorised officer a document containing information that the person knows is false or misleading in a material particular. 23
24
25

Maximum penalty—60 penalty units. 26

(2) In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, false or misleading. 27
28

Obstructing an authorised officer

124.(1) A person must not obstruct an authorised officer in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(2) If a person has obstructed an authorised officer and the authorised officer decides to proceed with the exercise of the power, the authorised officer must warn the person that—

- (a) it is an offence to obstruct the authorised officer, unless the person has a reasonable excuse; and
- (b) the authorised officer considers the person’s conduct an obstruction.

(3) In this section—

“**obstruct**” includes assault, hinder and threaten, and attempt to obstruct.

Impersonation of authorised officer

125. A person must not pretend to be an authorised officer.

Maximum penalty—80 penalty units.

PART 9—APPEALS**Who may appeal**

126. The following persons (an “**appellant**”) may appeal to a Magistrates Court under this part against the decisions mentioned in relation to the person—

- (a) a person whose application for accreditation, or renewal of an accreditation, under part 5 has been granted subject to a condition or refused;
- (b) a person whose accreditation is amended, suspended or cancelled under section 53(4);

-
- (c) a person whose application for approval, or renewal of an approval, as an auditor under part 6 has been granted subject to a condition or refused; 1
2
3
- (d) a person whose approval as an auditor is amended, suspended or cancelled under section 68(4).¹² 4
5

Starting appeal 6

127.(1) An appeal is started by— 7

- (a) filing a written notice of appeal with the clerk of a Magistrates Court; and 8
9
- (b) giving a copy of the notice to Safe Food. 10

(2) The notice must be filed within 28 days after the appellant receives notice of the decision appealed against. 11
12

(3) The court may at any time extend the period for filing the notice of appeal. 13
14

Stay of operation of decisions 15

128.(1) The Magistrates Court may stay a decision appealed against to secure the effectiveness of the appeal. 16
17

(2) A stay— 18

- (a) may be given on conditions the court considers appropriate; and 19
- (b) has effect for the period fixed by the court; and 20
- (c) may be revoked or amended by the court. 21

(3) The period of the stay must not extend past the time when the court decides the appeal. 22
23

(4) The appeal affects the decision or carrying out of the decision only if the decision is stayed. 24
25

¹² Sections 53 (Amendment, suspension or cancellation—procedure) and 68 (Amendment, suspension or cancellation—procedure)

Hearing procedures

129.(1) The procedure for an appeal to the Magistrates Court is to be under—

- (a) the rules of court applicable to the appeal; or
- (b) in the absence of relevant rules—directions of the court.

(2) The appeal is by way of rehearing.

(3) In deciding the appeal, the court—

- (a) is not bound by the rules of evidence; and
- (b) must observe natural justice.

Powers of court on appeal

130.(1) In deciding an appeal, the Magistrates Court may—

- (a) confirm the decision appealed against; or
- (b) vary the decision; or
- (c) set aside the decision and substitute another decision; or
- (d) set aside the decision and return the matter to Safe Food with directions the court considers appropriate.

(2) The decision as varied or substituted may be any decision that Safe Food may make.

(3) If the court substitutes another decision, the substituted decision is, for the purposes of this Act other than this part, taken to be the decision of Safe Food.

(4) The court may make an order for costs it considers appropriate.

Appeal to District Court on questions of law only

131.(1) A party dissatisfied by the decision of the Magistrates Court may appeal to the District Court, but only on a question of law.

(2) On hearing the appeal, the District Court may make an order for costs it considers appropriate.

PART 10—MISCELLANEOUS

Review of Act

132.(1) The Minister must review this Act within 6 years after the date of assent to decide whether the provisions remain appropriate.

(2) The Minister must, as soon as practicable after finishing the review, table a report about the outcome of the review in the Legislative Assembly.

Protecting authorised persons and other persons from liability

133.(1) An authorised officer or a person acting under direction of an authorised officer is not civilly liable for an act done, or an omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability from attaching to a person, the liability instead attaches to Safe Food.

Summary proceedings for offences

134.(1) A proceeding for an offence against this Act is to be taken in a summary way under the *Justices Act 1886*.

(2) The proceeding must start—

- (a) within 1 year after the offence is committed; or
- (b) within 6 months after the commission of the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

Regulation-making power

135.(1) The Governor in Council may make regulations under this Act.

(2) Without limiting subsection (1), a regulation may be made about any matter for which provision may be made by a food safety scheme.

(3) A regulation may impose a penalty of not more than 50 penalty units for a contravention of a provision of a regulation.

PART 11—TRANSITIONAL PROVISIONS

Definitions for pt 8

136. In this part—

“**commencement**” means the commencement of the section in which it appears.

“**Queensland Livestock and Meat Authority**” means the Queensland Livestock and Meat Authority established under the *Meat Industry Act 1993*.

Dissolution of Queensland Livestock and Meat Authority

137.(1) On the commencement—

- (a) the Queensland Livestock and Meat Authority is dissolved; and
- (b) the administrator of the Queensland Livestock and Meat Authority appointed under the *Meat Industry Act 1993*, part 7A, goes out of office.

(2) No compensation is payable to the administrator because of subsection (1)(b).

Transfer of assets and liabilities

138. The assets and liabilities of the Queensland Livestock and Meat Authority are transferred to Safe Food and become assets and liabilities of Safe Food.

Administrator becomes chief executive officer of Safe Food

139.(1) The administrator of the Queensland Livestock and Meat Authority immediately before the commencement becomes the chief executive officer of Safe Food.

(2) The administrator—

- (a) is taken to be appointed as the chief executive officer by the

Minister under section 18(1); ¹³ and	1
(b) holds office on the conditions not provided for by this Act that are decided by the Minister.	2 3
(3) The term of the appointment ends on 2 November 2000.	4
Employees	5
140.(1) A person employed by the Queensland Livestock and Meat Authority (the “ former employer ”) immediately before the commencement becomes an employee of Safe Food.	6 7 8
(2) Subsection (1) does not—	9
(a) constitute a redundancy or retrenchment of the person’s employment by the former employer; or	10 11
(b) entitle the person to a benefit or payment merely because the person is no longer employed by the former employer; or	12 13
(c) interrupt the person’s continuity of service.	14
(3) For the Industrial Relations Act, the person’s period of employment with the former employer is taken to be an equivalent period of employment with Safe Food.	15 16 17
(4) Subject to the Industrial Relations Act, the person has the same employment rights against Safe Food that the person had against the former employer immediately before the commencement.	18 19 20
(5) If an industrial instrument under the Industrial Relations Act bound the person and the former employer immediately before the commencement, it binds the person and Safe Food.	21 22 23
(6) In this section—	24
“ employment rights ” includes existing and accruing rights to—	25
(a) remuneration; and	26
(b) recreation, long service, sick or other leave; and	27

¹³ Section 18 (Appointment of chief executive officer)

(c) superannuation or other benefits and entitlements. 1

“**Industrial Relations Act**” means the *Industrial Relations Act 1999*. 2

PART 12—REPEAL AND AMENDMENT OF ACTS 3

Division 1—Repeal of Dairy Industry Act 1993 4

Repeal 5

141. The *Dairy Industry Act 1993* is repealed. 6

Division 2—Amendment of Agricultural Standards Act 1994 7

Act amended in div 2 8

142. This division amends the *Agricultural Standards Act 1994*. 9

Amendment of s 74 (Review of Act) 10

143.(1) Section 74(2), ‘5 years’— 11

omit, insert— 12

‘7 years’. 13

(2) Section 74(3), ‘5 year’— 14

omit, insert— 15

‘7 year’. 16

Division 3—Amendment of Meat Industry Act 1993 17

Act amended in div 3 18

144. This division amends the *Meat Industry Act 1993*. 19

Replacement of s 3 (Objectives of Act)	1
145. Section 3—	2
<i>omit, insert—</i>	3
‘Main objective	4
‘ 3. The main objective of this Act is to ensure the wholesomeness and integrity of meat are maintained.’.	5
	6
Amendment of s 4 (Definitions)	7
146. Section 4, definition, “ authority ”—	8
<i>omit, insert—</i>	9
‘ “authority” means—	10
(a) before the commencement of section 166A ¹⁴ —the former Queensland Livestock and Meat Authority established under this Act; or	11
	12
	13
(b) on or after the commencement of section 166A—Safe Food Production QLD established under the <i>Food Production (Safety) Act 2000</i> .’.	14
	15
	16
Omission of pt 2 (Ministerial advisory bodies)	17
147. Part 2—	18
<i>omit.</i>	19
Omission of pt 3, div 1 (Establishment of authority)	20
148. Part 3, division 1—	21
<i>omit.</i>	22

¹⁴ Section 166A (Safe Food taken to be the authority)

Amendment of s 24 (Functions)	1
149. Section 24(3)—	2
<i>omit, insert—</i>	3
‘(3) The authority must also perform other functions given to it under this Act or another Act.’	4 5
Omission of pt 3, divs 3–5	6
150. Part 3, divisions 3 to 5—	7
<i>omit.</i>	8
Amendment of pt 3, div 6 (Staff)	9
151.(1) Part 3, division 6, heading—	10
<i>omit, insert—</i>	11
‘ <i>Division 6—Chief meat officer</i> ’.	12
Omission of ss 39–40	13
152. Sections 39 and 40—	14
<i>omit.</i>	15
Amendment of s 41 (Chief meat officer)	16
153. Section 41(1), ‘also’—	17
<i>omit.</i>	18
Omission of s 42 (Acting chief meat officer)	19
154. Section 42—	20
<i>omit.</i>	21

Omission of ss 43–45	1
155. Sections 43 to 45—	2
<i>omit.</i>	3
Omission of s 47 (Parliamentary Commissioner Act 1974 not to apply to certain decisions)	4
156. Section 47—	5
<i>omit.</i>	6
Amendment of s 70 (Standards)	7
157. Section 70(1), ‘parts 2, 6 and 7’—	8
<i>omit, insert—</i>	9
‘parts 6 and 7’.	10
Omission of s 163 (Review of Act)	11
158. Section 163—	12
<i>omit.</i>	13
Insertion of new pt 8A	14
159. After section 166—	15
<i>insert—</i>	16
‘ PART 8A—TRANSITIONAL PROVISIONS FOR	17
FOOD PRODUCTION (SAFETY) ACT 2000	18
‘ Safe Food taken to be the authority	19
‘ 166A.(1) On the commencement of this section, Safe Food stands in the	20
place of the former Queensland Livestock and Meat Authority for all	21
purposes of this Act.	22
‘ (2) A reference in this Act, another Act or a document, to the authority	23
	24

must, if the context permits, be taken to be a reference to Safe Food. 1

‘(3) In this section— 2

“**Safe Food**” means Safe Food Production QLD established under the 3

Food Production (Safety) Act 2000. 4

‘**Administrator continues in office** 5

‘**166B.(1)** This section applies despite the expiry of part 7A.¹⁵ 6

‘(2) For all purposes of this Act, the person appointed as the 7
administrator under part 7A is taken to have continued to be the authority 8
from the expiry of the part. 9

‘(3) The administrator must, within 28 days after the commencement of 10
this section, give the Minister a final report on the administration, including 11
details of any directions given by the Minister to the administrator. 12

‘(4) The Minister must table the report in the Legislative Assembly 13
within 14 sitting days after receiving it.’. 14

Amendment of s 167 (Expiry of Act) 15

160. Section 167, ‘1 January 2001’— 16

omit, insert— 17

‘1 January 2002’. 18

19

¹⁵ Part 7A (Administrator) expired on 5 December 1999

SCHEDULE	1
DICTIONARY	2
section 7	3
“accreditation” means an accreditation granted under part 5.	4
“advisory committee” see section 25.	5
“approval” means an approval granted under part 6.	6
“auditor” means an individual approved as an auditor under part 6.	7
“authorised officer” means a person appointed as an authorised officer under section 83.	8 9
“dairy produce” see section 8.	10
“food” means a substance ordinarily consumed, or intended for consumption, by humans or animals.	11 12
“food safety scheme” means a food safety scheme made under section 39.	13
“holder” —	14
(a) of an accreditation, means the person to whom the accreditation is granted; or	15 16
(b) of an approval, means the person to whom the approval is granted.	17 18
“meat” see section 9.	19
“meat processing” means—	20
(a) the killing of animals for meat; or	21
(b) anything done to a killed animal, or part of a killed animal, to produce meat; or	22 23
(c) the preparation or display of meat for retail sale.	24
“owner” , for part 8, division 1, subdivision 5, see section 98.	25

 SCHEDULE (continued)

“place” includes—	1
(a) land or premises; and	2
(b) a vehicle.	3
“premises” includes—	4
(a) a building or structure, or part of a building or structure; and	5
(b) land on which a building or structure is situated.	6
“primary produce” see section 10.	7
“production of primary produce” see section 11.	8
“public place” means a place the public is entitled to use, open to the public or used by the public, whether or not on payment of an amount.	9 10
“Safe Food” see section 13(1).	11
“seafood” means any of the following intended for human or animal consumption—	12 13
(a) marine, estuarine or freshwater fish or other aquatic animals;	14
(b) aquatic plants.	15
“sell” includes the following—	16
(a) barter or exchange;	17
(b) offer or agree to sell;	18
(c) invite to treat or expose for sale;	19
(d) cause or permit to be sold;	20
(e) supply under a lease, exchange, hiring or other commercial arrangement.	21 22
“smallgoods” means—	23
(a) dried meat; or	24
<i>Example of ‘dried meat’—</i>	25
Beef jerky.	26

SCHEDULE (continued)

(b) uncooked and fermented minced meat products; or	1
<i>Example for paragraph (b)—</i>	2
Salami.	3
(c) cooked offal or minced meat products; or	4
<i>Examples for paragraph (c)—</i>	5
1. Chicken liver pâté.	6
2. Luncheon sausage.	7
(d) cooked whole meat products.	8
<i>Example for paragraph (d)—</i>	9
Ham.	10
(e) bacon.	11
“supply” includes the following—	12
(a) distribute, give or sell;	13
(b) offer or agree to distribute, give or sell;	14
(c) cause or permit to be distributed, given or sold;	15
(d) attempt to supply or do an act mentioned in paragraphs (a) to (c).	16
“unsafe” , for primary produce, means—	17
(a) if the primary produce is ready for immediate consumption—the	18
primary produce, or food produced by a process involving a	19
substantial change to the primary produce, is likely to cause harm	20
to a person who consumes the primary produce or food if it is	21
prepared, stored or consumed according to its reasonable intended	22
use; or	23
(b) if the primary produce is not ready for immediate	24
consumption—food produced by the production of the primary	25
produce, or another process involving a substantial change to the	26
primary produce, is likely to cause harm to a person who	27
consumes the food if it is prepared, stored or consumed according	28
to its reasonable intended use.	29

SCHEDULE (continued)

“vehicle” means anything used for carrying anything or any person by land,
water or air.

1
2