



Queensland

# Food Amendment Bill 2006





Queensland

# Food Amendment Bill 2006

## Contents

---

|   |  | Page |
|---|--|------|
| 1 | Short title .....  | 4    |
| 2 | Act amended .....  | 4    |
| 3 | Insertion of new ch 11, pt 3A .....                              | 4    |
|   | Part 3A Suspected intentional contamination of food              |      |
|   | 271A Definitions for pt 3A .....                                 | 4    |
|   | 271B Reporting suspected intentional contamination of food ..... | 5    |
|   | 271C Potentially contaminated food must not be disposed of ..... | 6    |
|   | 271D Chief executive may give direction .....                    | 6    |
| 4 | Amendment of sch 3 (Dictionary) .....                            | 7    |



**2006**

---

**A Bill**

for

**An Act to amend the *Food Act 2006***

---

---

|   |  |                      |
|---|--|----------------------|
| <b>The Parliament of Queensland enacts—</b> | 1  |                      |
| <b>Clause 1</b>                             | <b>Short title</b>   | 2                    |
|   | This Act may be cited as the <i>Food Amendment Act 2006</i> .  | 3                    |
| <b>Clause 2</b>                             | <b>Act amended</b>   | 4                    |
|   | This Act amends the <i>Food Act 2006</i> .   | 5                    |
| <b>Clause 3</b>                             | <b>Insertion of new ch 11, pt 3A</b>   | 6                    |
|   | Chapter 11—  | 7                    |
|   | <i>insert—</i>   | 8                    |
| <b>‘Part 3A</b>                             | <b>Suspected intentional<br/>contamination of food</b>   | 9<br>10              |
| <b>‘271A</b>                                | <b>Definitions for pt 3A</b>   | 11                   |
|   | ‘In this part—   | 12                   |
|   | <i>intentional contamination</i> , of food, means contamination of<br>the food by a person who intends to contaminate the food,<br>including by adding, mixing or putting a deleterious or<br>poisonous substance into the food. | 13<br>14<br>15<br>16 |
|   | <i>potentially contaminated food</i> see section 271C(1)(a).   | 17                   |
|   | <i>responsible person</i> , for a food business, means—  | 18                   |
|   | (a) if the food business is carried on by a licensee—the<br>licensee; or   | 19<br>20             |
|   | (b) otherwise—   | 21                   |
|   | (i) if the food business is carried on by an entity that is<br>not a non-profit organisation—the proprietor of the<br>food business; or  | 22<br>23<br>24       |
|   | (ii) if the food business is carried on by a non-profit<br>organisation that is a corporation—the corporation;<br>or   | 25<br>26<br>27       |

|   |                      |
|---|----------------------|
| (iii) if the food business is carried on by a non-profit organisation that is an unincorporated entity—the chairperson, manager or other governing officer of the entity.   | 1<br>2<br>3<br>4     |
| <b>‘271B Reporting suspected intentional contamination of food</b>  | <b>5<br/>6</b>       |
| ‘(1) This section applies if the responsible person for a food business reasonably suspects food sold, or intended for sale, in the course of carrying on the food business has been intentionally contaminated.    | 7<br>8<br>9<br>10    |
| ‘(2) The responsible person must, unless the person has a reasonable excuse, orally notify the chief executive of the suspected intentional contamination immediately after first forming the reasonable suspicion. | 11<br>12<br>13<br>14 |
| Maximum penalty—200 penalty units.  | 15                   |
| ‘(3) It is not a reasonable excuse for the person not to comply with subsection (2) that complying with the subsection might tend to incriminate the person.  | 16<br>17<br>18       |
| ‘(4) However, subject to subsection (5), if the person is an individual, the following is not admissible in evidence against the person in any civil or criminal proceeding—  | 19<br>20<br>21       |
| (a) information given to the chief executive by the person under subsection (2) about the suspected intentional contamination ( <i>primary evidence</i> );  | 22<br>23<br>24       |
| (b) any information, or document or other thing, obtained as a direct or indirect result of primary evidence ( <i>derived evidence</i> ).   | 25<br>26<br>27       |
| ‘(5) Subsection (4) does not prevent primary evidence or derived evidence being admitted in evidence against the person—  | 28<br>29             |
| (a) in criminal proceedings about the falsity or misleading nature of the primary evidence; or  | 30<br>31             |
| (b) in a proceeding against the person for an offence against section 271C(2) or 271D(6).   | 32<br>33             |

|  |    |
|--|----|
| <b>‘271C Potentially contaminated food must not be disposed of</b>   | 1  |
|  | 2  |
| ‘(1) This section applies if—  | 3  |
| (a) the responsible person for a food business reasonably suspects food sold, or intended for sale, in the course of carrying on the food business has been intentionally contaminated (the <i>potentially contaminated food</i> ); and              | 4  |
|  | 5  |
|  | 6  |
|  | 7  |
| (b) when the responsible person first forms the reasonable suspicion, not all of the potentially contaminated food has been sold or otherwise disposed of.   | 8  |
|  | 9  |
|  | 10 |
| ‘(2) The responsible person must, unless the person has a reasonable excuse, ensure all of the potentially contaminated food not already sold or otherwise disposed of when the person first forms the reasonable suspicion is not disposed of.      | 11 |
|  | 12 |
|  | 13 |
|  | 14 |
| Maximum penalty—200 penalty units.   | 15 |
| ‘(3) The requirement under subsection (2) stops applying if the responsible person is given a direction under section 271D(2) about disposal of the potentially contaminated food.   | 16 |
|  | 17 |
|  | 18 |
| <br>   |    |
| <b>‘271D Chief executive may give direction</b>  | 19 |
| ‘(1) This section applies if the responsible person for a food business gives the chief executive notice under section 271B.   | 20 |
|  | 21 |
| ‘(2) The chief executive may give the responsible person a reasonable direction about identifying the source of the contamination of, and preventing or minimising the risk to public health or safety caused by, the potentially contaminated food. | 22 |
|  | 23 |
|  | 24 |
|  | 25 |
|  | 26 |
| ‘(3) Without limiting subsection (2), the direction may be about—  | 27 |
| (a) the handling of—   | 28 |
| (i) the potentially contaminated food; or  | 29 |
| (ii) food that may have been handled with or near the potentially contaminated food, or at a place or using equipment that may have come into contact with the potentially contaminated food; or   | 30 |
|  | 31 |
|  | 32 |
|  | 33 |



*Food Amendment Bill 2006*

---

- |  |              |
|--|--------------|
| (b) the isolation or disposal of food mentioned in paragraph (a); or   | 1<br>2       |
| (c) procedures to be performed in relation to testing of the potentially contaminated food.  | 3<br>4       |
| ‘(4) The direction may be given orally or by notice.   | 5            |
| ‘(5) If the direction is given orally, the chief executive must as soon as practicable confirm the direction by notice.                            | 6<br>7       |
| ‘(6) A responsible person who is given a direction under subsection (2) must comply with the direction, unless the person has a reasonable excuse. | 8<br>9<br>10 |
| Maximum penalty—200 penalty units.’.   | 11           |

|                 |  |          |
|-----------------|--|----------|
| <b>Clause 4</b> | <b>Amendment of sch 3 (Dictionary)</b>   | 12       |
|                 | Schedule 3—  | 13       |
|                 | <i>insert—</i>   | 14       |
|                 | ‘ <i>intentional contamination</i> , for chapter 11, part 3A, see section 271A.                | 15<br>16 |
|                 | <i>potentially contaminated food</i> , for chapter 11, part 3A, see section 271C(1)(a).        | 17<br>18 |
|                 | <i>reasonably suspects</i> means suspects on grounds that are reasonable in the circumstances. | 19<br>20 |
|                 | <i>responsible person</i> , for chapter 11, part 3A, see section 271A.’.                       | 21<br>22 |