

Queensland



Regulatory Impact Statement for SL 2002 No. 353

Food Production (Safety) Act 2000

FOOD PRODUCTION (SAFETY) REGULATION 2002

TITLE

Food Production (Food Safety Scheme for Meat) Regulation 2002

INTRODUCTION

This Regulatory Impact Statement (RIS) outlines a proposal for a new regulation dealing with food safety requirements for meat and meat products produced in Queensland.

The development of significant subordinate legislation in Queensland requires the preparation of a RIS in accordance with the *Statutory Instruments Act 1992*. The purpose of a RIS is to explain to the community the need for subordinate legislation and to set out the benefits and costs that would flow from its adoption.

Also, the Queensland Government is a party to the *Competition Principles Agreement* agreed to by the Council of Australian Governments (COAG) in 1995 (amended in 2000). The guiding principle¹ of this agreement is that legislation should not restrict competition unless it can be demonstrated that—

- the benefits of the restriction to the community as a whole outweigh the costs; and

1 Clause 5 of the Competition Principles Agreement

- the objectives of the legislation can only be achieved by restricting competition.

In keeping with this agreement, this RIS also addresses these issues. The Queensland Government invites you to participate in the development of the proposed regulation by commenting on any of the information presented in the RIS.

BACKGROUND

The purpose of this agreement is to ensure that Government, through appropriate regulatory controls, addresses food safety as a core requirement in food production, processing, handling, transport and marketing.

Safe Food Production Queensland (SFPQ) [established under the *Food Production (Safety) Act 2000* (FPS Act)] is a Queensland Government initiative to implement the National Inter-Governmental Agreement on food regulation. COAG agreed on 3 November 2000 to implement a co-operative national system of food regulation.

The FPS Act provides a framework to develop and implement co-regulatory preventative food safety regimes called Food Safety Schemes.

These Schemes will be implemented through close co-operation between Government agencies and businesses engaged in the food industry.

These Schemes will provide a consistent approach with the national food safety legislation. For example, the Food Safety Schemes will adopt the principles of the Model Food legislation and standards developed by the Australia New Zealand Food Authority (ANZFA) and to be developed by a new agency, Food Standards Australia New Zealand (FSANZ).

Further, Food Safety Schemes will need to incorporate provisions relating to licensing and other compliance requirements, which are pursuant to the model food provision and are required to give effect to the COAG Inter-Governmental Agreement on Food Regulation of November 2000 (IGA).

The Queensland Government, as a consequence of the Commonwealth Government's 1997–1998 Review of Food Regulation (usually termed the

‘Blair Food Review’) and the reforms that have subsequently occurred at the national level, approved a new regulatory system for food safety on 7 September 1999. This system replaced end-point inspection of product with preventative measures such as quality assurance systems for ensuring safety and hygiene in the production, processing and marketing chain.

The new system assigns food safety responsibilities for parts of the food supply chain between the portfolios of Primary Industries and Health.

The Primary Industries portfolio is responsible for food hygiene and safety in the production, processing, handling and transport of food products from the source (e.g. farm and boat) through to the point where products enter either the manufacturing or retail sectors. Animal and plant disease and chemical residue issues are to be addressed by Primary Industries whilst further processing and retail sale (other than for meat or pet food) are Queensland Health’s responsibility.

SFPQ is responsible for the development and implementation of food safety schemes to minimise the food safety risk associated with the production of primary produce and to ensure that it is carried out in a way that makes it fit for human consumption and that maintains quality.

Queensland Health’s portfolio responsibility connects with the Primary Industries portfolio (SFPQ) responsibility to provide continuity of controls throughout the food chain. At-source processing and transformation (e.g. manufacturing) that alters the health risk also comes under the Health portfolio. The exceptions to this are red and white meats. These industry sectors remain under regulatory arrangements administered by SFPQ.

The requirements specified under this scheme will seek to ensure consistency of approach with—

- the ANZFA Food Safety Standards
- the food safety and preventative health systems being developed by Queensland Health
- Australian standards for meat hygiene
- Australian standards for design, construction and fit-out of food premises
- Australia New Zealand Food Standards Code.

Under the Food Safety Scheme developed pursuant to the FPS Act, either the minimum requirements of the Food Safety Standards will be met or equivalent outcomes will be achieved. This provides scope for innovation and flexibility in achieving regulatory requirements.

The proposed Food Safety Scheme for Meat, under the FPS Act, encompasses, and expands upon, the regulatory responsibilities currently under the *Meat Industry Act 1993*.

The scope of the proposed Food Safety Scheme for Meat is outlined under the heading 'Legislative Intent' (page 6).

The proposed Food Safety Scheme for Meat basically covers those areas not otherwise managed in Queensland under the National Model Food legislation, for example, the processing of animals for meat and pet food. The proposed Food Safety Scheme for Meat adopts the principles in the Australian Meat Standards and is harmonised, where practicable, with export requirements.

The implementation of this Scheme will achieve a seamless through-chain approach for the regulatory management of food safety risks in the Queensland meat industry. This approach will be based on a risk profile of the industry with the Scheme targeting appropriate areas of control to minimise food safety risks to consumers.

PROPOSED LEGISLATION

BACKGROUND

The regulatory approach is based on the internationally accepted model of risk analysis and its components, that is, risk assessment, risk management and risk communication.

In Queensland, the FPS Act establishes SFPQ and provides for the regulation of food safety relating to the production of primary produce.

The requirements of the Food Safety Scheme for Meat fall within the objectives of the FPS Act. The relevant objectives set out in Section 3 of the FPS Act are—

- to ensure that the production of primary produce is carried out in a way that makes the primary produce fit for human or animal consumption and maintains food quality
- to produce food safety measures for the production of primary produce consistent with other State laws relating to food safety.

This proposed new regulation, the 'Food Safety Scheme for Meat', seeks to maintain and enhance the food safety regimes adopted under the *Meat Industry Act 1993*. The proposed regulation will capture the existing meat

safety requirements and will introduce revised arrangements to reflect the recently agreed national requirements (Standards) for food safety. The proposed regulation is risk and evidence-based and incorporates risk analysis. When the food safety risks warrant, the regulation will provide for the accreditation of people engaged in the production of primary products and the transportation, manufacturing/processing of primary products. Compliance with regulations will require each accreditation holder to develop their own science-based, risk management programs. These programs will include critical limits for each hazard and effective preventative measures that can be used by industry to control or eliminate hazards and to produce safe food on a consistent basis.

Provisions of the proposed Meat Scheme reflect the principles embodied in the recently adopted harmonised National Standards for red meat.

POLICY OBJECTIVES

The primary objective of the proposed regulation is—

“to ensure, with an acceptable level of risk, that safe, wholesome meat and meat products are supplied to meat consumers by Queensland meat processors, transporters and retailers to minimise the risk of serious food-borne illness, which could potentially result in the loss of human life. This is achieved by maintaining the level of control over the physical, microbiological and contamination status of meat and meat products—currently regulated by the *Meat Industry Act 1993*.”

At the same time, the regulation proposes to minimise the cost of regulatory activities to the meat industry, and the economy as a whole, by ensuring that the regulatory system imposed will be straightforward for industry to apply, equitable, consistent with the other States, efficient and flexible. Referencing National Standards removes the need for detail and a high level of prescription in the regulation and aids in achieving national consistency. Compliance with the regulation is aimed at small, medium and large businesses and flexibility is built into the Scheme to allow a flexible approach to meeting regulatory requirements.

SFPQ will oversight implementation of the regulation by—

- accrediting the persons involved in the production of meat and meat products and the transportation, manufacturing/processing of meat and/or meat products, and in the case of raw meat, the retail sale of the product under the Scheme

- managing the implementation of Food Safety Schemes for production of primary products under the Scheme
- supervising food safety auditing under the Scheme
- an enforcement role if industry compliance is inappropriate or fails.

LEGISLATIVE INTENT

The proposed Food Safety Scheme for Meat supports the primary objectives of the FPS Act.

The Food Safety Scheme is to apply to meat and smallgoods intended for human consumption or animal consumption. The reason why separate reference to smallgoods is made is that meat, as defined under Section 9 of the FPS Act, does not include smallgoods. The FPS Act includes smallgoods within the definition of primary produce. Smallgoods are defined as—

- (a) dried meat; or
- (b) uncooked and fermented minced meat products; or
- (c) cooked offal or minced meat products; or
- (d) cooked wholemeat products; or
- (e) bacon.

At this stage, the proposed Food Safety Scheme for meat will apply to smallgoods/production. At some future point it is expected that Queensland Health will assume responsibility for regulation of smallgoods.

Aspects of production Not initially covered under this Scheme

Although the scope of the FPS Act intends that a Food Safety Scheme for Meat is to extend to regulation of the production of primary produce from paddock to plate, the Scheme for meat will not include, at this stage, the following activities—

- the growing, transportation and delivery of feedstuffs for animals to be slaughtered for meat
- the growing of animals for slaughter
- the selling of livestock through saleyards

- the transportation of livestock for slaughter
- retail operators (corner stores) who sell only pre-packaged meat, provided the meat is sold in the pre-packaged state in which it was initially purchased from accredited premises. However, if the package is opened, re-wrapped, defrosted or the retailer attempts to sell it other than in the packaged form as delivered from accredited premises, the Scheme will apply
- those people who slaughter animals for their own consumption and who do not sell the product to another party.

Some of these activities may be included in the Scheme by amending the regulation in the future. If such amendments are proposed, a further RIS will be issued before the amendments are made, so as to allow for proper public consultation.

Aspects of primary production covered under the Scheme include—

- the slaughtering of animals intended for human consumption or for animal consumption, e.g. abattoirs (red and white meat) including slaughterhouses and knackeries, harvesting of wild game, pet food and rendering
- the dressing of carcasses and the processing (including boning, chilling, freezing and packaging) and further processing of meat
- transportation of raw meat
- the storage/wholesale of raw meat
- processing of raw meat and smallgoods
- retailing of raw meat (includes sausages)
- chemical and other residues in slaughtered animals
- the production, supply and sale of pet food.

Any person involved in the abovementioned activities will be required to submit a food safety program for these activities and be accredited by SFPQ.

Once approved by SFPQ, each accredited person will need to operate a food safety program in compliance with the Scheme and ensure audit requirements prescribed by SFPQ are met.

SFPQ will evaluate food safety programs (FSP) against the Scheme via a process of monitoring and auditing the compliance of the FSP against the

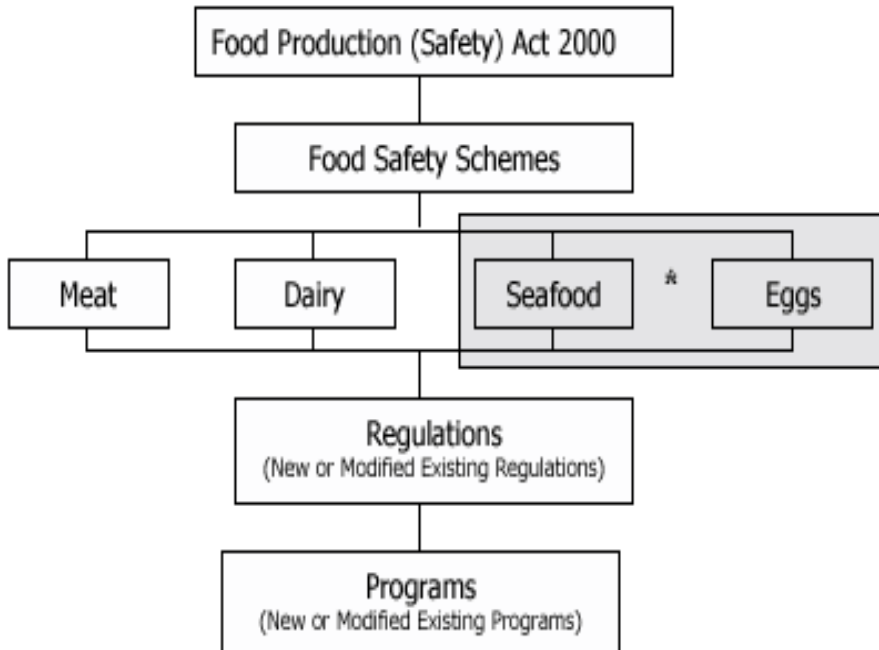
Scheme. It is the intention that SFPQ conduct these audits during the initial 12 months that the Food Safety Scheme is in place. After 12 months, accreditation holders will be able to engage a suitably qualified third party auditor to undertake this function through contestable arrangements. It is proposed that a compliance based incentive system be applied to audit frequency.

CONSISTENCY WITH THE AUTHORISING LAW

Section 39 of the FPS Act provides the head of power for the making of Food Safety Schemes. Section 39(5) of the FPS Act provides that a Food Safety Scheme is subordinate legislation.

CONSISTENCY WITH OTHER LEGISLATION

Food Safety Scheme coverage



* Proposed industry sectors in future, e.g. eggs, seafood

National legislation

Model Food Act 2000

Australia New Zealand Food Authority Act 1991

Imported Food Control Act 1981

Food Standards Code

Food Safety Standards

Queensland Legislation

Food Act 1981

The FPS Act is in addition to, and does not limit, the *Food Act 1981*. The Department of Health is responsible for the development, implementation, review and enforcement of provisions of the *Food Act 1981*. The *Food Standards Regulation 1994* adopts the Food Standards Code and is administered by the Department of Health while the *Food Hygiene Regulation 1989* is delegated to Local Government to administer. This arrangement changed on 1 January 2002, when the Food Standards Code was adopted directly under the *Food Act 1981*. The Food Hygiene Regulation deals with food hygiene and food safety in the food services, retail and manufacturing sectors.

Meat Industry Act 1993

The FPS Act makes a consequential amendment to the *Meat Industry Act 1993* to allow a transitional period during which existing meat standards under that Act will continue, thereby allowing time for the development of Food Safety Schemes to regulate meat and meat products. The FPS Act also provides for the eventual repeal of the *Meat Industry Act 1993*.

Agricultural Standards Act 1994

The FPS Act extends the period of review of the *Agricultural Standards Act 1994* to allow for the establishment of SFPQ and for the assessment of the interaction between the Food Safety Schemes and the *Agricultural Standards Act 1994*.

New South Wales Legislation

Food Production (Safety) Act 1998

The proposed Food Safety Scheme for Meat in Queensland under the FPS Act is consistent with, and is partially modeled upon, the arrangements for meat food safety schemes made under the NSW statute.

FUNDAMENTAL LEGISLATIVE PRINCIPLES

The *Legislative Standards Act 1992* outlines fundamental legislative principles, which require that legislation shall have sufficient regard to the rights and liberties of individuals and the institution of Parliament. The proposed regulation has sufficient regard to these principles.

NATIONAL COMPETITION POLICY

Principles

- Both in Australia, and internationally, there is a move to implement outcomes-oriented, preventative food safety standards based on the principles of risk—and evidence-based analysis. Governments and industry alike recognise the principle that ‘prevention is better than cure’ and that a risk-based approach to food safety assurance is the way of the future.
- Moving to third party auditing—promoting competition in the market place (e.g. first party auditing is conducted within the business, second party auditing is conducted by the Government and third party auditing is conducted by an auditor independent of both Government and the business).
- Applying COAG’s Inter-Governmental Agreement on Food Regulation (November 2000) national policy in the area of food safety.
- Participants, at all levels, are being treated the same, e.g. requirements are based on compliance with national food safety standards.
- Fees are applied equitably across the industry sectors.
- Industry is responsible for ensuring that their programs comply with the Scheme.
- The proposed regulations are not anti-competitive (i.e. no unreasonable restriction placed on new entrants).

RISK ANALYSIS

FOOD-BORNE ILLNESS

The Garibaldi food poisoning incident in South Australia (involving smallgoods) graphically demonstrated the impact that a food-borne illness outbreak can have on human health. Inappropriate hygiene practices at the Garibaldi plant led to contamination of salami with *enterohaemorrhagic E. coli*. Around 150 people experienced sickness, of whom 22 were hospitalised (20 children and two adults), some of whom will require long-term medical assistance, including dialysis and possible kidney replacements. A four-year old female died.

The Garibaldi incident followed a number of similar major incidents in the United States where a similar organism caused a number of deaths.

Apart from major events such as the Garibaldi incident, a number of other food-borne illnesses occur every year in Australia. The cost to Australia of all food-borne illness was last estimated by ANZFA² to be \$2.6b per annum. On a per capita basis, the cost to Queensland would be approximately \$600m per annum based on approximately 798,000 cases of food-borne illness per annum.

SOCIO-ECONOMIC COSTS OF FOOD-BORNE ILLNESS

Limited research has been undertaken into the socio-economic costs of food-borne illness in Australia. However, since many of the pathogens involved are widely distributed throughout the world, studies carried out overseas give some indication of the potential costs to Queensland of food-borne illness. Roberts (*Int J. Food Microbial*, 7.1 (1994) 117–129) estimated the cost of human *Salmonella* infection (one of the major food-borne illnesses associated with meat) for England and Wales in 1992 to be between £350m and £502m with an average cost per case of between £789 and £861. Studies carried out in the United States have found similar relative costs per case. Australia is currently conducting a project through OzFoodNet to identify the true incidences of food-borne illness in Australia. A flow-on from this project will be a cost/benefit analysis of food safety regulation in Australia.

While it is not possible to estimate equivalent per case costs in Australia, from the Garibaldi incident alone, Government costs for investigation and the coronial inquest exceeded \$1m, and the Garibaldi Company lost approximately \$3.8m through lost sales, becoming bankrupt as a consequence. Hospitalisation costs for the 22 people were substantial considering the severity of the illness and the need for ongoing medical care for a number of the patients.

The Australian smallgoods industry, and the red meat industry as a whole, suffered financial losses through reduced sales in domestic and overseas markets because consumers were unsure of meat safety. This example gives a clear indication of the costs associated with a single food-borne illness, in terms of the social cost of lost human lives and

2 ANZFA, 1999 Food Safety Standards: Costs and Benefits Cwth of Aust: 35

lifetime illness and the financial cost to the Government and the industry involved.

Food safety in the domestic market has a direct effect on the acceptance of meat by importing countries. Australia currently exports meat to over 130 countries worldwide. Export meat trade brings \$5.8b to the Australian economy each year, with approximately \$2.7b to Queensland.

THE MARKET FAILURE—WHY SHOULD THE GOVERNMENT INTERVENE?

It is accepted by the community that there is a need and an obligation for the Government to intervene in this industry to seek to ensure food safety, and safeguard public health. There is a clear risk of market failure that without correction would lead to major social and economic costs being imposed on the community.

Contamination of meat from substances such as animal urine, hair and faeces can usually be seen or smelt, and consumers have a means by which to protect themselves by rejecting the meat at the point of sale. However, the most common contaminants and those most potentially dangerous to human health, bacteria such as *Escherichia coli*, *Clostridium perfringens* and *Salmonella* are not detectable by visual or olfactory appraisal, except in very exceptional cases, nor is it economically feasible to test and report on the presence and levels of these bacteria at the retail stage.

It is generally impossible for a consumer who experiences a food-borne illness to identify the source of the potential problem because they are often unable to link the illness to consumption of a particular product. Incubation periods for human pathogens range from 12 to 72 hours, making it difficult to pinpoint the food that is contaminated and which actually caused the illness.

Industry self-regulation can be difficult and complicated where end-point consumers cannot associate product directly with the producer.

Even in the instance where a consumer can actually identify the product responsible, they would be unable to determine the actual processor of the product. Abattoir meat is not usually retailed as branded product, being primarily generic. As a consequence, any failure of an individual operator to produce safe meat usually cannot be isolated to that operation from the point of retail sale.

Because of the characteristics of the product, consumers can do little to protect themselves apart from ensuring meat is well cooked. Heat

treatment is effective against some, but not all, food-borne pathogens. Hygienic preparation, transportation and storage of meat by those producing it remains the key control strategy for most food-borne health risks. Without some form of intervention there is a real risk of market failure and the potential social and economic cost of a meat safety breakdown.

Apart from pathogenic microbes, food safety risks include contamination by harmful or potentially harmful substances, e.g. chemicals and foreign bodies such as glass or metal fragments.

INCREASING RISK OF FOOD-BORNE ILLNESS

In recent years, surveillance and monitoring by a number of countries indicates that food-borne illness is generally increasing around the world.³ In Australia, notification rates for the common food-borne illnesses *Campylobacteriosis* and *Salmonellosis* have continued to increase.⁴ The total number of people affected by food-borne illnesses is much larger than the number of cases formally reported.⁵

The factors responsible for the increasing reported cases of food-borne illness reported in Australia include⁶—

- **Changes in demographics**—increasing proportion of the population in the risk categories of the elderly, young and immuno-suppressed.
- **Changes in animal husbandry and agricultural practices**—increased intensive farming practices and the use of agricultural drugs and chemicals. Antibiotics and pesticide residues may be present in the meat as a result of on-farm contamination, while chemical residues on equipment (from cleaning agents) can occur at all points during production.⁷

3 World Health Organisation 1997; US General Accounting Office 1996

4 Crerar, Dalton, Longbottom & Kraa Food-borne disease: Current trends and future surveillance needs in Australia, *Medical Journal of Australia* 1996 165(2) p 672–675

5 Crerar, Dalton, Longbottom & Kraa Food-borne disease: Current trends and future surveillance needs in Australia, *Medical Journal of Australia* 1996 165(2) p 672–675

6 Australia New Zealand Food Authority, *Analysis of Draft Food Safety Standards*, March 1999, p 23–28

7 Food Science Australia, CSIRO/AFISC Final Report of Food Safety Systems developed by the NSW Dairy Corporation, March 1999, p 14

- **Changes in food processing, distribution and sale**—more extensive food distribution from large centralised processors can increase the risk of contamination. Furthermore, developments in food technology and refrigeration provide packaged ‘ready-to-eat’ and pre-prepared meals with no ‘kill step’, increasing the microbiological risks by extending the time between preparation and consumption.
- **New and emerging pathogens**—three of the four most significant food-borne pathogens in the USA—*Campylobacter*, *Listeria* and Enterohaemorrhagic *E. coli* (EHEC)—were unrecognised as causes of food-borne illness 20 years ago. Strains of EHEC caused serious outbreaks of illness in South Australia in 1995.
- **Improved methods of detection**—scientific advances have vastly improved the ability to detect and characterise pathogens.
- **Consumer preferences**—changes in eating patterns including ‘health consciousness’ by consumers is resulting in a preference for fresh, minimally processed foods without processes such as cooking, salting, acidifying and canning that act as a bacterial ‘kill steps’. Eating out at restaurants and fast food outlets has also become a primary mode of consumption.

It is to be expected that these factors would also influence the public health risk of meat and meat products, and ongoing control of such risks is necessary.

STAKEHOLDERS

THOSE AFFECTED BY THE PROPOSED LEGISLATION

Those directly affected by the regulation are those people legally engaged in the production of primary produce. Others directly affected would be those who operate without complying with the regulation, thus committing an offence and potentially putting the community and the industry at risk of food safety incidents. This scenario is the same as under the previous regulation. Under the proposed regulation, existing operators will continue to have flexibility to tailor a response consistent with their operations and there will be no additional impact or effect on them from the regulation. In the proposed new arrangements the Scheme will extend to

those persons who operate retail outlets (corner stores) who sell pre-packaged meat, if the package is opened, re-wrapped, defrosted or the retailer attempts to sell it other than in the packaged form as delivered from an accredited premises.

SFPQ will become the body responsible for administering the accreditation scheme and for support, monitoring and enforcement activities.

Audit activities will initially be undertaken by SFPQ then moved to third party arrangements in the future. Providers of accredited audit services will derive benefits accruing from expanded business opportunities arising from the need to audit food safety programs.

Consumers are the major beneficiaries of the proposed regulation, as they will continue to benefit from programs, which produce meat that is wholesome and safe to eat.

The industry will continue to derive benefits, because they will be protected from adverse cuts in sales, which an outbreak of food-borne illness would create. Furthermore, market brand recognition on food safety grounds will build consumer loyalty and result in enhanced competitive outcomes.

CONSULTATION

All the sectors of the food chain have a role in ensuring the success of preventative food safety measures.

Development of the Food Safety Scheme for Meat has been enhanced by co-operation between major stakeholders in the outcomes of the Scheme.

SFPQ has established close linkages with the primary industry bodies and primary production groups in this State by taking a through chain approach to food safety management. This is being achieved through a consultative structure with the relevant industry sectors through the Food Safety Advisory Committee (FSAC) and its sub-committees. The membership of the Committees is fundamental to maximising the opportunity to develop a partnership between SFPQ, industry, peak bodies and consumers in the development of Food Safety Schemes. FSAC makes recommendations on food safety matters to the Minister for Primary Industries via the CEO of SFPQ. The Director-Generals of both the

Department of Primary Industries and Queensland Health also sit on FSAC.

The Food Safety Advisory Committee (FSAC) consists of the following members—

- (a) Chief Executive Officer of SFPQ;
- (b) Chief Executive Officer of the Department of Primary Industries;
- (c) Chief Executive Officer of the Department of Health;
- (d) a number of industry representatives;
- (e) a consumer representative.

The FSAC has established a Meat Food Safety Sub-Committee to assist with the development of the Food Safety Scheme for Meat.

The composition of the Sub-Committee is as follows—

- (a) Chief Executive Officer of SFPQ;
- (b) Executive Director, National Meat Association of Australia;
- (c) Managing Director, Better Blend Stockfeeds Pty Ltd;
- (d) General Manager/Director, Doboy Cold Stores Pty Ltd;
- (e) Food Quality Manager Queensland, Woolworths Supermarkets;
- (f) Executive Director, Council of Livestock Agents;
- (g) a representative from Johnston's Livestock Transport;
- (h) Executive Director, Queensland Retail Traders & Shopkeepers Association;
- (i) a representative from the Queensland Macropod and Wild Game Harvesters Association Inc.;
- (j) a representative from Swickers Bacon Factory;
- (k) Senior Area Technical Manager, Australian Quarantine and Inspection Service;
- (l) Principal Adviser Food, Queensland Health;
- (m) Group Chief Executive, Golden Cockerel;
- (n) a representative from the Australian Game Meat Producers Association;

- (o) Chief Executive Officer, Queensland Dairy Farmers' Organisation;
- (p) a representative from Agforce Queensland;
- (q) Technical Services Manager—Pigs, Ridley AgriProducts;
- (r) Principal Policy Officer (Food), Department of Primary Industries;
- (s) State Food Handling & Hygiene Services Manager, Coles Supermarkets Aust. Pty Ltd;
- (t) Queensland Tallow and Vegetable Oil Manager, Gardner Smith Pty Ltd;
- (u) a representative from Queensland Pork Producers' Inc;
- (v) Manager—Environmental and Health Policy, Local Government Association of Queensland;
- (w) President, Australian Lot Feeders Association;
- (x) Regional Manager Queensland, Bartter Enterprises Pty Ltd;
- (y) Project Officer, Queensland Macropod and Wild Game Harvesters Association Inc.;
- (z) Director, VIP Pet Foods (Aust) Pty Ltd;
- (aa) SFPQ staff.

It is up to FSAC acting on advice from the Sub-Committee to determine if a Food Safety Scheme is required for a particular sector, after it has completed a thorough review of the current status of food safety standards and a risk analysis on that sector. If it is determined by FSAC that certain activities in primary production fall into a category of risk that warrants a Food Safety Scheme then participants in the identified risk category would be required to develop a food safety program and would be subject to the payment of an accreditation fee. The amount payable will be determined through the Committee process in close consultation with the sectors concerned.

It should be noted that Schemes are aimed at minimising risk. They will not eliminate risk entirely. Developments, including emerging risks (not previously encountered) will be taken into account in devising and regularly reviewing schemes.

These requirements will seek to ensure that food safety schemes are soundly based, effectively targeted and do not impose unnecessary costs on

business. They guarantee transparency and will maximise the opportunity to develop a partnership between SFPQ, food industries and consumers in the development of Food Safety Schemes.

The Meat Food Safety Sub-committee has met on four occasions and has examined this RIS and has recommended that it be released for comment.

THE COST OF COMPLYING WITH THE PROPOSED REGULATION

The Queensland Government has agreed to provide funding of \$1.8 million to SFPQ for the years 2002–03, 2003–04 and 2004–05, and this funding represents an equivalent contribution of 40 per cent of SFPQ’s budget. Under SFPQ’s co-regulatory approach, industry will continue to take primary responsibility for the production of safe food. The funding framework will require industry to fund the implementation of Food Safety Schemes and routine compliance activities such as audit and inspection. This represent approximately 60 per cent of SFPQ’s budget.

Accreditation fees and audit charges

Type of dominant activity	Description of the primary activity	Examples of businesses within the category	Examples of businesses within the category
Exporter	Businesses whose primary activity is exporting meat or dairy products.	Export abattoirs and dairy factories.	\$5,000
Processor	Businesses whose primary activity is the processing of meat or dairy produce. Abattoirs, slaughter-houses, dairy factories and larger butcher shops that process meat.	Abattoirs, slaughter-houses, dairy factories and larger butcher shops that process meat.	\$1,000
Retailer/Wholesaler	Businesses whose primary activity is to sell meat, either retail or wholesale, where that meat has been substantially processed elsewhere.	Smaller butcher shops and wholesalers.	\$320
Distributor	Businesses whose primary activity is to distribute meat.	Cold stores, game boxes, vehicles, harvesters' vehicles.	\$180
Delicatessen/Corner store	Businesses whose primary activity is the sale of small goods and unpackaged meat.	Delicatessens and small corner shops that sell unpackaged meat and chicken and sausages.	\$180
Producer	Businesses whose primary activity is to produce milk.	Dairy farmers	\$250
Special approval	Businesses that process meat or dairy produce exclusively for the purpose of marketing it from its own distribution outlet.	Poultry slaughterers	\$170

Additionally, for new applicants, an application fee of \$100, plus a desktop assessment of their proposed food safety program will be required as well as a validation audit of the proposed food safety program in operation, charged at a rate of \$150 per hour.

Accreditations must be renewed every 12 months in advance.

It is proposed that the service fee for any activity associated with a particular accreditation (including audits) be in the order of \$150 per hour, with a separate amortised service fee for travel at \$75 per hour. This fee could be applied in the case of follow-up audits and investigation of serious food safety issues. This provision is to apply to all audits for the first year, after which annual audits may be provided by suitably qualified third party auditors (approved by SFPQ).

Finally, it is a requirement of the FPS Act, that SFPQ establishes a register of auditors. It is proposed to charge an application fee of \$100 as well as an annual registration fee of \$350 for auditors to be included on this register.

Points to consider—

- This proposal replaces the sliding scale approach so all accreditation holders pay a standard accreditation fee. Previous fee scales varied across various sectors of the meat industry.
- Over and above the accreditation fee, the total cost to comply with the scheme will vary according to audit requirements per accreditation.
- The flat fee proposal offers a much simpler system of accreditation fees compared to the fees currently being paid by the majority of accreditation holders. As Food Safety Schemes generally replace existing meat regulations the costs in some instances are expected to be substantially reduced.
- Audit frequency will relate to risk and performance of the food safety program.
- If the intended introduction of third party auditing proceeds (currently scheduled for July 2003), the market will thereafter influence the level of audit fees.
- The proposed fee structure provides incentive for improvement, and allows for a reduction of audit frequency based on good/satisfactory performance.

Duplication of other enforcement

There will be no duplication of audit effort because Queensland Health has indicated that it will recognise that this regulation brings about compliance with the food regulatory model. Queensland Health would therefore deem that those operators accepted under this scheme would meet the requirements of the impending changes under the Food Safety Standards.

The labelling and composition requirements of the Food Standards Code would continue to apply and be enforced by either Queensland Health or local Government.

BENEFITS OF COMPLYING WITH THE PROPOSED REGULATION

The principal benefits of the proposed regulation are—

1. Prevention of sickness in humans from contaminated and unwholesome meat and meat products.
2. Prevention of economic loss from wasted meat and meat products due to contamination.
3. Prevention of economic loss by maintenance of public perception of the safety of meat and meat products.

Food safety is a public health issue. As with other aspects of public health it can never be principally considered on economic grounds. Often what appears to be the most economically efficient option will not adequately protect public health.

There is a large public benefit by way of potential public and private savings if there are less instances of food-borne illness. This year the Economic Research Service of the United States Department of Agriculture (USDA) estimated the cost of food-borne illness in the US from five common pathogens alone to be \$US6.9b p.a.⁸ The costs to Australia of all food-borne illness were last estimated by ANZFA⁹ to be \$2.6b p.a. On a per capita basis, the cost to Queensland would be around

8 Murphy, D 12 June 2001 www.meatingplace.com (report via FoodSafetyNet)

9 ANZFA, 1999 Food Safety Standards: Costs and Benefits Cwth of Aust: 35

\$600m p.a. Even a small percentage reduction in food-borne illness would generate substantial savings.

The impact of a food-borne illness goes beyond immediate consumption and extends to consumer behaviour in other areas such as tourism. For example, food-borne illness traced to catering supplied to airline passengers in Queensland, resulted in a downturn in bookings for the airline involved and impacted upon the reputation of North Queensland as a tourist destination.

THE EXPORT SCENE

Australia exports 65 per cent of its agricultural production with some products exceeding 90 per cent. Australia's reputation in the global food market depends on a 'clean and green' image.

An appropriate measure of the magnitude and the benefits associated with implementing food safety arrangements for the production of meat can be obtained by looking at the value of Australian food exports. Although the benefit of food safety regimes does not necessarily equate with the total value of food exports, it does play a crucial role in protecting and facilitating access of Australian food products into overseas markets. Guarantees of food safety are identified by all importing countries as a prerequisite in all trade protocols.

The withdrawal of preventative food safety regimes and consequential loss of market confidence underpinning exports could lead to losses to the Australian economy running into billions of dollars.

Australian goods often compete under trade limiting arrangements. Issues of food safety or standards are often linked to a country's broader importing trading policy, and a food safety failure in these markets could have severe ramifications. Under these circumstances Government-endorsed schemes are seen as crucial not only in providing market access, but also in safeguarding that access. This is illustrated in a recent study conducted by the Commonwealth Department of Agriculture, Fisheries and Forestry Australia (AFFA) in response to a National Competition Policy Review¹⁰ (NCP).

10 Export Assurance—National Competition Policy Review of Export Control Act 1982 Cwth 2000

Additionally, a study commissioned by that review, and conducted by the Australian Bureau of Agricultural and Resource Economics (ABARE) found that—

“the negative impact of the loss of a vital market can be greater than the value of exports to that market. This reflects the disruption of production and the fall in price that follow the loss of a market. In the case of beef exports to the US, loss of that market causes the gross domestic value of beef production to fall by \$1.1b, although the value of exports is approximately \$735m. The adverse effects are also felt in related industries such as the sheep industry, which is estimated to suffer a decrease in gross value of production of some \$50m as a result of lower lamb prices.”

THE ULTIMATE BENEFICIARIES

The ultimate beneficiaries are consumers, both end-point and industry consumers (e.g. food service/retailers and manufacturers), who need to be assured that the Government and its regulatory authorities are facilitating industry compliance with essential food safety measures and providing the necessary information to allow consumer choice. Further, consumers need to be assured that the regulatory authorities have the necessary capacity, flexibility and freedom to effectively deal with risks, threats and hazards and are supported with the necessary scientific expertise to ensure credibility.

Industry consumers (food services/retail and manufacturers) will benefit from enhanced food safety outcomes achieved by improving food safety standards of the produce produced in the primary industry sector, because the output from the primary industry sectors are in most instances inputs into the food services, manufacturing and retail sectors. No cost benefit analysis can precisely quantify these benefits.

REGULATORY OPTIONS

The following options are available to meet the objectives of ensuring food health and safety in the meat industry—

- Option 1 Do nothing, allow the current *Meat Regulation 1994* to lapse
- Option 2 Amalgamate the current accreditation/regulation, made under the *Meat Industry Act 1993*, by the introduction of the *Food Production (Food Safety Scheme for Meat) Regulation 2001*
- Option 3 Self-regulation.

Option 1—Do Nothing, allow the regulation to lapse

If the regulation made under *Meat Industry Act 1993* was allowed to lapse the occasional serious events that can occur, as evidenced by the Garibaldi incident, would be expected to increase in an unregulated environment. Without any regulations, the likelihood of such a severe scenario occurring again is a reality because there is no sanction on offenders. Market sanctions, i.e. a decline in consumption of meat and meat products or a switch to substitutable food products, might emerge as a possible control measure, but this may not be effective given the nature of the product in the minds of many consumers. There is even less incentive for processors and transporters to supply a safe product. There will be no way to ensure satisfactory meat safety outcomes are achieved or to remove operators from the industry if unsafe food is being produced.

The Queensland Government could be seen as abrogating its responsibility to the consuming public to ensure certain safety standards apply to food products. There is the potential that the Government could be seen to be directly responsible for a food-borne illness problem. Without safeguards, the Government would be faced with significant costs in the event of a food safety problem, as has been demonstrated by the Garibaldi incident and the Wallis Lakes incident (oysters) in New South Wales. There would be regulatory inequality between the States, because all are improving the regulation of their meat industries as a consequence of ARMCANZ directives. Additionally, an unregulated meat processing environment would severely harm the confidence of overseas buyers in Australian meat.

The non-adoption of risk-based regulation would also represent non-compliance with an ARMCANZ decision and the IGA on food safety regulation to which Queensland is a party and which it has agreed to implement.

Option 2—Amalgamate the current accreditations (under the Meat Industry Act 1993) to a Food Safety Scheme

The Queensland Government's commitment to the nationally endorsed minimum food safety standards by way of the ANZFA process have been encompassed by the current regulation—*Meat Industry Act 1993*. The regulation made under the *Meat Industry Act 1993* ensured that abattoir and game meat animals, and products derived therefrom, were processed and handled in hygienic conditions through the implementation of nationally accepted standards, and as a result, minimised the risk of food-borne illness from meat.

The regulation introduced sweeping reforms in that control over a food processing sector moved from being prescriptive to outcomes-oriented, which in turn provided cost benefits to the meat industry through introduction of outcome-based food hygiene requirements. The adoption of the principles of these regulations into the proposed Food Safety Scheme for Meat will seek to ensure that the risks of food-borne illness in the production of meat and meat products continue to be minimised.

Option 3—Self-regulation

This refers to a wide range of rules or arrangements by which industry/Government influences businesses to comply, but which do not form part of explicit Government regulation. Some examples of quasi-regulation include industry codes of practice, guidance notes and industry/Government agreements.

Past experience indicates that such quasi-regulations may work with large-scale operations with a nationally recognised brand name, e.g. quality assurance systems implemented by the major retailers. Furthermore, there are a number of industry driven initiatives, which aspire to underpin the principles of international requirements. These industry strategies should be encouraged as it is the market that is driving change and it is the operators in the market that are embracing, implementing and managing these changes. However, these market driven approaches do not cover all aspects of food safety, and general uptake of these strategies is not embraced by a large number of operators within industry.

To deliver minimum food safety outcomes, self-regulation will not be effective and would lead to an increased risk of incidents of food-borne illness outbreaks, albeit to a lesser extent compared to the 'do nothing' option. However, the severity and scale of any such consequential outbreak is still unacceptable. As such, Option 3 is not currently considered

adequate to control the incidence of food-borne illness and would be contrary to the policy position of delivering to consumers a reasonable level of assurance by implementing regulatory measures to reduce the risk of failures in food safety.

IMPACT ASSESSMENT OF OPTIONS

Costs/benefits—Categories/components

The Cost-Benefit Approach Used

Compiling a cost benefit analysis of Food Safety Schemes is difficult as it is not a fixed environment or simple equation. The environment is continually changing and with that, risk profiles change continually across an industry, which in turn changes the possibility of a risk event occurring. One of the best ways to assess cost benefit issues is to look at historical events and then attempt to compare the costs of implementing preventative measures with the benefits from minimising the risk over time.

Because of the relevance to export income, the economic effect of market failure due to an adverse food safety event, is a major consideration.

Many of the costs and benefits associated with the regulatory options are intangible and difficult to quantify. Also, some attributes of the various options can be measured in loss of human life and lifetime illness. It is very difficult to attribute absolute or dollar amounts to costs and benefits of this kind. The approach to be taken then is to rank the likely size of the costs and benefits against each other and the associated risks (very small, small, significant, large and very large) where no dollar amount can be calculated.

Option 1—Do nothing, allow the regulation to lapse

Costs

- | | |
|------------|--|
| Industry | <ul style="list-style-type: none"> • Loss of export markets and loss of domestic share in the event of a food safety breakdown. • Increased risk for meat industry operators, from communicable 5 diseases common to animals and humans. |
| Government | <ul style="list-style-type: none"> • Seen to be abrogating its responsibility to the public to ensure a safe food supply. • Not complying with the ARMCANZ IEA directive on mandatory National Standards. |

- Difficult to meet ANZFA policy that all food processors will have food safety plans in place.
 - Costs associated with providing health services to consumers who become ill from food-borne illness, a very large risk.
 - Probable legal expenses through litigation—a very large risk.
 - Loss of fines and penalties collected from prosecutions made under the regulations.
 - Costs associated with keeping under review the construction, hygiene and operating procedures of premises, vehicles and equipment used in the handling of meat and meat products, which is a requirement of the FPS Act.
- Consumers/
Community
- Loss of life/illness as the result of food poisoning—risk very large
 - Reduced welfare of abattoir animals prior to, and during, slaughter.
 - Loss of confidence in the safety of meat and meat products.
- Producers
- Loss of export markets and loss of domestic share in the event of a food safety breakdown—risk very large (export dollars).
 - Dependent upon the severity of the export and domestic loss and the attendant publicity, the impact of which could vary across the breadth of the industry—risks variable.
 - Loss of customer and consumer loyalty.
 - Potential litigation in the wake of a food safety incident.
- Benefits**
- Industry
- Savings on accreditation/inspection/audit fees in the order of \$3.586m per annum.
 - Savings on fines and legal costs associated with breaching the regulations.
- Government
- Savings on legal costs associated with prosecuting breaches in the regulations.

- Saving on the cost of drafting amendments as required to the regulations.
- Consumers/Community
- The price of meat may decrease as abattoirs, processors and Community transporters pass on some of their cost savings.
- Producers
- Prices of animals may increase as processors and transporters pass back some of their cost savings.

Option 2—Amalgamate the current accreditations (under the Meat Industry Act 1993) to a Food Safety Scheme

Costs

- Industry
- Accreditation charges in the order of \$2.3m per annum.
 - Compliance/audits for both premises and vehicles is estimated at approx \$1.286m. (NB: This function intended to move to third party in 2003.)
- Government
- Cost of drafting the regulation.
 - Costs associated with keeping under review the construction, hygiene and operating procedures of premises, vehicles and equipment used in the handling of meat and meat products which is a requirement of the FPS Act.
- Consumers/Community
- Retail prices of meat potentially higher as processors and Community transporters pass along some of the costs imposed on themselves.
- Producers
- Processors passing the burden of food hygiene monitoring costs backwards to the producer in the form of lower prices for live animals.
 - Cost in not following the same regulatory path (HACCP type procedures) as in other States, future lost export sales.

Benefits

- Industry
- Higher consumer confidence in the safety of meat, which protects the market share of meat in the food market—risk moderate and less than Option 1 and 3.
 - The implementation of the risk-based management plans would still be relevant and would add value to the business.

- Protecting the health and safety of operators in industry, from communicable diseases common to animals and humans.
- Government
- Compliance with ARMCANZ directive on mandatory National Standard.
 - Seen to be protecting consumers from unsafe food—risk moderate and less than Option 1.
 - Reduced costs associated with providing health services to consumers who become ill from food poisoning.
 - Less probability of legal expenses through litigation.
 - Income from fines and penalties collected from prosecutions made under the regulations.
- Consumers/
Community
- The rate of food-borne illness attributed to abattoir meat in Queensland would be lower than in an unregulated environment.
 - Ensuring the welfare of abattoir animals, of which some of the benefit accrues to producers.
- Producers
- Market protection. Consumer confidence in the safety of meat, which protects the market share of meat in the food market—risk moderate and less than Option 1.
 - Confidence of overseas buyers in the product greater than in an unregulated environment.
 - Export market protection.

Option 3 Self-regulation

Costs

- Industry
- Loss of export markets and much of the domestic market share in the event of a food safety breakdown.
 - Increased risk for meat industry operators, from communicable diseases common to animals and humans.
 - Commercial disadvantage suffered by food processor complying with industry guidelines and codes of practice compared to those processors not complying.
 - Lowest common denominator may become the accepted benchmark for industry.

- Government • Seen to be abrogating its responsibility to the public to ensure a safe food supply.
- Not complying with the ARMCANZ directive on mandatory National Standards—as compliance with industry codes is not mandatory.
 - Difficult to meet ANZFA policy that all food processors will have food safety plans in place.
 - Costs associated with providing health services to consumers who become ill from food poisoning—risk very large.
 - Probable legal expenses through litigation—risk very large.
 - Loss of fines and penalties collected from prosecutions made under the regulations.
 - Costs associated with keeping under review the construction, hygiene and operating procedures of premises, vehicles and equipment used in the handling of meat, which is a requirement of the FPS Act.
- Consumers/
Community • Loss of life or illness as the result of food poisoning—risk large.
- Reduced welfare of abattoir animals prior to, and during, slaughter.
- Producers • Loss of export markets and much of the domestic market share in the event of a food safety breakdown—risk very large.
- Dependent upon the severity of the export loss and the attendant publicity, the impact of which could vary across the breadth of the industry—risks variable.
 - Loss of customer and consumer loyalty.
 - Potential litigation in the wake of a food safety incident.

Benefits

- Industry • Savings on accreditation/inspection/audit fees in the order of \$3.586m per annum.
- Savings on fines and legal costs associated with breaching the regulations.

- Government • Savings on legal costs associated with prosecuting breaches in the regulations.
- Saving on the cost of drafting amendments as required to the regulations.
- Consumers/ Community • The price of meat may decrease as abattoirs, processors and Community transporters pass on some of their cost savings.
- Producers • Prices of animals may increase as processors and transporters pass back some of their cost savings.

SUMMARY

The three options outlined above were assessed against the following criteria—

- reduce the incidence of food-borne illness
- reduce the regulatory burden on industry
- be cost effective for the community, Government and business
- introduce a preventative approach to food-borne contamination
- encourage business to take full responsibility for the safety of the food they produce
- be consistent with national standards
- be consistent with international best practice
- support export initiatives and facilitate trade for the meat industry to compete more effectively on world markets.

CONCLUSION

Ability to reduce the incidence of food-borne illness

As a direct consequence of the lack of uniformity in the implementation of sound food safety procedures across the primary industry sectors, Option 2 (the proposed food safety reform) is assessed as the most effective legislative means to help reduce the incidence of food-borne illness. Risk-based food safety programs, in combination with good hygienic practices and education of food handlers, are seen as pivotal to reducing the incidence of food-borne illness. Unlike Options 1 and 3, Option 2

introduces a preventative approach to food safety and encourages business to take full responsibility for the safety of the food they produce and to respond quickly to new hazards.

Option 3 (self-regulation) may well increase the incidence of food-borne illness. This option might be feasible under perfect market conditions. However, self-regulation in the area for delivering food safety is not currently considered adequate to control the incidence of food-borne illness as a result of market failure.

Option 2, by encouraging businesses to take full responsibility for ensuring the food they sell is safe, will promote a 'safe food' culture across the whole supply chain. Consequently, Option 2 is seen as the most effective way to reduce the current incidence of food-borne illness in Australia and to seek to ensure continued access to international markets.

Ability to reduce the regulatory burden on business

The advantage of Option 2 is that it would not only introduce national consistency by removing outdated and prescriptive regulations but it is consistent with industry initiatives and international standards. A move to such broad consistency would reduce the regulatory burden on industry.

Applying the proposed food safety reforms to those food businesses classified as high risk would reduce the regulatory burden on the remaining 75 per cent of food businesses. However, many of these would still have to comply with industry-driven safety and quality assurance schemes, which through their duplication, are already seen to be a burden on a number of food businesses. By applying equitable standards to all food businesses there is the opportunity for industry recognition of equivalence and a reduction in duplication.

Option 3 would have the greatest effect on reducing the regulatory burden on industry. However, there would still be costs associated with ensuring food safety, be they driven by Government or by the marketplace. Again duplication of audit for compliance with industry-based schemes is likely to continue and be a burden to business.

Cost-effectiveness for the community, Government, industry and consumers

All options have associated costs and benefits for the community. Analysis of the options shows that Option 2 has an additional initial cost to

business and Government but at the same time is most likely to reduce the overall risk incidence and hence the cost of food-borne illness.

Self-regulation, as proposed under Option 3, may have an immediate appeal for some industry participants. However, there would always be a legal obligation to sell safe food, which must be met to avoid prosecution, business failure, litigation and to meet consumer and industry expectations.

It is the Government's view that consumers would benefit from adoption of Option 2 through reduced incidence of food-borne illness and commensurate reductions in financial, emotional and lifestyle costs.

Ability to facilitate trade

Both in Australia and internationally there is a move to implement outcomes-oriented, preventative food safety standards based on risk-based management principles. Governments and industry alike recognise the principles that 'prevention is better than cure' and that a risk-based approach to food safety assurance is the way of the future.

Options 1 and 3 are not consistent with either domestic or international best practice or industry initiatives and, as such, do not facilitate trade domestically or internationally. Option 2 encourages a consistent industry-wide approach to food safety and provides the best means of facilitating trade.

Preferred option

Based on the above cost benefit analysis and the ongoing benefits for the entire community, Option 2 appears to be the preferred option. The proposed Food Safety Scheme for Meat is considered to represent the best way to minimise the incidence and cost of food-borne illness in Queensland/Australia. It should provide industry with a flexible regulatory environment with minimal prescription, national consistency and the opportunity to compete effectively in domestic and international markets.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Primary Industries.