



Concordia Pacific
Environmental, Government and Town Planning Law

FACT SHEET FOR FOOD ACT 2003

The *Food Act 2003* has established tough new requirements for food businesses. Restaurants and other businesses that sell prepared foods to the public now face substantial penalties if they fail to comply with the *Food Safety Standards*. Offenders may also be subject to bad publicity by having their names and the details of the offence posted on the Internet through the NSW Food Authority's "name and shame" initiative. It is therefore more important than ever that food businesses comply fully with the hygiene and food protection requirements of the *Food Safety Standards*.

The main provisions of the *Food Act* are as follows:

- Health officers employed by the Food Authority and local councils can inspect food businesses at any time to determine if they are complying with the *Food Safety Standards*.
- Failure to comply with the *Food Safety Standards* is a criminal offence.
- Local councils can issue Penalty Infringement Notices for every breach of the *Food Safety Standards* that is detected during an inspection, with a penalty amount of \$660 for every separate offence if the business is being operated by a corporation.
- Prosecutions can be taken in the Local Court for breaches of the *Food Safety Standards*, with maximum penalties of \$55,000 for an individual and \$275,000 for a corporation.
- The directors of corporations that breach the *Food Safety Standards* can be held personally liable.
- The *Food Authority* and local councils can issue improvement notices requiring that breaches of the *Food Safety Standards* be corrected, as well as prohibition orders directing that the sale of food be ceased (if an improvement notice has not been complied with or if the prohibition order is necessary to prevent or mitigate a serious danger to public health).

The Courts of New South Wales consider breaches of the *Food Act* to be extremely serious. It is not unusual for fines of \$10,000 to be imposed for each separate breach of the *Food Safety Standards* – so a prosecution involving several breaches of the hygiene requirements can result in fines amounting to tens of thousands of dollars.

Concordia Pacific can help you if our business is being prosecuted for failing to comply with the *Food Safety Standards*. We have extensive experience in dealing with food prosecutions, and can advise you concerning strategies that may be available to minimize the consequences of a court case. If you require our assistance, please contact us on **9233 4914**.

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