

Managing Food Safety and Suitability
in New Zealand

DOMESTIC FOOD REVIEW



New Zealand Food Safety Authority
September 2004

Contents

Foreword	4
PAPER 1: INTRODUCTION AND CONTEXT	5
<i>Introduction</i>	6
<i>Executive Summary</i>	7
<i>Purpose of the Paper</i>	8
<i>Scope</i>	9
<i>Background</i>	10
<i>Options for government involvement in food safety and suitability issues</i>	13
<i>Policy principles to underpin future government involvement</i>	15
<i>Legislative Base</i>	19
<i>Sanctions</i>	19
<i>Monitoring and Review</i>	19
<i>Appendix A</i>	20
<i>Appendix B</i>	22
PAPER 2: REGULATORY ROLES, RESPONSIBILITIES AND STRUCTURES	23
<i>Introduction</i>	24
<i>Executive Summary</i>	25
<i>Purpose of the Paper</i>	26
<i>Scope</i>	26
<i>Background</i>	26
<i>Roles and responsibilities of the regulator</i>	29
<i>Proposed criteria for assessing options for government regulatory structures</i>	32
<i>Options for government regulatory structures and assessment of options</i>	34
PAPER 3: FOOD CONTROL PLANS	49
<i>Introduction</i>	50
<i>Executive Summary</i>	51
<i>Purpose of the Paper</i>	51
<i>Scope</i>	51
<i>Background</i>	52
<i>Proposals for Future Food Control Plans</i>	53
<i>Food Control Plans – extent of application</i>	54
<i>Approaches to Food Control Plans – Good Operating Practice and HACCP</i>	55
<i>Development of Food Control Plans</i>	57
<i>Content of Food Control Plans</i>	58
<i>Implementation and operation of Food Control Plans</i>	58
<i>Appendix A</i>	60
<i>Appendix B</i>	61
<i>Appendix C</i>	62
<i>Appendix D</i>	63
<i>Appendix E</i>	65
PAPER 4: IMPLEMENTATION OF FOOD CONTROL PLANS	71
<i>Introduction</i>	72
<i>Executive Summary</i>	74
<i>Objectives</i>	75
<i>Background</i>	75
<i>Food Control Plan design and development</i>	77
<i>Food Control Plan evaluation</i>	78
<i>Food Control Plan assessment and registration</i>	79
<i>Food Control Plan verification</i>	82
<i>Accreditation and recognition</i>	84
<i>Appendix A</i>	89
<i>Appendix B</i>	90
CHARTS & FIGURES	
<i>Chart 1: Statistics for Common Food-borne Illnesses 1996-2003</i>	11
<i>Figure 1 : Options for government involvement in food safety and suitability</i>	13
<i>Figure 2: Regulatory Model</i>	15
<i>Figure 3: Options for government involvement in food safety and suitability</i>	29
<i>Figure 4: Options for regulatory response</i>	53
<i>Figure 5: Scope of Good Operating Practice</i>	56

Foreword

The papers in this package comprise the foundation work of the Domestic Food Review – a major long-term project likely to run over the next five years. Its purpose is to ensure that New Zealand has a food regulatory programme that is applicable across the board and that will deliver on safe and suitable food. The review covers Government involvement in all food safety and suitability aspects of food produced, processed, manufactured, transported, traded or imported to New Zealand.

These papers propose changes to the way in which food safety is administered in New Zealand. There are four papers – separately written so that readers can read them together or separately, depending on their interests. They are:

Paper One – Introduction and Context

This paper sets the scene for the context of the review and outlines the background and rationale for the review. The paper describes the current controls and level of Government involvement in the New Zealand domestic food sector and sets out overarching principles that are intended to guide its future. The glossary appended to this paper applies to all the papers.

Paper 2 – Regulatory Roles, Responsibilities & Structures

This paper outlines roles of the three key regulating groups in the current domestic food regulatory regime. It discusses the difficulties with the present fragmented system and identifies what the key functions of the future regulator should be. The paper discusses options for a future regulatory structure in light of roles and responsibilities.

Paper 3 – Proposed Food Control Plans

This paper discusses the proposed tool of choice for future food regulation in New Zealand, Food Control Plans. It introduces the concept that Good Operating Practice will form the basis of Food Control Plans. The applicability of Hazard Analysis and Critical Control Point (HACCP) principles in the development of a Food Control Plan is also described.

Paper 4 – Implementation of Food Control Plans

The processes involved in implementing Food Control Plans are pulled together in this paper encompassing Food Control Plan design and development; evaluation (where necessary) and assessment; and registration and verification. The paper also includes proposals for accreditation and recognition for evaluators and external verifiers.

The NZFSA would like to know what you think about the proposals outlined in these papers. You can email robbie.thomson@nzfsa.govt.nz or write to Robbie Thomson, Project Manager, Domestic Food Review, NZFSA, P O Box 2835, Wellington.

The consultation period ends on 31 December 2004. Following analysis and position development, proposals are intended to go to Government in the first half of 2005. We are looking at legislative development over the balance of 2005 and early 2006 and anticipating commencement of the programme later in 2006.

We look forward to hearing from you.

Andrew McKenzie
Executive Director

PAPER 1:

INTRODUCTION AND CONTEXT

Introduction

This is Paper 1 in a Review of government involvement in the domestic food sector.

The Review is a significant long-term project that is likely to run over at least five years. Its purpose is to put in place a food regulatory programme across all sectors of New Zealand's domestic food industry that promotes and delivers safe and suitable food in New Zealand.

This is only the second time in the last 30 years that the government's role in the New Zealand domestic food sector has been critically examined at official level. The last review was undertaken in the late 1980s, and led to the Food Amendment Act 1996 and eventually the establishment of the New Zealand Food Safety Authority (NZFSA).

This Paper provides the context for the Review and seeks to generate discussion on generic (i.e. applying to all sectors of New Zealand's food industry) policy principles for government involvement in food safety. It has been developed by NZFSA in conjunction with groups representing Public Health Units (who are part of District Health Boards) and Territorial Authorities (as represented by Local Government New Zealand).

The Paper includes an outline of current controls and requirements on the domestic food sector, discusses the background to the Review, identifies problems with the current system, and proposes policy principles to underpin the future regulation of the domestic food sector.

Other Papers in the series include:

- **Paper 2:** Regulatory roles, responsibilities and structures
- **Paper 3:** Food Control Plans
- **Paper 4:** Implementation of Food Control Plans

At the end of public consultation on all of the Papers, NZFSA will analyse all submissions and provide policy advice to Government.

Submissions are sought from interested people and organisations. A response form is provided, but submissions will be accepted in any format.

The closing date for submissions is 31 December 2004.

Submissions should be sent to:

Submissions – Domestic Food Review
c/o Policy Group
New Zealand Food Safety Authority
PO Box 2835
WELLINGTON
Email: robbie.thomson@nzfsa.govt.nz
Fax: (04) 463 2501

The discussion document will be available on the NZFSA website www.nzfsa.govt.nz/policy-law/projects/domestic-food-review/index.htm. Following analysis of submissions, a summary of issues raised will be made available on the above website.

All submissions are subject to the Official Information Act 1982, which specifies that information is to be available unless there are grounds for withholding it. If you wish your submission or any part of it to be withheld, please indicate the grounds within the Official Information Act that apply. NZFSA will take your request into account when determining whether or not to release information. Please note that any decision by NZFSA to withhold information is reviewable by the Ombudsman.

Executive Summary

This Paper invites public comment on the context of the Review by the New Zealand Food Safety Authority (NZFSA) of the entire domestic food regulatory programme.

This Review examines the government's role in New Zealand's local (domestic) food sector and current controls in the sector, and proposes underpinning policy principles for the future.

The term 'food' is used in its broadest sense; that is, covering both human food and animal feed (including pet food), as well as related products such as animal by-products and raw materials, food packaging and containers, and agricultural compounds and veterinary medicines where appropriate.

The key objectives of the Review are:

- to reduce the incidence of food-borne illness in New Zealand
- to provide a food regulatory programme that is coherent and seamless (that is, with smooth interfaces among various parts of food legislation).

Several pieces of primary legislation that are administered by NZFSA deal with the safety and suitability of domestic food:

- Food Act 1981
- Dairy Industry Act 1952
- Animal Products Act 1999
- Agricultural Compounds and Veterinary Medicines Act 1997
- Wine Act 2003.

This Paper proposes several underpinning policy principles. These principles would apply to all future government involvement in the New Zealand food sector. The seven proposed policy principles are:

- Policy Principle 1:** Government involvement and imposed compliance costs to the food sector will be minimised, consistent with Government policies and the need for food to be safe and suitable.
- Policy Principle 2:** The New Zealand food regulatory programme will be based on application of the current "Regulatory Model".
- Policy Principle 3:** Any government involvement and regulatory controls will be risk-based and science-based as far as possible.
- Policy Principle 4:** 'Persons' will take responsibility for producing safe and suitable food.
- Policy Principle 5:** Regulatory requirements will be applied consistently and equitably across sectors and groups.
- Policy Principle 6:** The food regulatory programme will be seamless and coherent.
- Policy Principle 7:** Trade and commerce in food and food-related products will be facilitated.

Purpose of the Paper

The purpose of this Paper is to provide the context within which the New Zealand Food Safety Authority (NZFSA) is reviewing the entire domestic food regulatory programme. This is achieved by:

- introducing stakeholders to the background to the Review and to the drivers for its conduct
- proposing some underlying principles that are intended to underpin all future government involvement in domestic food, and which are designed to apply across all parts of the Review
- providing the context for subsequent Papers that examine and raise for discussion various elements of the future food safety programme.

Scope

Inclusions

The scope of the Review introduced in these consultation Papers extends to government involvement in all aspects of the safety and suitability of food produced, processed, manufactured, transported and traded in New Zealand (including food that has been imported).

Imported foods are within the scope of the Review. NZFSA has commissioned a separate review of New Zealand's regime to regulate the importation of foods, and the results of that review will contribute to this Domestic Food Review. Information on the Imported Foods Review as it progresses can be found on www.nzfsa.govt.nz.

Separate but related issues

NZFSA is also involved in two other aspects of the current domestic food programme that will continue during this Review, and that will both influence and be affected by the Review:

- educational and promotional activities
- NZFSA's management of New Zealand's participation in the joint food standards-setting arrangements with Australia, including the policies and standards for food labelling and composition.

Exclusions

The Review excludes consideration of:

- the safety and suitability of non-food products
- related government involvement such as business controls and requirements (taxation, building codes, local government by-laws, fair trading laws, etc.)
- export requirements (but acknowledging that product destined for export is often also sold in New Zealand, and that export processes are often integral with domestic processes)
- produce for a person's own use, such as recreational hunting, fishing or seafood collection and home-killed meats (including further processing of such products).

Background

In establishing NZFSA, Government specified that its roles and functions are to:

- administer all food-related legislation (including registration, audit and compliance)
- administer food safety and suitability matters
- maintain a commitment to the joint Australia-New Zealand food standards-setting system
- provide oversight of services currently provided by Public Health Units and through Territorial Authorities.

The Government also requires NZFSA to focus and deliver on two closely aligned areas:

- reducing the incidence of food-borne illness in New Zealand
- providing a coherent and seamless food regulatory programme.

The need for further progress on the latter two points have become the key drivers for this Review. The intention is to achieve a consistent, practical and efficient approach to food regulation that is seamless (i.e. has smooth interfaces) across New Zealand's food industries. This is likely to lead to a consolidation of the food safety and suitability requirements across all food businesses in New Zealand. To date, safety and suitability aspects of the food regulatory programme have not generally been addressed together.

NZFSA currently administers food requirements under the following primary legislation:

- Food Act 1981
- Dairy Industry Act 1952
- Animal Products Act 1999 (and the related Meat Act 1981)
- Agricultural Compounds and Veterinary Medicines Act 1997
- Wine Act 2003.

These form the legal 'building blocks' of New Zealand's food regulatory programme. This suite of legislation requires 'persons' to manage the safety and suitability of food in specified ways that differ under each Act. 'Persons' are food producers, processors, operators, businesses, sellers, importers and anyone else who otherwise handles or sells food. 'Persons' are the business operators, owners or managers accountable for food safety and suitability in particular premises.

On the face of it, there appears to be opportunity to standardise, streamline and simplify the rules under these Acts while preserving food safety. For example, it may be possible to simplify the rules covering manufacturers in situations such as:

- a manufacturing business that cans both meat and dairy-based products, which may currently be required to have both a registered risk management programme (for meat) and a product-safety programme (for dairy)
- a winery that has a safety-management programme for winemaking, but that must also have a food safety programme or registration for its cafe.

In such cases, the businesses, regulators and external verifiers currently need to be familiar with an array of different rules in order to ensure that the law is followed. But it is not clear that overlaps and contradictions among the rules are based on food safety considerations, as opposed to historical accident.

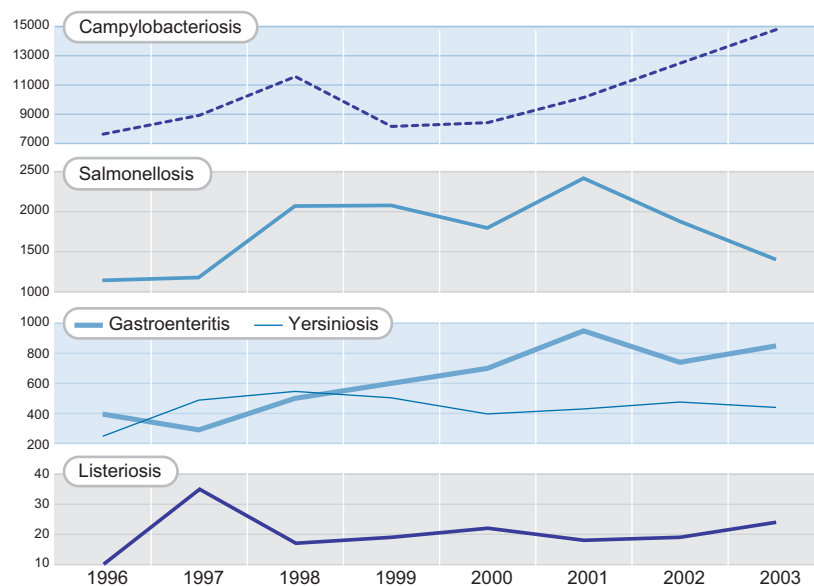
Problems with the current level of government involvement

The most compelling problem for government is the continuing high reported incidence of food-borne illness and rise in some areas. This could be attributed to many factors:

- new and emerging pathogenic bacteria

- expansion of new and novel foods
- increased trade in food
- inadequate training in food hygiene
- higher rates of reporting of illnesses
- better laboratory detection of pathogens
- increasing complexity of the food chain (such as technological changes between farm and retail)
- limited educational programmes for safe food handling in the home
- ethnic changes in New Zealand demographics and different cultural practices in relation to food safety
- the community's demand for a broader range of types of food from pre-prepared food to uncooked foods
- commercial pressure to extend the shelf life of foods.

Chart 1: Statistics for Common Food-borne Illnesses 1996-2003



Source: Communicable Disease Notifications, ESR

The inconsistencies and interface issues across legislation, as discussed above, may also contribute to food safety problems. While the current legislative controls were intended to simplify the previous regimes, remaining problems include:

- **Confusion about when any government involvement is undertaken**
There are no clear and consistent criteria to guide the level of involvement by government. In some areas, government requirements are very specific and prescribed; in others, only guidance is provided. Businesses operating across the various food safety regimes may be subject to inconsistent provisions to deal with identical or comparable issues.
- **Difficulty in applying current controls in terms of the size of business, the risks involved, and the range of food and related products involved**
The risk-based management approach has been successfully applied to large businesses, but has generally proved overly complex and cumbersome for small business. Detailed legislative requirements are often too inflexible to allow efficient and effective innovations.
- **Complexity of controls**
Not all controls under food legislation cater for the full range of businesses, and particularly not very small businesses. Each piece of legislation has elements of complexity – for example, the pre-registration requirements for risk management programmes within the Animal Products Act.

- **Lack of practicality of some controls**

Each piece of legislation has elements that are impractical. For example, under the Food Act, the Food Hygiene Regulations provide for the minimum size of a bakery to be 9.5m² clear floor space, even when there is only one worker. The Regulations also require a premises to be registered even if it operates only a vending machine. Similarly, the prospect of several thousand food businesses developing food safety programmes as currently defined under the Food Act is unrealistic.

- **Inconsistency in the impact on businesses**

Specific and inconsistent regulatory requirements exist for certain types of food operations. For example, butcheries are regulated both under the Food Hygiene Regulations and by separate and more complex provisions of the Animal Products Act.

- **Lack of clarity (and consistency) about how much facilitation and guidance NZFSA as regulator will provide and how much 'persons' must do for themselves**

Government is proactive in engaging with some industry groups in the preparation of Codes of Practice (e.g. speciality cheese makers and ice cream manufacturers) but not in others (e.g. takeaway food businesses).

- **Ill-defined roles of key players ('persons', auditors, verifiers and the regulator)**

In some food legislation, the roles of key players are poorly defined or not defined, while in other food legislation they are defined (such as in the Animal Products Act which clearly sets out roles).

- **Lack of common understanding of good hygienic practice and other key concepts**

No common understanding of good hygienic practice (GHP) or Hazard Analysis and Critical Control Point (HACCP) applies across New Zealand's domestic food sector. HACCP also presents as overly complex. The meaning of terms such as 'risk based' approaches, and the difference between concepts such as 'hazards' and 'risks' are not commonly understood. In addition, the technical terminology used within the domestic food sector is very broad, with some terms having more than one meaning (e.g. 'registration' or 'audit') and some meanings having more than one term (e.g. 'verification', 'inspection', 'audit' and 'assessment' are sometimes used interchangeably).

- **Duplication, overlaps and gaps in laws and consequential costs for 'persons'**

Some businesses have multiple programme registrations (e.g. product containing both cheese and meat may require both a risk management programme for the meat content and a product safety programme for the dairy content, even if neither provides the product's defining characteristic). There is only limited ability to recognise risk-based management programmes implemented under different legislation, even where exemption would provide a reasonable answer in particular circumstances. For example, it has proven difficult to implement desirable exemptions across the Animal Products and Food Acts; and there is no facility for programmes established under other Acts to be recognised under the Dairy Industry Act.

The production of fresh produce (fruits and vegetables, etc.) are not covered by any specific legislation.

The Food Hygiene Regulations 1974 do not provide a long-term and sound basis for food safety in the future. The penalties and offences are inconsistent with the consistent approach now required by Government policy, and some of the specified offences are outdated.

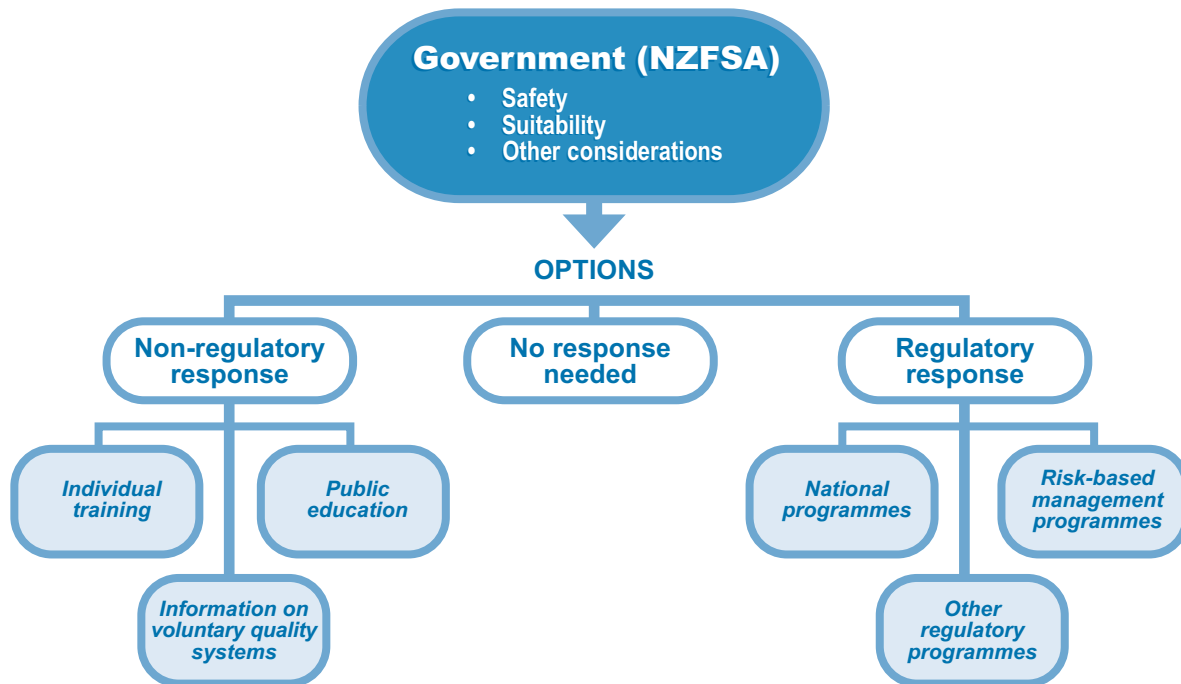
- **Absence of risk assessments in the food sector**

To date, relatively few risk assessments have been completed that quantify food-borne risks faced by New Zealand consumers. This limits the ability to set outcome-based standards in many areas.

Options for government involvement in food safety and suitability issues

For any area of activity in New Zealand, the Government needs to decide whether any involvement and action is justified, and whether regulatory or non-regulatory approaches – or a combination of the two – are best. The food area is no exception, and the options can be described as in Figure 1.

Figure 1 : Options for government involvement in food safety and suitability



This approach to regulation is mandated in the Government’s Code of Good Regulatory Practice.¹ It requires that policymakers consider and balance the issues of efficiency, effectiveness, transparency, clarity and equity in deciding whether and how to intervene.

Criteria for decisions on regulatory practice in the food area are not fully developed, but might involve:

- ranking and prioritising a food safety or suitability issue
- whether there is existing Government policy in the area, and if so whether it provides sufficient guidance
- the available scientific information.

The ‘no response needed’ option may be selected where the issues are covered in other ways, or where the costs of action clearly outweigh benefits. For example, an event overseas relating to a contaminant may result in ‘no response needed’ if the product is not available in New Zealand, or if product tested in New Zealand shows no evidence of contamination.

Non-regulatory responses primarily involve ‘education based’ or ‘regional or local’ alternatives. These might be sufficient where:

- risks are considered small compared to society’s wider needs
- risks are significant, but a regulatory response is neither practical nor appropriate (e.g. risks in the

¹ available on the Ministry of Economic Development’s website (www.med.govt.nz/buslt/compliance/regprac.html)

home, where enforcement is impractical)

- individual choice might be affected to an extent greater than the benefits that regulation can deliver.

Non-regulatory responses are frequently used in New Zealand. Examples are advertising campaigns and warnings about food for pregnant women. Even when the regulatory approach is taken (e.g. controls on the production of chicken), this is backed by public announcements and by education on the importance of safe handling and cooking practices by the consumer.

If Government does decide regulatory involvement is justified, the range of controls include:

- setting standards
- prescribing requirements
- requiring risk-based management plans
- mandating broader national or regional regulatory programmes.

This Review proposes that the core tool for government regulation of food safety and suitability should:

- rely on the risk-based programmes (risk management programmes, food safety programmes, product safety programmes) that already operate in some form across most of the food industry
- enhance or simplify elements of those programmes.

Paper 3 in this Review considers specifically the application of this tool, currently termed 'Food Control Plans'. Other regulatory tools might be national or regional programmes to deal with specific aspects, such as monitoring chemical residues in foods. These options are set out in Figure 1 above.

Policy principles to underpin future government involvement

This Review proposes evolutionary development. It is intended that the best features of current systems will be built on, although new elements and approaches will also be considered.

This section sets out a number of Principles that are proposed to underpin all aspects of this Domestic Food Review, and to provide the basis for further development of ideas and consultation.

The principles are consistent with the Code of Good Regulatory Practice, and will underpin decisions both on whether to regulate and on the form of any control proposed.

Level of government involvement and cost of compliance

It is important that any food safety controls will be the most cost-effective way of meeting the public interest in having safe and suitable food.

Policy Principle 1: Government involvement and imposed compliance costs to the food sector will be minimised, consistent with Government policies and the need for food to be safe and suitable.

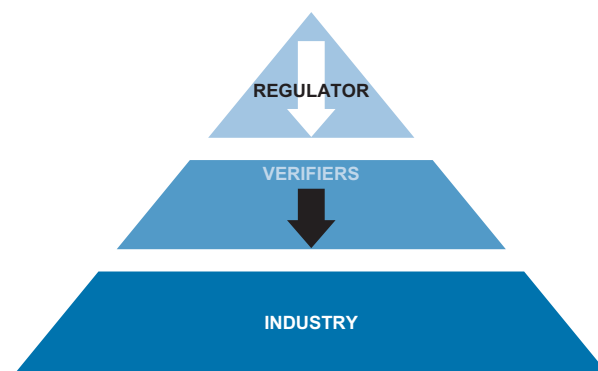
Regulatory Model

It is proposed that the simple three-tier “Regulatory Model (see Figure 2 below)”, developed and applied to part of the food sector in the 1990s, will continue to provide the basis for government involvement in the food sector. In establishing the NZFSA, Government determined this approach was appropriate and aligned with approaches elsewhere in Government (health practitioners, etc).

The model comprises three distinct players:

- **the Regulator** – NZFSA, Public Health Units and Territorial Authorities
- **the verifier** – any agency approved to undertake external verification functions, including the NZFSA Verification Agency
- **the ‘person’** – any individual or organisation involved in a food business.

Figure 2: Regulatory Model



In the model, NZFSA as the principal regulator is accountable for food control in New Zealand and for the implementation and overall performance of the food regulatory programme. The NZFSA sets regulatory requirements and provides implementation tools (see Figure 1) that cover:

- the safety of food
- the suitability of food
- other aspects of the food regulatory programme, such as requirements for non-food products and official assurances for food exports.

Policy Principle 2: The New Zealand food regulatory programme will be based on application of the current “Regulatory Model”.

Risk-based approach

A scientific, risk based approach to government involvement in food safety will help to ensure that any interventions are rational and proportionate.

A ‘*Risk Management Framework*’² published jointly by the Ministries of Health and Agriculture and Forestry in 2000 describes a risk-based approach as a four-step process. The framework is consistent with international guidelines, and aligns closely with the FAO/WHO Codex Alimentarius Commission (the international food standards development body) guidelines on risk analysis³. Risk based approaches are specified in the World Trade Organization Agreements to which New Zealand is a signatory. These agreements also recognise Codex standards and guidelines as the benchmark for international trade in food.

In summary, the approach is:

- **Step 1: Risk evaluation**
A ‘risk profile’ is established to place the identified issue in context and to provide information to guide future action. Risk profiles may also help to rank or prioritise different food safety issues. Although not always required, an independent scientific risk assessment may be commissioned to better inform decision-making. When this information is complete, the risk is assessed in the context of a risk assessment policy.
- **Step 2: Assessment of options**
Potential risk management options are identified, and a preferred option is selected according to decision-making criteria. This often requires balancing preferences for low risk against the food control measures that are available, and may include reaching a decision on what level of risk is acceptable. Although facilitated by the regulator, both industry and consumers have critical inputs to this process.
- **Step 3: Implementation of the decision**
The preferred options are then implemented. In most cases, this will be through sanitary measures (e.g. washing hands after going to the toilet). Where it is not feasible for measures to be implemented at an individual premises (e.g. testing for chemical residues in food), programmes will be implemented nationally, regionally or locally and be administered by the regulator.
- **Step 4: Monitoring and review**
Data is gathered and analysed to give an overview of food safety and consumer health. Monitoring is usually carried out by national public health authorities, and should identify new food safety problems as they emerge. Where there is evidence that the food safety goals are not being achieved, the measures need to be reviewed and possibly redesigned. Both the regulator and industry will be involved in this.

² Available on NZFSA’s website (www.nzfsa.govt.nz/policy-law/harmonisation/rmgmtpr.pdf)

³ Available from Codex Alimentarius Commission website: (www.codexalimentarius.net)

Policy Principle 3: Any government involvement and regulatory controls will be risk-based and science-based as far as possible.

Responsibility for food safety and suitability

It is proposed that 'persons' (individuals or organisations engaged in the food industry) should be responsible for meeting all safety and suitability requirements.

For some sectors of the food industry, this is a continuation of current arrangements. In other cases, this will require change and education, particularly where regulators currently instruct food retailers or processors how to conduct their business in order to deliver safe food.

The revised approach is intended to underline the importance of safety and suitability being 'built in' to an individual's business. 'Persons' are not expected to rely on regulators to ensure they deliver safe food, but are expected to take that responsibility themselves.

Policy Principle 4: 'Persons' will take responsibility for producing safe and suitable food.

Consistency of application

Consistency of application is a longer-term objective that will require transitional arrangements in some industries, sectors or groups.

Some of the groundwork was laid between 1999 and 2002 by the Ministry of Health and the Ministry of Agriculture and Forestry's Food Group in their work to develop harmonised approaches to regulating food safety in New Zealand. This project recognised that harmonisation and consistent application is a long-term objective, given that many existing approaches are industry-specific and that the 'starting point' is not the same for all industry sectors.

Policy Principle 5: Regulatory requirements will be applied consistently and equitably across sectors and groups.

Seamless and coherent

Control of food safety in New Zealand has evolved incrementally. New approaches (e.g. risk-based management programmes) and regulatory structures (e.g. the Regulatory Model) have been adopted in different sectors to differing degrees and on different timescales. As a result, the regime is characterised more by differences and difficult interfaces than by coherence and seamlessness.

For example:

- In the early 1990s the Dairy Industry Act became the first law to employ risk-based management programmes for food safety.
- The Food Act remained very prescriptive (as opposed to risk-based) until 1996, when voluntary risk-based programmes were provided as a first step. However, the signalled further moves to mandatory risk based programmes have not been made.
- The Animal Products Act 1999 was the first piece of legislation to adopt a principally risk-based approach to food safety, but its processes appear overly complex for smaller operations.
- Recognition of risk-based programmes implemented under different legislation is limited. For example, it has proven difficult to implement desirable exemptions across the Animal Products and

Food Acts; and there is no facility for programmes established under other Acts to be recognised under the Dairy Industry Act.

Harmonising these approaches will require significant change to current legislation. This must include simple, practical and effective interfaces between legislation covering different industries and different parts of the food chain.

Policy Principle 6: The food regulatory programme will be seamless and coherent.

Trade facilitation

It is important for this Review to be consistent with the continuing contribution of food and food-related products to the New Zealand economy, including regional economies. The facilitation of the trade in food needs to be factored into regulatory responses.

Policy Principle 7: Trade and commerce in food and food-related products will be facilitated.

Legislative Base

As foreshadowed above, changes are required to ensure that the legislative base enables the intended approach to food safety and suitability. This will be developed in consultation over time.

The legislative base includes all levels of legislation: primary (as in Acts), secondary (as in regulations), and tertiary (as in standards and specifications).

Producing specifications, standards and so on in tertiary controls is neither an easy nor a rapid task. The reality is that tertiary law may well lag behind identified need. Where it is not practicable to create specifications or standards at the outset, templates or Codes of Practice may be employed as interim measures.

Sanctions

Sanctions in the form of offences and penalties are intended to be appropriate to the relevant breach of law. In other words, offences and penalties will vary according to:

- the risk or harm to public health and safety resulting from the action or inaction
- the extent to which the action or inaction is deliberate, as opposed to accidental or unknowing.

It is also intended that New Zealand food law in this area be consistent across sectors. In reviewing sanctions, the Review will also consider developments in other areas of government that may be applicable to the food sector.

Monitoring and Review

It will be necessary to systematically monitor and review data in many areas, including on food-borne illness, to assess the overall effectiveness of the domestic food programme and the potential for the food regulatory programme to deliver benefits to New Zealand. This will be carried out by the regulator. Monitoring may reveal a need to reassess components of the programmes (such as risk assessments and risk profiling) or to change requirements to better target hazards.

Appendix A

Glossary of Terms

Accreditation: provided by a body of international standing, established to perform assessments of agencies and organisations against an international standard and additional secondary criteria/standards (if any) set by the regulator, for a particular function, and may be to a specific category

‘As low as practically achievable’: achieving a suitable outcome for public health, but where the outcome is unmeasured

Code of Practice: a document reflecting acceptable industry agreed practice, and providing information on ways of meeting regulatory requirements that are appropriate to the purpose and scope of the code

Confirmation: written assurance from the ‘person’ responsible for a Food Control Plan that the Plan matches the operations of a business and that all regulatory requirements have been met or incorporated; to be required before the Food Control Plan is registered by the regulator

Evaluation: an assessment of a Food Control Plan, that is independent of the ‘person’ responsible for the Plan, to determine compliance with regulatory requirements and appropriateness for the operation to which the Plan is to apply; involves review of documentation and, in some cases, review of operations or observation of practice; when undertaken by a party other than the regulator, that individual or agency must be recognised by the regulator as competent

Food: both human food and animal feed (including pet food) and related products e.g. animal by-products and raw materials, food packaging and containers as well as agricultural compounds and veterinary medicines where appropriate

Food Control Plan: a management plan that covers safety and suitability and that is proposed to supersede (and be the collective term for) all risk-based management plans; the intention is that

in future every ‘person’ will be covered by a Food Control Plan unless exempted

Food hygiene: all conditions and measures necessary to ensure the safety and suitability of food at all stages of the food chain

Food regulatory programme: the overarching food programme in New Zealand for which the New Zealand Food Safety Authority is accountable, and within which decisions on the type of involvement (regulatory and non-regulatory) are made

Food safety: all aspects of food hygiene that contribute to the production, processing, distribution, storage and sale of safe food

Good Operating Practice: all aspects of good practice relevant to food, including any process and the surrounding environment; intended to cover Good Agricultural Practice, Good Hygienic Practice and Good Manufacturing Practice

Hazard Analysis and Critical Control Point (HACCP): a ‘process’ developed internationally that is a more advanced food control system than Good Operating Practice defined above; application of HACCP principles enables identification, evaluation, and controls hazards which are significant for food safety

Model (Food Control Plan): the whole or a part of a Food Control Plan that businesses in the food industry may use as an example for the preparation of their own Food Control Plans; contains all, or parts of, the components required for a complete Food Control Plan

National programmes: ‘whole of New Zealand’ or regional programmes developed to apply consistently to a sector or group because of the need to involve core government (for example, where access to property is necessary) or for cost-effectiveness reasons (for example, national sampling programmes)

Persons: all food producers, processors, operators, businesses, sellers and importers

Protocol (Food Control Plan Registration): a

documented process for completing the evaluation of a Food Control Plan after registration; includes any data gathering requirements, the disposal rules for any food produced under the protocol, and the time period for completion of evaluation

Recognition: provided by the regulator for agencies and individuals to undertake a particular function, against criteria and standards set by the regulator

Registration: official process whereby the regulator approves a Food Control Plan as satisfactorily meeting the legal requirements

Regulatory model: the current government approach to regulating the food chain; comprises the regulator (primarily but not exclusively NZFSA), the external verifier and the 'person' for the Food Control Plan

Regulatory requirements: any standards and requirements set by the regulator for the management of food safety and suitability that must be met

Regulatory validation: process in which the regulator collects and presents scientific evidence to justify the setting of standards and requirements for food safety or suitability; the regulator validates its own regulatory process

Risk assessment: a scientifically based process consisting of four steps (hazard identification, hazard characterisation, exposure assessment and risk characterisation)

Risk based approach: the application of Good Operating Practice together with HACCP principles for the purpose of identifying and managing food safety and suitability hazards; used to cover aspects of food safety programmes (FSPs) under the Food Act, product safety programmes (PSPs) under the Dairy Industry Act, risk management programmes (RMPs) under the Animal Products Act and, prospectively, wine standard management plans (WSMPs) under the Wine Act; does not include Food Hygiene Regulations

Risk based management plans: the collective term currently used to cover food safety programmes

(FSPs) under the Food Act, product safety programmes (PSPs) under the Dairy Industry Act, risk management programmes (RMPs) under the Animal Products Act, and prospectively wine standard management plans (WSMPs) under the Wine Act

Safe food: in relation to the New Zealand regulatory regime is food that has been produced by applying all food safety requirements appropriate to its intended end use

Seamless: without legislative or operational duplication or gaps in the New Zealand food regulatory programme

Suitability: product attributes that include aesthetic characteristics or defects, composition and labelling, that are not related to food safety

Template (Food Control Plan): a 'form' Food Control Plan in whole or in part, that includes Good Operating Practice and regulatory requirements and is used to assist a 'person' to develop their Food Control Plan; may consist of a simple form and checklist that refers the operator to the Good Operating Practice components within the Code of Practice

Verification: the application of methods, procedures, tests and other checks to confirm:

- compliance of the Food Control Plan to the legislation and
- compliance of the operation to the documented Food Control Plan and
- the applicability of the Food Control Plan to the operation

External Verifier: an entity recognised by the regulator to undertake external verification activities on behalf of the regulator, and is independent of the 'person' with a Food Control Plan being verified

Internal verifier: the 'person' or someone on his/her behalf, undertaking internal verification of that person's Food Control Plan, as required by the Food Control Plan

Appendix B

Proposed Principles to Underpin Government Involvement in Food Safety and Suitability Issues

- Policy Principle 1:** Government involvement and imposed compliance costs to the food sector will be minimised, consistent with Government policies and the need for food to be safe and suitable.
- Policy Principle 2:** The New Zealand food regulatory programme will be based on application of the current “Regulatory Model”.
- Policy Principle 3:** Any government involvement and regulatory controls will be risk-based and science-based as far as possible.
- Policy Principle 4:** ‘Persons’ will take responsibility for producing safe and suitable food.
- Policy Principle 5:** Regulatory requirements will be applied consistently and equitably across sectors and groups.
- Policy Principle 6:** The food regulatory programme will be seamless and coherent.
- Policy Principle 7:** Trade and commerce in food and food-related products will be facilitated.