



Voluntary Implementation Programme

Information Paper

21 April 2008

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1 Introduction

The purpose of this information paper is to provide details of the Voluntary Implementation Programme to implement aspects of the Domestic Food Review given the prospect that the Food Bill may not be enacted by December 2008. A change in timing of the new Food Bill will see Food Control Plans introduced and registered as Food Safety Programmes on a voluntary basis for some sectors of the food industry in mid-2008.

2 Background

Since May 2003, the New Zealand Food Safety Authority (NZFSA) has been working on a comprehensive review of the Government's role in the New Zealand food sector. The Domestic Food Review (the Review) sought to respond to a number of problems and issues that have arisen with the existing regulatory framework applying to food in New Zealand and is only the second such review in 30 years.

The Review covered all food sold in New Zealand and concluded that the current food regulatory regime must be improved and that this could not be done without legislative change. Subsequently, Cabinet agreed to the development of a new Food Bill in October 2006. Government agreed that a new Food Bill should be written and development of the legislation has been underway since that time.

Progress of the Food Bill

Drafting of the Food Bill is well underway. It is a complex piece of legislation and the drafting process has taken longer than anticipated. It is intended that the Food Bill be finalised and ready for introduction to the House by July 2008 so that it will proceed through Select Committee and the Parliamentary process during 2009.

There are two issues that may delay the progression of the Food Bill in 2008. Firstly, the Food Bill may be delayed if the drafting is not completed well in advance of when introduction is intended to be sought. Secondly, NZFSA is mindful that 2008 is an election year and the progression of the Food Bill through the Parliamentary process will be dependent on the Government's priorities both before and after the election.

As the Food Bill will not be able to commence in mid 2008 as originally planned, NZFSA is working to find ways to implement components of the system voluntarily under the existing legislation. NZFSA is keen to maintain the momentum built up over the last four years. A voluntary implementation to the extent possible under the existing law has the advantage of allowing NZFSA, Territorial Authorities

and food business operators more time to develop skills and systems to support the new environment that will be in place when the Bill is passed and to identify areas that might be improved.

Why the Voluntary Implementation Programme has been developed

NZFSA has made a decision to prepare a Voluntary Implementation Programme (VIP) to build on the momentum of the Review and implementation work completed thus far. The intention is to proceed as far as possible with implementation of the Review using the current legislative base, i.e. the provisions of the current Food Act 1981. VIP will be a broad based package of various aspects of the proposed new domestic food regime, including the implementation of the off-the-peg Food Control Plans as Food Safety Programmes for some of the sectors identified for early transition.

VIP is seen to be an education opportunity for Territorial Authorities, Public Health Units, NZFSA and food businesses that choose to participate. The requirements of the VIP are in line with the proposed requirements of the new domestic food regime.

VIP provides an opportunity to trial aspects of the domestic food regime from which implementation lessons will be learned and incorporated into full implementation.

It is intended that under VIP, an off-the-peg Food Control Plan template will be available as a Food Safety Programme for the food service and on-site catering and off-site catering sectors. These sectors have been chosen because they were due to transition into the new domestic food regime in year one or two, and work on the off-the-peg template for these sectors nearing completion within NZFSA. Trials of the template for the food service sector has been recently completed.

VIP will benefit all regulatory bodies and food businesses involved as it will provide a "soft landing" for the smoother implementation of the new domestic food regime.

NZFSA will have a range of material available prior to implementation of VIP for Territorial Authorities and those businesses that had been identified as within the nominated food sectors (food service and catering sectors). Business operators in these sectors will be able to implement a Food Control Plan (freely available to them) then register the Food Control Plan as a Food Safety Programme, which gives the business an exemption from complying with Regulations 1 to 17 of the Food Hygiene Regulations 1974.

The new imports programme will also be affected by the delay in the Food Bill's introduction and NZFSA intends to consult on aspects of that programme that can be delivered under current legislation in the first half of 2008. Further information on this proposal will be available on the NZFSA website.

Next steps

Participation in VIP is voluntary. Territorial Authorities' involvement is on a self selection basis, and NZFSA is pleased to see a range of TA's participating in the programme. Businesses that are identified as within one of the nominated food sectors may choose to participate and benefit from the programme. NZFSA will provide support to the Territorial Authorities and food businesses that choose to be involved in VIP.

3 Off-the-peg Food Control Plans

An off-the-peg Food Control Plan is a ready-to-use Food Safety Programme that a food business operator fills out to record how each food safety aspect of their business is managed. Off-the-peg Food Control Plans are designed to meet the needs of small-to-medium sized businesses, including cafés and restaurants. A draft contents page of an off-the-peg Food Control Plan is included as Appendix 1.

The off-the-peg template that has been trialled will be available for use (modified as a result of the trial) by the food service (restaurants, takeaways etc.) and catering sectors to register as a Food Safety Programme under the current Food Act. Once these programmes are registered the operator will have an exemption from the Food Hygiene Regulations.

VIP will be voluntary because the Food Act does not enable NZFSA to make off-the-peg Food Control Plans mandatory. Operators continue to have a choice whether to comply with the Food Hygiene Regulations or to seek an exemption from them by having a Food Safety Programme.

There are two factors that will allow an operator to register an off-the-peg Food Control Plan as a Food Safety Programme under VIP. Firstly their local Territorial Authority must be taking part in the VIP. Secondly their business needs to operate within one of the nominated three food sectors, as defined by NZFSA (ie, food service and caterers).

The sectors nominated by NZFSA that will be eligible to participate in VIP are those that were identified for the first year of transition of the full implementation programme (food service general, food service on-site catering and food service off-site catering) with a minor change relating to food service general. Descriptions of these sectors (and others identified for later years) are in a Domestic Food Review: Transition Policy and Related Implementation paper available on the NZFSA website (<http://www.nzfsa.govt.nz/policy-law/projects/domestic-food-review/consultation/index.htm>). The minor change is that in Year One of the full transition programme, only liquor licensed businesses in the food

service general sector were to be mandated for implementation. In VIP, any food service general business, whether liquor licensed or not, can participate.

A food business may still choose to adopt an off-the-peg Food Control Plan as a Food Safety Programme and to have the premises audited by a Third Party Auditor. In this situation the FSP would be registered by NZFSA and would not be considered part of the VIP.

Businesses that choose to implement the off-the-peg Food Control Plan will be able to access a copy from the NZFSA website, or obtain a free hardcopy from a participating local Territorial Authority or by attending a Territorial Authority training session.

A sample section of the off-the-peg Food Control Plan and the contents page are attached to this paper to give an indication of what the off-the-peg Food Control Plan looks like.

If significant variations to the off-the-peg Food Control Plan are required for a business, the business may contact NZFSA directly to discuss registering a custom-made Food Safety Programme. If a business adopts a significant variation to the off-the-peg Food Control Plan it will no longer be part of VIP.

Food businesses that would like to adopt the off-the-peg Food Control Plan and who operate in the food service or catering sectors may contact NZFSA directly if their local Territorial Authority is not taking part in the voluntary programme.

Specifications

Specifications have been developed for the new Food Act. They will be publicly available prior to commencement of the new Food Act. The off-the-peg Food Control Plan meets the specifications that will apply under the domestic food regime. Specifications cannot be issued under the current Food Act and as the off-the-peg Food Control Plan will be voluntary and will contain all of the necessary information required by the users, it is not considered beneficial to publish the specifications at this time.

3.1 Territorial Authorities' Involvement

Territorial Authority involvement in the VIP will be on a self-selected basis. Territorial Authorities have, in the main, now responded to a NZFSA expression of interest letter sent in February 2008 to all Territorial Authorities. NZFSA has communicated further with those that have indicated a willingness to participate in VIP. For Territorial Authorities that are interested in participating in VIP but are unable to at this time, there will be a further opportunity to join the VIP later this year. Information will be regularly updated on the NZFSA website.

VIP will provide Territorial Authorities with an opportunity to educate and train their staff in advance of new requirements that will be mandated under the new Food Act.

The Territorial Authorities that choose to participate in VIP will benefit because they will be able to familiarise themselves with the off-the-peg Food Control Plans, train their staff and assist food businesses. They will have an earlier opportunity to develop competencies relevant to the New Zealand verification standard, and it will give Territorial Authorities opportunity to consider resource and cost recovery planning for full implementation of the domestic food regime. Participation in VIP will provide a greater lead-in time for Territorial Authorities, enabling the smoother implementation of new requirements when they are mandated under the new Food Act.

Importantly, VIP will concentrate on developing Territorial Authorities' competencies that are needed for the implementation of the new Food Act. This will ensure that all competency development achieved by Territorial Authorities in the VIP will benefit them into the future under the new Food Act. While the focus will be on working towards the new Food Act, given no legislative changes are required for VIP, information will still be consistent with the current Food Act.

The VIP creates an opportunity for Territorial Authorities to implement 'clustering' or shared service delivery. Shared service delivery is being encouraged under the new domestic food regime as a way Territorial Authorities may enhance their capability and improve regulatory consistency.

Territorial Authorities participating in the scheme will operate a dual system for registering both off-the-peg Food Control Plans and premises outside of the VIP (status quo – i.e. under the Health (Registration of Premises) Regulations 1966 pursuant to compliance with the Food Hygiene Regulations 1974).

Territorial Authorities will be able to accept off-the-peg Food Control Plans as pre-evaluated (by NZFSA) and register the operator's plan. Any significant changes to the off-the-peg plan will be considered 'custom-made' and should be treated as a Food Safety Programme is currently treated for the purposes of the Act. Applications for registration of a custom-made Food Control Plan will be business as usual with operators needing to have their custom-made Food Control Plan evaluated before submitting it to NZFSA for approval and registration.

Until the new Food Act is enacted there is not an area of exclusivity for Territorial Authorities to perform verification (audit) as the current Food Act does not allow for this.

There are conditions of participation in VIP by Territorial Authorities. These include:

- attendance at NZFSA workshops for any Territorial Authority staff that wish to become auditors (verifiers under the new Food Act);
 - agreeing to being subject to 'monitoring and calibration' by NZFSA during the period of VIP (verifiers being assessed and getting feedback on verification performance/principles); and
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- agreeing to stay up to date with new developments and requirements during the VIP period.

VIP provides an opportunity for Territorial Authorities to learn about and prepare for the full new domestic food regime with the support of NZFSA. NZFSA will value feedback on the VIP from participating Territorial Authorities as this will help ensure the full domestic food regime is appropriately implemented. VIP will also enable NZFSA and Territorial Authorities to further develop their working relationship in the area of food regulation.

3.1.1 Enforcement and Auditing Roles

It is anticipated that VIP and the first transition years into the new food environment will see a large educative focus in working with food businesses to adopt Food Control Plans and take responsibility for the provision of safe and suitable food. Enforcement activity will be required in situations where there is clear risk to public health.

Territorial Authorities taking part in the programme will act as the Enforcement Authority in their territorial district for those businesses operating off-the-peg Food Control Plans and will investigate all complaints involving these operators. For those operators operating under an existing Food Safety Programme it will be business as usual and the Public Health Units will be the Enforcement Authority. All other food premises will remain subject to the Food Hygiene Regulations 1974 and any relevant bylaws. NZFSA will be providing training for Territorial Authorities on compliance issues.

It will be important for Territorial Authorities to understand and clearly articulate to businesses what enforcement activity may be taken if corrective action is not taken by food business operators to rectify any non-compliance, or is likely to be taken for repeated non-compliance. It will also be important for Territorial Authorities to be adequately prepared to take enforcement action where there is a clear risk to public health. In addition to training that will be provided, NZFSA will provide information on compliance and enforcement in the *Food Safety Toolkit* being produced for Territorial Authorities. A summary of roles and responsibilities under VIP described in the *Toolkit* are outlined in Appendix 2 of this paper.

As VIP will operate using the current legislative base, enforcement tools and arrangements proposed in the new Food Act will not be available until that Act is passed by Parliament.

3.2 Industry Involvement

Those food businesses that choose to participate in VIP will not be required to transition fully into the new domestic food regime until year five of transition unless they choose to transition when their sector does. For the food businesses involved in VIP this would mean they could choose to transition

in year one, two or year five. Food businesses in the food service and catering sectors that choose not to participate in VIP are scheduled to transition in years one or two.

NZFSA has been in discussion with the Hospitality Association of New Zealand, the Restaurant Association of New Zealand and Accor Hotels who have indicated a willingness to work with NZFSA on VIP.

VIP will benefit all regulatory bodies and food businesses involved as it will provide a “soft landing” for the smoother implementation of the new domestic food regime. The introduction of VIP will be an opportunity for food businesses and regulators to identify any potential issues with the off-the-peg template, and allow for these to be addressed in advance of the new domestic food regime being implemented.

A food business may choose to adopt an off-the-peg Food Control Plan as a Food Safety Programme and to have the premises audited by a Third Party Auditor. In this situation the Food Safety Programme would be registered by NZFSA and would not be considered part of VIP.

3.3 Possible Incentives

Given that the off-the-peg Food Control Plan under the Food Act 1981 will be voluntary, NZFSA has given thought to potential incentives that may be used to encourage and reward voluntary participation in VIP. The objectives of an incentive scheme are to:

- provide information and education relevant to the domestic food regime;
- build capability with Territorial Authorities and food businesses;
- encourage efficiencies in implementation e.g. clustering;
- encourage participation in VIP and a level of commitment to the programme; and
- provide direct short and medium term benefits.

Potential incentives agreed are:

- *competency development and support for Territorial Authorities*,
this includes an appointed account manager within NZFSA to support Territorial Authorities, support visits from NZFSA staff or a coach, waiving of fees for auditor and Food Act Officer applications from Territorial Authorities and additional information and resources to assist with implementation provided at no charge.
 - *the provision of training and support for food businesses in partnership with Territorial Authorities*
the support package for business includes practical tools to implement the off-the-peg Food Control Plan such as copies of material that would otherwise be available at a cost (unless downloaded from the web) including a hard copy of the off-the-peg Food Control Plan and manual, a food probe thermometer, support of a coach and possible an 0800 helpline,.
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NZFSA is planning to provide workshops for businesses, in partnership with Territorial Authorities.

- *a limited fund for Territorial Authority initiatives to implement VIP*

It is envisaged that a contestable fund will be made available for Territorial Authorities to assist with implementation of VIP. Criteria for the fund are being developed and will be clearly communicated when available. Projects funded would have to meet objectives of the incentive scheme and may potentially include supporting the development of clusters, engagement with business or additional training.

Factors used in deciding on the preferred incentives include: equity; effectiveness and the degree to which options meet the objectives of an incentive scheme under VIP. NZFSA is seeking to provide the most efficient and beneficial incentives possible.

Final detail on the incentives is expected to be made available in May. Information will be made accessible on the NZFSA website.

3.4 Training

NZFSA will provide training through workshops on VIP for those Territorial Authorities that participate in the programme. The workshops will cover competencies required to be auditors (called 'verifiers' under the new Food Act). Training will include:

- background of the Food Act and the proposed Food Bill;
- the Food Act as it applies to Food Safety Programme approvals;
- the process of assessing applications for approval, elements of the off-the-peg Food Control Plan's;
- how to be recognised as an auditor and Food Act Officer ;
- principles of auditing;
- practical issues in verification; and
- an overview of enforcement powers, tools and practices.

The workshops will provide an opportunity for Territorial Authorities to undertake staff training in advance of the new requirements being mandated.

3.5 Recognition of Involvement

A number of Territorial Authorities have existing bylaws that provide for grading schemes. Depending on the detail of individual bylaws, a business participating in VIP may be able to retain a grading

certificate or it may be no longer eligible for a grade. NZFSA understands a grading may be an advantage to high achieving businesses and is considering ways of recognising businesses that do participate in VIP.

4 Appointment and role of Auditors and Food Act Officers

4.1 Auditors

For the purpose of VIP, NZFSA may approve Territorial Authorities as auditors under the existing Food Act. Corporate bodies (as well as individuals) may gain approval as auditors of food safety programmes provided they appoint at least one person with the knowledge, experience and demonstrated skills required to meet the criteria as set out by NZFSA. The approval is intended to apply to Environmental Health Officers appointed by Territorial Authorities who wish to audit food businesses operating under an FSP based on a NZFSA template. Territorial Authorities who contract these services will be considered separately. If, for example, the contracted party is already ISO 17020 accredited, they would generally be assessed in terms of NZFSA technical requirements.

There are some conditions of approval (see below) for Territorial Authorities that will need to be reflected in the D-G Criteria:

- Recognition will be interim or time limited to take into account the period of VIP prior to commencement of the new Food Act and the need for a smooth implementation following commencement.
- Territorial Authorities will be given guidance material and training at NZFSA workshops to help them up-skill in the verification area.
- Approval by NZFSA for the appointment of Territorial Authority Environmental Health Officers as auditors will be based on attending NZFSA workshops and existing competencies. NZFSA proposes to carry out a series of regional training programmes that will enhance the current skills and competencies of Environmental Health Officers.

Following NZFSA acceptance of the draft approval criteria for auditors of the NZFSA off-the-peg Food Control Plan, NZFSA will liaise with targeted Territorial Authorities and existing Food Safety Programme Auditors before finalising the new Standard and issuing it as D-G approval criteria.

Once the new approval criteria have been issued, for the purposes of the VIP, Territorial Authorities and/or their officers will need to apply for approval as Food Safety Programme Auditors under the Food Act 1981.

Territorial Authorities and their Environmental Health Officers cannot commence auditing off-the-peg Food Control Plans under VIP until they have been approved as Food Safety Programme Auditors by NZFSA.

Territorial Authority Environmental Health Officers will continue to have the powers of a Local Authority Inspector pursuant to Section 13 of the Food Act 1981.

4.2 Food Act Officer

A Local Authority Inspector (as defined under the current Food Act) does not have the same powers and functions as a designated officer regarding imported food, sampling of food, dealing with infected persons or infected food and closure of premises.

The current limitations on the powers of Local Authority Inspectors will impact on investigative processes under VIP, as investigation will, in the majority of cases, necessitate the need to examine and possibly seize or copy documentation and records. In addition, where the response criteria are met, the expectation is that Territorial Authority staff will manage the full investigation and enforcement Authority process including, as necessary, sampling food, dealing with infected people and/or food and premises closure.

In order to give effect to the expectations of Territorial Authority staff under VIP it is proposed that at least some Territorial Authority staff will be designated as Food Act Officers under the Food Act 1981. Although it is anticipated that there may be limited situations where there is clear risk to public health and enforcement activity is required, under VIP it is important that Territorial Authorities have the ability to perform such functions.

To facilitate understanding of their new roles and to be consistent with current designations, Territorial Authority staff to be designated as Food Act Officers will need to undergo training provided by NZFSA and demonstrate their abilities to meet the relevant current competencies for designated officers.

5 Information for Territorial Authorities

In addition to the provision of incentives and training for Territorial Authorities, NZFSA will provide a *Toolkit* that will assist Territorial Authorities with the implementation of VIP. The *Toolkit* will cover the

application processes, a checklist and process for auditing, outline compliance and regulatory responses, and describe quality systems.

NZFSA will set out the roles and responsibilities of NZFSA, Territorial Authorities, Public Health Units and food businesses. Under the new domestic food regime, the verification (auditing) process is a critical area for the success of food control plans. The fundamental shift from inspection of floors, walls, ceiling and prescribed rules in the Food Hygiene Regulations to an outcome based verification programme against a plan needs to be clearly laid out and explained.

To enable a consistent approach the *Toolkit* will set out a practical process that may not necessarily meet conventional auditing practices. For instance, in many situations food operators may be single or two person operators and having pre-audit and exit interviews of any duration may not be convenient or a cost effective use of time. The process has to be flexible enough to recognise this.

For convenience, consistency and to provide an audit trail, Territorial Authority auditors should have a “checklist”. The checklist may be a combination of tools including auditing against the plan (documentation checks, questioning etc), observation and inspecting.

While the Food Hygiene Regulations put a large emphasis on the premises structure and maintenance, Food Control Plans will place more importance on food safety issues and outcomes. It is also recognised that under full implementation of the domestic food review Territorial Authorities will be using checklists to place appropriate emphasis or weighting on specific or nominated bottom lines – the main critical issues that make a difference to food safety. NZFSA expects to identify what these issues are nationally and for each sector. Examples are food handling, food storage, hand washing, time/temperature and pest control.

The *Toolkit* will set out the reporting NZFSA requires. Reporting may occur at a number of levels from reporting back on individual premises that have entered the voluntary scheme to summary activity and statistics reports.

Any regulations or standards that are used (existing or new) to complement the Food Act, Food Safety Programmes or Food Control Plans will be referenced in the *Toolkit* along with a brief overview. It will also cover offences and sanctions available.

In order to provide consistency, the *Toolkit* will provide a process for recording and investigating complaints about food premises along with who will be the investigating body. Most importantly it will provide a decision pathway or tree so that Territorial Authority officers that may be acting in the dual role of auditor and Food Act Officer can make sound judgements on when issues should be escalated. This may range from “corrective action requests” as an auditor to sanctions as Food Act Officer to referring to NZFSA. This would also provide direction on the segregation of the dual roles of officer and auditor.

Territorial Authorities are expected to require some time (possibly years) to prepare and implement a quality management system that meets the New Zealand Standard (which incorporates the ISO 17020 standard). Some of the work that Territorial Authorities have done towards accreditation as a Building Consent Authority may cross-over however it is expected a considerable amount of work will still be needed. NZFSA intends to prepare a template for Territorial Authorities that would meet the New Zealand standard and, therefore, the ISO17020 Standard.

Information Territorial Authorities can expect to receive from NZFSA in advance of, and in the early months of VIP will include:

- a proposed training schedule;
- information on competency expectation for VIP versus mandatory implementation (verifier and Food Act Officer);
- information on systems required ie accreditation won't be required but there may be some monitoring undertaken by NZFSA;
- a big picture outline of how VIP is to work - VIP vs business as usual;
- procedures manual/guideline;
- template for quality management system (when available);
- training record sheet;
- a verification checklist;
- activity report sheets;
- a direct contact point within NZFSA; and
- a reference copy of an off-the-peg Food Control Plan.

NZFSA will also issue guidelines for Territorial Authorities that enable Territorial Authorities to grant an exemption under the Food Hygiene Regulations upon registration of a Food Safety Programme.

6 Cost recovery

The implementation of VIP will result in a number of functions for Territorial Authorities to undertake. The most significant are:

- Registration
- Auditing
- Compliance
- Enforcement

Registration

Territorial Authorities will administer the registration process for Food Control Plans as Food Safety Programmes. This will involve granting an exemption from the Food Hygiene Regulations and placing them on the NZFSA register of exemptions. This is a relatively minor administrative function.

Provisions for the recovery of costs for the registration of food premises subject to the Food Hygiene Regulations are provided under the Health (Registration of Premises) Regulations 1966. Those cannot be used to recover the costs of granting exemptions from the Food Hygiene Regulations. In practice, most Territorial Authorities combine the registration and inspection (audit) fee into one. This practice could continue through the VIP.

Auditing (verification)

The auditing of Food Safety Programmes under the current Food Act is a contestable activity, which is carried out by third party agencies. While Territorial Authorities will have an area of exclusivity for the verification of certain off-the-peg Food Control Plans under the proposed new Food Act, under VIP the existing auditing arrangements will prevail.

It is NZFSAs view that Territorial Authorities' performance of auditing functions will be as a 'natural person' and as it is a non-mandated contestable activity, cost recovery does not need to be mandated via legislation. Therefore, Territorial Authorities will be able set auditing fees administratively.

Compliance/Enforcement

Currently there are no provisions in the Local Government Act that enables Territorial Authorities to recover the cost of enforcement activity. This type of activity whether provided by local or central Government is funded generally by taxation or rated for the benefit of the whole community.

In the current environment Territorial Authorities undertake compliance and enforcement activities under the Food Hygiene Regulations, and manage any cost recovery according to their own processes for setting fees and recovering costs. Compliance activity is generally rolled into inspection and cost recovered accordingly.

Under the new Food Bill and VIP, compliance and verification/auditing are separate functions. However, where verification/auditing are carried out by Territorial Authorities the compliance functions will be undertaken by the same agency or person thereby minimising transaction effort and costs. Under the Food Bill provisions will be made to enable cost of compliance to be recovered. However, under VIP, NZFSA considers, given compliance activity initially will be via the auditing function no specific compliance cost recovery provision will be necessary.

Costs will be incurred with the appointment of Territorial Authority Auditors and Environmental Health Officers (EHOs) as Food Act Officers. Territorial Authorities will need to apply to NZFSA for approval of EHOs as off-the-peg Food Control Plan (Food Safety Programme) auditors. The cost incurred by

NZFSA would routinely be charged to the applicant. As an incentive under VIP, NZFSA will fund this process.

Similarly, Territorial Authorities will need to apply to NZFSA to have EHOs appointed as Food Act Officers. This, on the other hand is a Crown funded activity and the cost under VIP will be funded by NZFSA.

Participation in VIP will provide Territorial Authorities with useful information on financial and resource requirements for the implementation of the domestic food regime. This information will assist with future planning.

7 Legislation

NZFSA is continuing work on developing the new legislation that will enable a more consistent regulatory programme across New Zealand, ensuring that food producers protect their consumers while at the same time allowing them to work in innovative and flexible ways that best meet their needs.

VIP achieves some of the domestic food review outcomes under current legislation. There is still a need for comprehensive legislation to deliver fully on the outcomes of the review.

The Food Bill is required because there are a number of provisions in it that are not provided for in the current legislation. These include mandating the requirement for a food business to be subject to a regulatory tool (food control plan or national programme) or be subject to the non-regulatory tool (food handler guidance). The Food Bill also provides for enhanced enforcement tools, more appropriate penalties for offences, development of a register for importers and enhanced requirements for importers of food.

Additionally the Food Bill provides greater clarity of the relationship between Territorial Authorities and NZFSA; and allows the NZFSA Chief Executive to issue statements as to the New Zealand standard to meet overseas requirements. The Food Bill will also provide for the revocation of a number of existing bylaws that have been implemented by Territorial Authorities to cover gaps in current legislation. These gaps are being addressed in the Food Bill and include the provision of competencies for key people involved in the food sector.

It is intended that the Food Bill be introduced into Parliament around July 2008 so that it will proceed through Select Committee and the Parliamentary process during 2009.

7.1 Relationship with Domestic Food Review

VIP provides an opportunity to implement aspects of the domestic food regime, maintain momentum and provide a learning opportunity before the full regime is introduced. VIP is heading in the same direction as the domestic food regime and will be consistent with the approach taken in the regime. All aspects of VIP will be in line with the domestic food regime and will apply as the regime is implemented. For example if a business registers an off-the-peg Food Control Plan as a Food Safety Programme under VIP, the business may then choose to transition into the domestic food regime at the same time as others from the sector or it may wait until the end of the transition period.

There will continue to be consultation as required and discussion on details of the full implementation programme as passage of the Bill approaches. Experience gained during VIP is expected to contribute to refinement of the domestic food regime.

8 Next Steps

It is intended that VIP will be ready to commence mid 2008.

NZFSA has communicated directly with those councils that have indicated they would like to be involved in VIP. For those Territorial Authorities that are interested in VIP but not yet ready to participate, there will be a second opportunity to join VIP late in 2008. Information on VIP will also be regularly updated on the Territorial Authority only section of NZFSAs website.

Information for food businesses will be available on the NZFSA website and from their local Territorial Authority. Food businesses that are interested in registering an off-the-peg Food Control Plan as a Food Safety Programme should contact their local council in the first instance; NZFSA is an alternative contact.

NZFSA will be supporting and encouraging Territorial Authorities and food businesses to participate in VIP. NZFSA will be producing a procedures guide in the form of a *Toolkit* for Territorial Authorities, providing training and will provide further details on the incentives that will be offered.

NZFSA will provide frequent updates on VIP to both industry and Territorial Authorities.

Further and related information

- Frequently Asked Questions have been developed and are available on the NZFSA website.
- A media statement outlining NZFSAs intention to undertake VIP is available at:
<http://www.nzfsa.govt.nz/publications/media-releases/2007/dfr-food-control-plans-revised.htm>

- Regular updates on VIP will be included in the 4degreesC publication; the Domestic Food Forecast and the FoodNet website.
- A number of supporting documents on VIP are being prepared and will be available on the NZFSA website <http://www.nzfsa.govt.nz>

DFR

- Information on the new domestic food regime is available at <http://www.nzfsa.govt.nz/policy-law/projects/domestic-food-review/index.htm>.
- An information paper outlining Territorial Authority functions for the domestic food regime has recently been released 'Domestic Food Review Information Paper - *Implementing Territorial Authority 'Shop-Front', Verification and Compliance Functions*' and is available on the website

Appendix 1: Draft Contents Page of an OTP FCP

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Registration & contact details		2
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Training & supervision		4

Section 2: The Basics	Page
Health & sickness	5
Hand hygiene	6
Personal hygiene	7
Cleaning & sanitising	8
Food allergens	9
Waste disposal	10
Pest control	11
Maintenance	12
Customer complaints & recalls	13

Section 3: Cook Safe	Section Needed?		Page
	Yes	No	
Readily perishable food	<input checked="" type="checkbox"/>		14
Checking temperatures	<input checked="" type="checkbox"/>		15
Purchasing and receiving goods	<input checked="" type="checkbox"/>		16
Storage	<input checked="" type="checkbox"/>		17
Chilled/Frozen storage	<input checked="" type="checkbox"/>		18
Defrosting frozen food	<input type="checkbox"/>	<input type="checkbox"/>	---
Preparation	<input type="checkbox"/>	<input type="checkbox"/>	---
Cooking poultry	<input type="checkbox"/>	<input type="checkbox"/>	---
Checking poultry is cooked	<input type="checkbox"/>	<input type="checkbox"/>	---
Cooking	<input type="checkbox"/>	<input type="checkbox"/>	---
Checking food is cooked	<input type="checkbox"/>	<input type="checkbox"/>	---
Hot holding prepared food	<input type="checkbox"/>	<input type="checkbox"/>	---
Cooling hot prepared food	<input type="checkbox"/>	<input type="checkbox"/>	---
Reheating prepared food	<input type="checkbox"/>	<input type="checkbox"/>	---
Display & self-service	<input type="checkbox"/>	<input type="checkbox"/>	---
Transporting food			

Section 4: Records
Training records
Approved suppliers
Time/temperature settings
Cooking temperature record
Transporting readily perishable food
Thermometer calibration
Sickness record
The diary Cleaning schedule
Maintenance schedule

Appendix 2: Regulator Roles and Responsibilities

Work area/function	NOW	VIP	FUTURE
Food complaint management	<p>Complaints primarily go through Public Health Units (PHUs), although NZFSA and Territorial Authorities (TAs) also will receive these.</p> <p>The PHU will delegate certain complaint investigations to TAs (premises hygiene etc) or to NZFSA (national significance).</p>	<p>PHUs to remain primary receipt points.</p> <p>TAs will be assigned to undertake all complaint investigations meeting the response criteria. TAs will report outcomes to the assigning officer.</p> <p>Complaints not meeting the TA response criteria will be investigated by PHUs or forwarded to NZFSA for management per current procedures.</p>	<p>TAs as 'shop-front' to be primary receiver of complaint information and assess who it is best assigned to.</p> <p>TAs will undertake all complaint investigations meeting the response criteria. Complaints not meeting the response criteria will be forwarded to NZFSA for management (usually involving PHUs)</p>
Food recalls	<p>PHUs generally manage recalls (i.e. dealing with the operator) with NZFSA oversight and input as required.</p>	<p>TAs and PHUs to manage with NZFSA oversight and input as required.</p> <p>TAs to manage when the recall relates to a single premises or business that is wholly within their jurisdiction.</p>	<p>TAs and PHUs to manage with NZFSA oversight and input as required.</p> <p>TAs to manage when the recall relates to a single premises or business that is wholly within their jurisdiction.</p>
Premises investigations (NB: not verification)	<p>TAs manage premises under Food Hygiene Regulations (FHRs), with PHUs managing those under Food Safety Programmes (FSP).</p> <p>Where (Foodborne Illness) FBI is indicated PHUs manage premises investigations.</p>	<p>TAs to manage premises under FHRs and under off-the-peg Food Control Plan (OTP-FCP) that they have registered. PHUs to manage existing FSP premises and new custom FSP premises.</p> <p>Where FBI is indicated a designated officer will be required to manage premises investigations, and will need to liaise with PHUs (if not already within a PHU).</p>	<p>TAs to manage most premises investigations.</p> <p>Where FBI is indicated will need to liaise with PHUs.</p>
Sampling	<p>Conducted only by appropriately designated officers (primarily at PHUs).</p>	<p>To be conducted only by appropriately designated officers.</p>	<p>TAs (Food Officers) will be able to undertake sampling as part of premises or food complaint investigations, and as required by NZFSA.</p>
Prosecution	<p>NZFSA.</p>	<p>No change.</p>	<p>No change.</p>

	<p>TAs also take prosecutions from time to time.</p> <p>TAs have the ability to act jointly with NZFSA (and so have access to NZFSA funding) in certain circumstances.</p>		
Registration and/or Audit (verification) of Food Safety Programmes, Appliances, Premises	PHUs and NZFSA.	<p>TAs to undertake assessment, registration and audit of OTP-FCPs.</p> <p>Custom FSPs to be as per current procedures.</p>	<p>TAs to undertake assessment and registration of OTP-FCPs.</p> <p>Custom FCPs to be as per requirements issued by NZFSA.</p>
Labelling	Primarily PHUs with NZFSA input.	<p>TAs become competent to undertake labelling investigations related to premises within their jurisdiction.</p> <p>If not designated officers – will have to liaise with a designated officer if gathering of evidence (labels etc) or seizure of labels is required (section s12 (f) and 12(j)).</p>	TAs undertake labelling investigations related to premises within their jurisdiction.
Issuing Prohibition Notices (including premises closure)	<p>Section 12(h) of the Food Act 1981 contains a concept similar to prohibition notices – where a designated officer can instruct an operator to not use equipment etc.</p> <p>Regulation 82 of FHRs allows a designated officer close premises, requiring liaison and co-operation between TAs and PHUs to carry out this activity.</p> <p>A number of TAs have a by-law in place to allow closure of food premises</p>	Status Quo.	All officers able to issue in accordance with guidance and procedures issued by NZFSA.
Approval of recognised agencies or 'persons' and other things (eg, verifiers, labs, equipment etc.)	NZFSA responsibility.	No change.	No change.