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1 Introduction

The New Zealand Food Safety Authority (NZFSA) has reviewed government involvement in the New Zealand food sector and, as a result, the Government is to establish a new food regulatory regime covering matters contained in the nine previous Discussion Documents. These earlier Discussion Documents contained the key requirements that enabled the Government to agree the policy for drafting a proposed Food Act¹.

With Government agreement on the scope and nature of the new food regulatory regime, it is now appropriate to make the transitional policy available to provide for a smooth and efficient implementation of the new system.

This is Paper 10 of the Domestic Food Review. It sets out the transition policy that will apply to move to a new food regulatory regime that will enhance the safety and suitability of food in New Zealand. It addresses the submissions on the related discussion document *Domestic Food Review: Transition Policy and Related Implementation Discussion Document No 06/06, October 2006*..... For those submissions that relate to topics under development or consideration by NZFSA, information will be available in due course.

The nine related discussion papers published by NZFSA for public consultation were:

- Introduction and context
 - Regulatory roles, responsibilities and structures
 - Proposed Food Control Plans
 - Implementation of Food Control Plans
 - Cost recovery
 - Compliance and sanctions: criteria and tools for the future
 - Criteria and processes for various approvals.
-

¹ The term 'proposed Food Act' is used in this Paper to mean the new Act that will replace the Food Act 1981 as a result of this Food Review.

- Position Paper
- Transition Policy and Related Implementation.

These papers are available on the internet (www.nzfsa.govt.nz/policy-law/projects/domestic-food-review/index.htm) and in hard copy by calling 0800 NZFSA1 (0800 693 721).

The central focus of the transition policy is to set out the arrangements that will apply to all food businesses (see Glossary of Terms) which are subject to regulation under the Food Act 1981.

Under the new food regulatory regime, food businesses will operate under one or more of the following risk management tools: a Food Control Plan and/or a National Programme, or Food Handler Guidance (non-regulatory educative material).

This Position Paper:

- describes how it is intended to implement Food Control Plans, National Programmes and Food Handler Guidance
- sets out which food businesses will be required to have either a Food Control Plan and/or be subject to a National Programme, and the general timing of their implementation.

Tables 3.1 to 3.5 outline the transition — by sector and year — for the five-year transition period. The transition allocation was principally based on NZFSA's Risk Ranking and Prioritisation Model.

Appendix 2 explains who is excluded (or partially excluded) from the Domestic Food Review.

This Position Paper also:

- outlines the intended roles and responsibilities of the regulator, verifiers, evaluators and industry during the transition
- addresses specific arrangements for those with registered Food Safety Programmes
- sets out the interim arrangements that will apply before food businesses are transitioned into the new regime.

This Position Paper forms the basis of the transition provisions of the proposed Food Act. The more detailed aspects of implementation not discussed in this Paper are under development by NZFSA and further information will be made available in due course.

2 Executive Summary

NZFSA is New Zealand's principal food regulator and is required to administer all national food-related law. NZFSA also has to deliver on several closely related goals:

- reducing sickness from foodborne illness in New Zealand
- ensuring consistency of approach
- providing a seamless regime that ensures safe and suitable food for New Zealand.

Since May 2003, NZFSA has been working on a comprehensive review of government role in all aspects of the safety and suitability of food produced, processed, manufactured, traded, transported and imported to New Zealand. NZFSA has previously published nine papers on this Domestic Food Review.

The Domestic Food Review includes all food for sale or sold in New Zealand, food provided as a reward and, potentially, food funded by government appropriation. The way forward, as agreed by Government, is for all food businesses (other than those covered by the Animal Products Act 1999 or the Wine Act 2003) be required to have a registered Food Control Plan and/or operate under a National Programme, or to have Food Handler Guidance (a non-regulatory tool). Food Control Plans will either be based on an NZFSA-approved Food Control Plan model, or be custom-made by food businesses.

Undertaken in parallel with the Domestic Food Review is the Imported Food Review, which although largely outside the scope of this document, will provide changes to the controls on imported food and will link with the proposals contained in this document, as the proposed Food Act will cover imported food.

As a result of the Domestic Food Review, Government has agreed to the drafting of a new Food Act, new food regulations and new supporting notices that will explicitly place obligations on all food businesses to meet safety and suitability requirements.

A transition policy is needed for all food businesses to change from the present system to the new food regulatory regime. With the variety of starting positions, the variety of solutions, and the large number of food businesses involved, a pragmatic phased approach to transition is needed.

Furthermore, the availability of resources, including technically skilled staff at NZFSA, impacts on the practicable implementation of the new regime.

Implementation Matters

To set a context for the transitional arrangements, key matters of implementation are discussed first, such as ‘who is affected by the new food regulatory regime’ and ‘what will food businesses be required to do?’

Food businesses will be generally covered by one of the following tools:

- **Food Control Plans:** either off-the-peg or custom-made
- **National Programmes:** developed by NZFSA to control some or all food safety or suitability issues across all or part of a particular sector, or in a particular part of the food chain (a National Programme may be additional to, or instead of, a Food Control Plan)
- **Food Handler Guidance:** food businesses (this includes charity or fund-raising activities) that meet criteria specified in **Appendix 3** do not need to operate under a Food Control Plan or a National Programme, but are still responsible for providing safe and suitable food as required by the Food Act. To assist them to achieve this, a non-regulatory tool, Food Handler Guidance, is expected to be available.

Food businesses that fall within the listings provided in **Appendix 2** generally do not need to operate under a Food Control Plan, a National Programme or Food Handler Guidance (with a few exceptions, see section 5.5); but will still be subject to the general provisions of the proposed Food Act, the Australia New Zealand Food Standards Code (‘Joint Food Standards Code’) and New Zealand standards (with some exceptions for exporters).

The impact of the introduction of Food Control Plans will be eased by the use of off-the-peg Food Control Plan models freely available from NZFSA. This will mean that many food businesses will not have to bear the costs of plan development, nor need to have their plan evaluated. It is intended that off-the-peg Food Control Plans will be available at least nine months prior to the registration date for that food sector, and the food business’ Food Control Plan will be submitted for registration at least three months before the registration date. Food businesses are therefore given at least six months to complete an off-the-peg Food Control Plan.

For custom-made Food Control Plans that require evaluation, recognised evaluators will be available to businesses by the earliest scheduled date for their food sector’s registration of a Food Control Plan (that is nine months before the registration deadline).

Food Control Plan registrations will be time-limited and non-transferable. It is intended that a Food Control Plan will usually require annual registration (just as food premises registration is annual now). In general, renewal or transfer of the registration should be a straight forward administrative process.

External verification of registered Food Control Plans will be required. NZFSA will recognise external verifiers, who may be third parties or Territorial Authorities, for each sector by the time food businesses in that sector are to commence applying for registration of their Food Control Plans. Territorial Authorities will perform external verification for most off-the-peg Food Control Plans.

Education and competency requirements are likely to be required for food businesses and therefore the minimum required competency will be mandated by the scheduled registration date, with food businesses given a reasonable time period to fulfil any education and training needs.

It is intended that the Food Hygiene Regulations 1974 and the Food (Safety) Regulations 2002 be revoked. They will be replaced by new regulations made solely under the proposed Food Act. It is intended to ease transition by carrying over the bulk of Schedule 1 of the Food Hygiene Regulations for the transition period. A transitional registration process for premises will be provided along with any associated implementation requirements.

Transitional Arrangements

NZFSA intends that the transition period will begin six months after commencement of the new Food Act, with the implementation of Food Control Plans and National Programmes phasing in over a period of five years from the latter date. No specific transitional arrangements are intended for Food Handler Guidance as these are a non-regulatory tool and the material will be prepared as required.

As a foundation arrangement, upon commencement of the proposed Food Act all food businesses are to continue to comply with food safety and suitability requirements (although these will be in the new food regulations and associated notices), the Joint Food Standards Code and the New Zealand standards.

Tables 3.1 to 3.5 outline the transition — by sector and year — for the five year transition period. These tables describe the food sectors identified by NZFSA, together with the risk management tool to apply to each sector. The allocation of food sectors to each year of the transition is primarily based on the Risk Ranking and Prioritisation Model, with the higher-risk food sectors generally transitioned first. The yearly transition presented in Tables 3.1 to 3.5 gives food businesses an idea of when and how they will be brought into the regime.

However, as the commencement of the proposed Food Act is uncertain (depends on passage through Parliament) and some operational aspects remain under development, the specific dates for each food sector will be finalised and notified at least one year in advance.

Food Safety Programmes registered (or being registered) upon commencement of the proposed Food Act will be deemed to be Food Control Plans and specific allowances made for these to fully transition to the new regime. Initially, Risk Management Programmes and Wine Standards Management Plans

are to remain in place, but NZFSA is indicating that consequential amendments to these are likely to better align them with Food Control Plans towards the end of the transition period.

Transitional arrangements for new businesses and businesses that operate across more than one food sector are given in section 4.

While commercial drivers may lead some food businesses to wish to register a Food Control Plan early, NZFSA is not encouraging this because this could be more costly to the business. Food businesses will be encouraged to gain the benefits of using an off-the-peg Food Control Plan and guidance material from NZFSA at the time appropriate to that sector in the transition programme.

The next steps in the Domestic Food Review are continuing to develop the implementation programme, completing legislation and development of the systems and tools required for implementation.

3 Background and Context

This Domestic Food Review is only the second such review in 30 years. It has been under way since March 2003, and responds to a number of problems and issues that have arisen with the existing regulatory framework applying to food in New Zealand. This is the tenth Paper published as part of the Review.

There are three main pieces of food-related legislation, the:

- Food Act 1981
- Animal Products Act 1999
- Wine Act 2003.

Under the Food Act 1981, there are Food Hygiene Regulations 1974² (made under the Health Act 1956 and the Food Act 1981), the Food (Safety) Regulations 2002, those parts of the Australia New

² The registration provisions under part 1 of the Food Hygiene Regulations refer to the requirement for food premises to be registered under the Health Registration of Premises Regulations 196. This is specifically authorised by s 120 of the Health Act.

Zealand Food Standards Code ('the joint Food Standards Code') that apply to New Zealand, and New Zealand food standards. These comprise the current regulatory regime for New Zealand food under the Food Act 1981.

The New Zealand domestic food and beverage sector covers any food business (by definition, food producer, processor, handler, seller or importer) that prepares food for sale or reward and, potentially, food funded by government appropriation. The food industry comprises approximately 35,000-37,000 businesses including:

- 22,900 registered retail and food services
- 1,700 registered food manufacturers
- more than 10,000 food businesses currently exempted or partially exempted from registration, such as hospitals, childcare facilities, aged care homes or school tuck shops
- 3,000 businesses currently covered by various risk management programmes under the Food Act 1981 (Food Safety Programmes), the Animal Products Act 1999 (Risk Management Programmes – including what had been product safety programmes under the Dairy Industry Act 1952 – and Regulated Control Schemes) and the Wine Act 2003 (Wine Standards Management Plans are yet to be implemented). To a large extent, the proposed Food Act would adopt the best features of these and apply them to the food sector more generally. The proposed Food Act covers food that is also animal produce or wine.

There is an unknown number (but estimated to be in excess of 80,000) occasional food operations each year (currently exempted or partially exempted from registration) such as barbecue fundraisers, cake stalls and galas.

A Glossary of Terms is in **Appendix 1**.

3.1 Problem definition: why the Domestic Food Review was needed

As the country's principal food regulator, NZFSA is required, among other things, to administer national food-related law and issues relating to the safety and suitability of food. NZFSA also has to deliver and address the following:

- reducing the incidence of foodborne illness in New Zealand
- providing a regime that ensures safe and suitable food for New Zealand

- inconsistencies, interface issues, duplications and gaps throughout the food regulatory system in New Zealand.

In addressing the problems facing New Zealand, the Government has decided that a number of Policy Principles will be applied, as outlined in the Domestic Food Review Position Paper, February 2006 (page 8) and repeated in section 3.3 of this paper. In addition, the Government's decisions on its future involvement in food regulation are based on a risk-management framework and the Government's Code of Good Regulatory Practice, which requires laws to meet standards of efficiency, effectiveness, transparency, clarity and equity.

3.2 Scope of the Review

The Domestic Food Review covers government involvement in all aspects of the safety and suitability of food produced, processed, manufactured, transported, handled, imported and traded in New Zealand. The proposed Food Act includes all food provided in New Zealand for sale or reward (eg, a workplace canteen funded by the employer) and, potentially, food funded by government appropriation. NZFSA has conducted a separate review of imported food, and the relevant legislative outcomes of the Imported Food Review are to be implemented through the proposed Food Act.

The Domestic Food Review also provides for implementation of new food regulations to replace the Food Hygiene Regulations 1974 and the Food (Safety) Regulations 2002. The Joint Food Standards Code and New Zealand food standards will remain in effect.

All food businesses covered by the Domestic Food Review will be required to have a registered Food Control Plan and/or be covered by a National Programme, or have Food Handler Guidance apply to them.

The Domestic Food Review does not cover:

- other government involvement such as taxation, building codes, local government bylaws, fair trading laws, etc

- export requirements³ (noting that all food produced, processed or handled in New Zealand will be largely covered by the proposed Food Act, irrespective of its final place of sale)
- produce for a person's own use, such as growing your own fruit or vegetables, gathering of watercress, fishing, seafood collection and home-killed meats (including further processing of such products).

3.3 Principles underpinning regulatory controls

In addressing the two broad problems facing New Zealand, the Government has decided that a number of Policy Principles will be applied:

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

Policy Principle 2: New Zealand's food regulatory regime will be based on application of the current 'Regulatory Model' (that is the three-tier model outlined in section 4.1 below).

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

Policy Principle 4: Food businesses will take responsibility for producing safe and suitable food.

Policy Principle 5: Regulatory requirements will be applied consistently and equitably across sectors and groups (the regulatory response will be used reasonably and fairly when identified as the appropriate option).

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

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

³ Food produced in New Zealand for export is generally expected to meet the same standards of safety and suitability as apply to New Zealand food. Any additional export requirements and procedures were not within the ambit of the Domestic Food Review.

4 Overview of New Food Regulatory Regime

All food businesses will be required to comply with provisions of the new food regulatory regime. This section provides a description of the key elements of the new food regulatory regime that will be administered by NZFSA and Territorial Authorities.

4.1 The new food regulatory regime

The new system of food regulation comprises three key players (as it does now):

- the regulator, across three levels of government – NZFSA, the Public Health Units of District Health Boards operating under contract to NZFSA, and Territorial Authorities;
- the verifier – any agency recognised to undertake external verification (currently audit or inspection) activities, including the NZFSA's Verification Agency and Territorial Authorities; and
- food businesses – all food producers, processors and handlers, transporters, sellers and importers.

NZFSA is the principal regulator responsible for food control in New Zealand and for ensuring that the overall food regulatory regime is effective.

4.2 Which food businesses are affected by the new food regulatory regime?

Under the new regime, food businesses will be required to register a Food Control Plan, and/or will be subject to a National Programme, or are to operate under Food Handler Guidance; unless they are operating under the Animal Products Act or the Wine Act. The current exemptions from registration provided by regulation 4(4) of the Food Hygiene Regulations 1974 will cease and some other food businesses will become covered by the definition of a food business in the proposed Food Act (for example food transporters and distributors). This means those food businesses will come under the new food regulatory regime when their sector(s) transition.

Food exporters

Food that is produced or processed and handled in New Zealand for export will be required to meet the safety and suitability requirements of the domestic food regulatory regime. Exporters may receive

exemption from certain requirements of New Zealand Food Standards and/or the Joint Food Standards Code, as determined on a class or classes basis by NZFSA. All such food must be exported. Any that is not exported will be required to comply with the new food regulatory regime. The setting of export requirements and the issuance of official assurances were excluded from the Domestic Food Review, except that the proposed Food Act will make provision for the Chief Executive of NZFSA to issue statements as to compliance with New Zealand standards of food that is produced or processed and handled in New Zealand for export.

Food importers

All food imports will be subject to the clearance requirements of the proposed Food Act. In addition, all food businesses that import food or food products (which include import agents) for commercial purposes must meet regulatory requirements specific to their import activities. Within six months of commencement of the proposed Food Act each commercial food importer will be required to register as an authorised importer.

NZFSA will specify categories of imported foods and the requirements that apply to those categories for the purposes of determining which food importers require a Food Control Plan, which are to operate under a National Programme, and for the administration of food clearances.

Importers of only low regulatory interest foods, which will be specified by NZFSA, will not be required to prepare a Food Control Plan for their food imports. Instead, a National Programme (Imported Food) encompassing generic standards for imported food will be developed by NZFSA and applied to these foods.

Within 12 months of commencement of the proposed Food Act, importers of medium or high regulatory interest foods will be required to register a Food Control Plan (Imported Food). NZFSA will develop a model that food businesses may use to complete their Food Control Plan (Imported Food). The model can be tailored to the activities of the business and the types of food imported.

To facilitate a smooth transition from the existing to the new imported food regime, relevant existing food import standards will be carried forward during the transition period, and some will be reviewed.

Food importers who have domestic food operations will be required to also comply with the regulatory requirements for their domestic food sector(s). Progressively, and well in advance of the end of the transition period, NZFSA intends to have developed rationalised processes that offer those food businesses the choice of registering one Food Control Plan covering all of their operations generally (except for those covered by a National Programme).

4.3 What will food businesses be required to do?

Sectors are intended to migrate to the new food regime in stages over a five-year transition period, which will start six months after the proposed Food Act's commencement date. Higher-risk sectors will generally adopt the new regime first (see Tables 3.1 to 3.5).

The Government has decided that under the new Food Act each food business will be required to use one or more tools to ensure the safety and suitability of food. The tools are:

- **Off-the-peg Food Control Plans:** NZFSA will develop and make freely available off-the-peg Food Control Plans where this is the most efficient option because of commonality among products and processes across a significant number of food producers. Off-the-peg Plans will be developed according to the timetable set out in Tables 3.1 to 3.5 in this Paper. NZFSA is endeavouring to develop off-the-peg Plans that will be easily understood, simple and quick to complete.
- **Custom-made Food Control Plans:** A custom-made Food Control Plan is created by a food business for its operations. It may be developed from scratch, or may be adapted from one or more off-the-peg Food Control Plan models. An example of a custom-made Food Control Plan is one that includes unique or private practices, which will remain confidential to the food business, but will be seen by the regulator and external verifier. A custom-made Food Control Plan is one that is significantly different from of NZFSA's freely available, sector specific off-the-peg Food Control Plans. NZFSA is currently developing what 'significantly different' in this context means. In any case a custom-made Food Control Plan must contain all the necessary Food Control Plan components. Food businesses will incur the cost of the preparation and, if required, of evaluation of the custom-made components of their Food Control Plan.
- **National Programmes:** These will be developed by NZFSA in conjunction with an organisation representing the sector (where applicable) to control some or all food safety and/or suitability issues across all or part of a particular sector, or in a particular part of the food chain (food businesses could still be required to have a Food Control Plan to address any food safety and suitability issues in their food operation that are not dealt with by the National Programme).

Further detail of what food businesses will be required to do is contained in section 3, 'Transition Implementation'.

Food businesses that fall within the listings provided in Appendix 2 (other than those that already operate under a Food Safety Programme or the Food Hygiene Regulations) generally will not need to operate under a Food Control Plan, a National Programme or Food Handler Guidance because they are covered by other food legislation. These businesses, depending on their activities, will still be

subject to the general provisions of the proposed Food Act, which will require compliance with the joint Food Standards Code and New Zealand-only standards.

Food activities that meet criteria specified in Appendix 3 do not need to operate under a Food Control Plan or a National Programme. Those undertaking such activities are still required to meet food standards because operators are still responsible for providing safe and suitable food under the proposed Food Act. To assist them to achieve this, Food Handler Guidance (an educational tool) will be available from Territorial Authorities.

4.4 Evaluation of Food Control Plans

Evaluation is the initial assessment of whether a custom-made Food Control Plan:

- meets the regulatory requirements
- is appropriate to the business
- covers the scope of the business
- is technically sound
- will deliver food that is safe and suitable.

The evaluation principles are as follows:

- off-the-peg Food Control Plans will be NZFSA-approved prior to issue, so Plans fully based on these will not require evaluation
- a custom-made Food Control Plan (whether derived from an off-the-peg Food Control Plan or not) must be evaluated prior to registration unless the regulator approves alternative arrangements
- 'significant variations' to an off-the-peg Food Control Plan, which include assessment of the impact of the variations on the overall Food Control Plan, are likely to require evaluation. Variations that are not 'significant' would not require evaluation. The details of 'significant variations' are being developed and will be advised when complete.

In developing the evaluation process and procedures NZFSA is drawing on experience with evaluation of risk-based management plans which fall under other legislation that it administers and is seeking to minimise the compliance costs faced by food businesses. Where evaluation is required, the evaluator will issue an evaluation report based on guidance provided by NZFSA. This report is to be submitted

with the application for registration to assist assessment of the application. NZFSA may request a copy of some or all of the custom-made Food Control Plan. The food business pays for evaluation.

NZFSA intends that appropriately skilled evaluators be recognised by NZFSA at least nine months before the registration deadline of the relevant food sector. The competencies required for Food Control Plan evaluators will be the same as Food Control Plan external verifiers. NZFSA is developing a new standard for external verification and evaluation consisting of the key elements of ISO 17020 plus additional criteria required by NZFSA. Recognition by NZFSA will be dependent on evaluators achieving accreditation to this standard or meeting transitional requirements.

Recognised evaluators will include some staff of the NZFSA Verification Agency, and may include staff from Public Health Units or Territorial Authorities, auditors of Food Safety Programmes and private agencies or persons (third party agencies).

In recognising evaluators, NZFSA will:

- list the specific activities and functions or food sectors for which each evaluator is recognised
- include a renewal or expiry date
- have procedures for suspension, surrender or revocation of recognition (along with appropriate appeal processes)
- require evaluators to demonstrate that they meet requirements for ongoing recognition (including maintaining competence).

4.5 Food Control Plan registration process – off-the-peg and custom-made

Off-the-peg Food Control Plan

Off-the-peg Food Control Plans and guidance material will be freely available to food businesses directly from Territorial Authorities and through NZFSA. These documents will be available at least nine months prior to the registration deadline for each food sector. The local Territorial Authority will be the 'shop front' for most food businesses particularly those using off-the-peg Food Control Plans. Those businesses with an existing Risk Management Programme, Wine Standards Management Plan or Food Safety Programme registered with NZFSA or operating under a Regulated Control Scheme can continue to communicate directly with NZFSA.

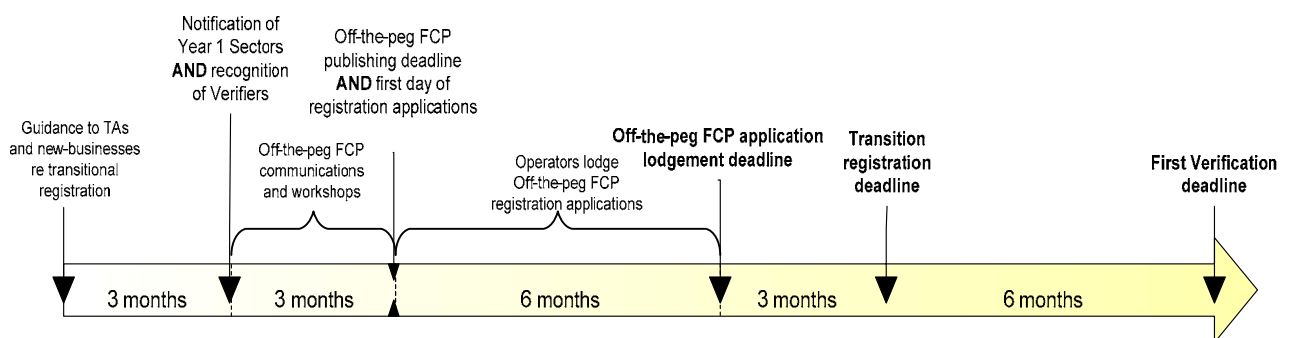
It is the responsibility of each food business to approach the Territorial Authority to obtain the necessary Food Control Plan material and guidance. All applicable parts of an off-the-peg Food Control Plan are to be completed in full by each food business. The Plans and guidance material will include an application for Food Control Plan registration. The properly completed application form of the off-the-peg Food Control Plan, together with the registration fee set by the Territorial Authority must be submitted to the Territorial Authority for registration by the notified date - at least three months before the notified registration deadline.

An off-the-peg Food Control Plan covering premises located beyond the jurisdiction boundary of a single Territorial Authority (that is, operating in two or more Territorial Authorities) will be registered by NZFSA. There are exceptions however.

Mobile operators, must choose their 'home base' Territorial Authority in which to register. As well, food businesses that operate a number of premises will have the choice of registering separate off-the-peg Food Control Plans either for all premises within each Territorial Authority or for each individual premise. In these two circumstances the Territorial Authority may register the Food Control Plan(s).

For existing businesses that register an off-the-peg Food Control Plan the Territorial Authority (or other verifier) may perform the initial verification at any time during the first six months after the registration date of that Plan.

Diagram 2.1: Off-the-peg Food Control Plan Registration Process during Transition



Custom-made Food Control Plans

This section describes aspects of the custom-made Food Control Plan registration process that differ from those for an off-the-peg Plan. In general, NZFSA will register custom-made Food Control Plans although some Territorial Authorities, if fully accredited and competent, may be eligible to do so. For the purposes of this section, only NZFSA is referred to for registration.

Guidance material for preparing a custom-made Food Control Plan will be freely available from NZFSA and Territorial Authorities.

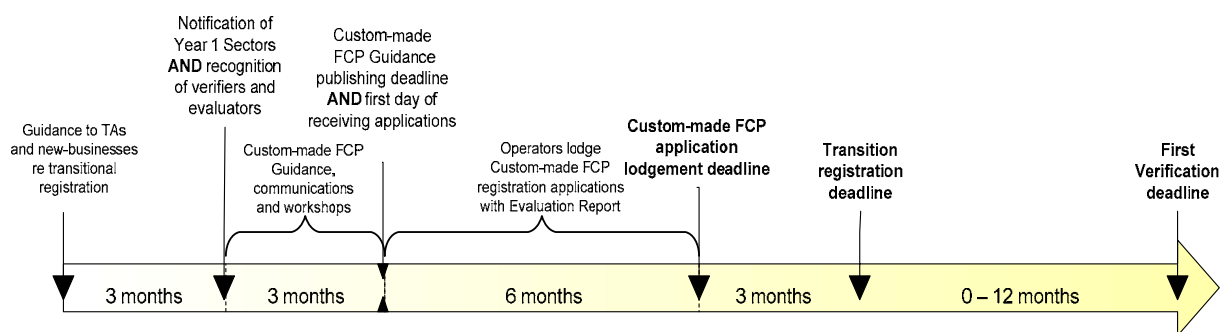
If NZFSA advises that a custom-made Food Control Plan does not need to be evaluated before the food business applies for registration of that plan, some or all of that custom-made Food Control Plan may need to be submitted to NZFSA with the application form.

Custom-made Food Control Plans will be assessed and registered by NZFSA. When an application for registration of a custom-made Food control Plan is lodged with a Territorial Authority, the Territorial Authority will check to ensure the required documents have been supplied and the registration fee is included before sending the application on to NZFSA.

For existing businesses that register a custom-made Food Control Plan, the external verifier may perform the initial verification at any time during the first 12 months after the registration date of that Plan. For example, a custom-made Food Control Plan that has undergone an on-site evaluation before registration with no issues of concern raised, may not require verification for another 12 months.

NZFSA would expect nearly all new food businesses with a custom-made Food Control Plan to receive an on-site evaluation before commencing operations. The timing of the initial verification would depend on the risks associated with the operations, including the assessment of the evaluator, when applicable.

Diagram 2.2: Custom-made Food Control Plan Registration Process during Transition



General

Territorial Authorities and NZFSA (as the case may be) will have a period of three months between the application lodgement deadline and the registration deadline to assess applications and register Food

Control Plans. The registering authority may request additional information from the operator. The registration assessment process is needed to check that the:

- application form for registration of the Food Control Plan contains all of the information needed
- Food Control Plan is appropriate to the operations of the food business
- Food Control Plan (custom-made only) contains all the components and information needed
- holder of the Food Control Plan (known as the "operator" and usually the business owner) is a 'fit and proper person' (such as, having no relevant criminal convictions).

In most cases a Territorial Authority will assess applications for off-the-peg Food Control Plans while NZFSA will assess applications for custom-made Food Control Plans.

Food Control Plan registrations will be time-limited and non-transferable. A Food Control Plan will, in most cases, require annual renewal of registration, as is generally the case under the Food Hygiene Regulations 1974. Renewal of the registration or re-registration is expected to be a straight forward administrative process but this will depend on the most recent verification report determining that the food business is continuing to provide food that is safe and suitable.

An operator may apply for registration of their Food Control Plan at any time after the Food Control Plan material is published up to the application lodgement deadline (six months).

Food businesses will be encouraged to lodge applications for registration of Food Control Plans with their Territorial Authority, which will determine the appropriate party to assess the application.

After the registration deadline for a food sector has passed, food businesses in that sector without Food Control Plans cannot operate without first registering a Food Control Plan. Selling food from a food business that should have a registered Food Control Plan but is operating without one will carry significant penalties under the proposed Food Act.

The proposed Food Act provides flexibility for the management of the transition of sectors and will enable NZFSA to issue notices to:

- specify the registration cycle to apply to a food sector or classes of food businesses within a sector
- inform food sectors or classes of food businesses of their process, timeline and deadline for registration of a Food Control Plan or for complying with a National Programme.

Throughout the transition and thereafter the regulator – NZFSA and Territorial Authorities – will be required to maintain registration databases of food businesses registered under the ‘old’ and ‘new’ regulatory regimes. This could be done as simply as adding a ‘flag’ to entries in the existing registration database to denote whether a food business is under the ‘old’ or the ‘new’ regime. Alternatively, the regulator might choose to invest in a new system. In developing information technology requirements, NZFSA will work closely with representatives from Territorial Authorities.

NZFSA, Public Health Units and Territorial Authorities recognise the importance of information capture and access to such information across all regulators. NZFSA will be working with Public Health Units and Territorial Authorities to ensure there are public registers of commercial importers, food businesses with registered Food Control Plans, and recognised agencies and persons.

4.6 Food Control Plans require external verification

External verification will involve a physical inspection of the premises, a review of all components of the Food Control Plan, scrutiny of records and enquiry of staff as necessary. It will check that the Food Control Plan continues to meet regulatory requirements, is being followed, is appropriate to what the food business does, and the food business is managing and minimising food hazards adequately. The external verifier will complete a simple report to the food business and update the registration authority following each verification visit and, when appropriate, will initiate action to remedy non-compliance based on guidance material issued by NZFSA.

Verifications will be performed by persons recognised by NZFSA as competent to undertake the verification, and employed by a recognised third-party agency or Territorial Authority. They also could be performed by NZFSA’s Verification Agency but generally this would be as provider of last resort. Transitional arrangements are required to enable verification to be performed at the outset of implementing the new regime while giving verifiers/verification agencies adequate time to achieve the standard required. Such transitional arrangements are likely to apply to most, if not all, existing Environmental Health Officers currently undertaking food-related activities and Food Safety Auditors.

Territorial Authorities will primarily perform verification of registered off-the-peg Food Control Plans for food retail and food service businesses whose premises are located exclusively within one Territorial Authority. Territorial Authorities will have exclusive external verification of such off-the-peg Food Control Plans, except for those businesses with an existing external verifier or auditor of food safety, for example, rest homes. To do this level of verification Territorial Authorities will have a graduated programme for meeting the new verification agency standard in full by the end of the transition period. Some Territorial Authorities contract out their current inspection of premises. Inspection is to be replaced by verification (of a limited kind) from the start of transition. Territorial Authorities may

contract out verification of food businesses from the outset. All such contracted out roles must be to an agency (or agencies) or person(s) recognised by NZFSA.

Food businesses with Food Control Plans that do not meet the criteria for exclusive verification by the local Territorial Authority must nominate an NZFSA recognised third-party verifier. In these circumstances, they may only nominate a Territorial Authority if it is an agency recognised by NZFSA as meeting the new accreditation standard in full. Where such a registered Food Control Plan covers more than one premise, the food business may, if it wishes, choose a separate recognised verifier for each premise.

Generally, Food Control Plans will be required to be verified annually. However, this frequency and intensity may increase or decrease depending on the risk and complexity of the specific activities, and the history of compliance of the business with that Food Control Plan. Verification costs will be paid for by the food business just as inspection costs are now. While NZFSA will give guidance on fees to Territorial Authorities and industry, the verifier can set their fees to cover actual and reasonable costs (and for private sector verifiers, to earn a profit).

NZFSA will recognise external verifiers for each sector by the time food businesses in that sector might start to register Food Control Plans (as outlined in Diagrams 2.1 and 2.2 and in Tables 3.1 to 3.5).

Organisations and individuals wishing to be recognised by NZFSA as third-party verifiers will be subject to the following accreditation and recognition requirements from commencement of the transition of each applicable food sector:

- meeting a standard under development by NZFSA that incorporates all the key elements of ISO 17020 and specific criteria set by NZFSA (a consultation document will be issued), and assessed by an accreditation agency
- demonstrating that the personnel in an organisation have relevant technical competency
- meet requirements for independence, confidentiality, and management of potential conflicts of interest
- passing a 'fit and proper person' test (such as having no relevant criminal convictions).

In recognising verifiers, NZFSA will:

- list the specific activities and functions or food sectors for which a verifier is recognised
- include a renewal or expiry date

- require verifiers to demonstrate that they meet requirements for ongoing recognition (including maintaining competence)
- have procedures for suspension, surrender or revocation of recognition.

NZFSA will also provide guidance material and workshops for verifiers to ensure they are aware of their role and responsibilities and with a view to enhancing national consistency of application.

4.7 National Programme Implementation Process

The process for each National Programme will be tailored to each sector or group of businesses to which it applies. As for a Food Control Plan, after the implementation deadline for a National Programme has passed food businesses with related operations must have adopted the requirements of the National Programme.

4.8 Education and competency requirements

NZFSA has identified the need for a coordinated approach to achieving competencies during the implementation process. Competency requirements will be identified and developed with training providers, the food industry and in parallel with the development of the sector specific tools, if appropriate.

The new food regulatory regime will provide for competency requirements for:

- some individuals subject to Food Control Plans and National Programmes
- those food businesses performing certain activities
- verifiers, evaluators and Food Act officers.

The focus will be on establishing competency requirements that must be met or demonstrated, not the prescription of training.

Training to meet the requirements of Food Control Plans and National Programmes will be the responsibility of individual businesses, likely with the support of an industry training organisation.

4.9 Review of the Food Regulations

The Food Hygiene Regulations 1974 and the Food (Safety) Regulations 2002 are to be revoked. These regulations will be replaced by new regulations made solely under the proposed Food Act. The new regulations will include outcome standards representing good operating practice. The outcome standards and associated requirements will apply to all food businesses and will relate to ensuring that food is safe and suitable for its intended purpose.

A transitional registration process for premises operating under the current food regulatory regime will be provided for along with any associated implementation requirements until these food businesses are required to move into the new regime. It is intended that the bulk of Schedule 1 of the Food Hygiene Regulations be carried over for the transition period to ease transition. Provisions for food businesses currently exempt, partially exempt or omitted from the Food Hygiene Regulations 1974 will also be carried over. These current exemptions or omissions will cease to apply when food businesses are required to come under the new regulatory regime.

4.10 Roles and responsibilities

The principal parties described in this section to be involved in ensuring the safety and suitability of food are NZFSA (including roles carried out on its behalf by Public Health Units under contract), Territorial Authorities and food businesses.

Tables 2.1 and 2.2 summarise elements of the new regulatory regime that will be put in place by NZFSA and Territorial Authorities respectively to facilitate the transition policy. Territorial Authorities may choose whether to meet their responsibilities with their own staff or with the contracted services of other agencies or individuals recognised by NZFSA.

Table 2.1: NZFSA – Roles and Responsibilities (includes contracted roles of Public Health Units)

Regulations, standards and systems	Pre-requisites to commence Food Control Plan Registration in Year 1	Ongoing roles during five-year transition and thereafter
<ul style="list-style-type: none"> • Administer proposed Food Act • New Food Regulations and related standards and notices for domestic and imported food • Food Control Plan guidance material • Approvals and accreditation system • Compliance (systems audit): tools, procedures, incentives • Cost-Recovery standards and delivery mechanisms • Performance and monitoring system • Investigations policy and system • Enforcement policy • Incident-response system • Contracted roles of Public Health Units • Operational protocols with Territorial Authorities 	<ul style="list-style-type: none"> • Food Control Plans: off-the-peg Food Control Plans, Food Control Plan guidance material, 'fit and proper person' test • Approvals and recognitions needed • A registration system • Operate registration system – existing and new in parallel • Evaluation (for sectors at start date): tools, training material; approved trainers of evaluators; recognise evaluators • Verification (for sectors at start date): tools; training material; approved trainers; recognise verifiers • Review and develop procedures and systems for investigations and enforcement • Revise systems for operational response and recalls • Preparation of generic Food Handler Guidance for sausage sizzles, bed & breakfast, school galas 	<ul style="list-style-type: none"> • Food Control Plans (remaining sectors) • National Programmes; standards, notices and implementation tools • Approvals and recognitions • Operate registration system – existing and new in parallel • Evaluation (remaining sectors): tools, training material; approve trainers of evaluators; recognise evaluators • Verification (remaining sectors): tools; training material; approve trainers; recognise verifiers • Investigations: review and refine systems • Enforcement: standardise and refine sanction mechanisms • Operational response and recalls – review and refine systems • Food Handler Guidance (remaining categories)

Note: 'Operational response' relates to emergencies and cases of foodborne illnesses.

Table 2.2: Territorial Authority – Roles and Responsibilities

Regulations, standards and systems	Pre-requisites to commence Food Control Plan registration in Year 1	Ongoing roles during five-year transition and thereafter
<ul style="list-style-type: none"> • Ensure bylaws are aligned with the proposed Food Act and notices • System to meet pre-requisite and ongoing roles especially Food Control Plan registration and verification 	<ul style="list-style-type: none"> • Preparation to be the 'shop front' for food businesses • Implement new registration system, if necessary • Operate registration system – existing and new in parallel • Education of food businesses and the public as necessary • Training of staff to carry out functions and activities under the new regime • Verification: of businesses both with and without off-the-peg Food Control Plans • Investigations: implement revised policy and system • Enforcement: implement new policy and system to enhance national consistency • Implement new system to deliver response and recalls • System to deliver Food Handler Guidance to relevant persons • Provision of advice and dissemination of information on food safety and suitability 	<ul style="list-style-type: none"> • Involvement with National Programmes if appropriate • Operate registration system – existing and new in parallel • Education of food businesses and the public as necessary • Training of staff • Verification: continue verification of off –the-peg Food Control Plans as appropriate • Verifier of non-exclusive Food Control Plans an option • Perform investigations • Enforcement: standardise and refine sanction mechanisms and liaison with NZFSA • Apply new enforcement mechanisms • Perform operational response and recalls.

4.11 Responsibilities of food businesses

The principal role and responsibility of food businesses is to produce safe and suitable food. To demonstrate Good Operating Practice and fulfil this responsibility many food businesses will be required to register and implement a Food Control Plan.

5 Transition Implementation

5.1 Why is a transition period needed?

Approximately 35,000-37,000 food businesses will be affected by the proposed Food Act. These food businesses start from different regulatory and operating positions. Some have a registered Food Safety Programme under the Food Act 1981, some are subject to the Food Hygiene Regulations, and others are exempt from registration.

The proposed Food Act will stipulate the following control mechanisms for ensuring food safety and suitability by the end of the transition period: Food Control Plans, and/or National Programmes or Food Handler Guidance.

With the variety of starting positions, the variety of solutions, and the large number of food businesses involved, a pragmatic phased approach to transition is needed. For example, it is estimated that more than 80,000 occasional food activities will be covered by Food Handler Guidance.

In addition, the level of resources and skills at NZFSA, Territorial Authorities, third-party agencies and among food businesses also make a case for a staged implementation of the proposed Food Act regime, including flexibility around the timing of transition for food sectors or groups of businesses within sectors.

Accordingly, a five-year transition period is needed to:

- allow food businesses time to change to the new regime in a measured way
- build capability in order to develop and implement tools, systems and guidance amongst all stakeholders (food businesses, agencies and regulator).

5.2 When will food businesses be affected?

Commencement of the proposed Food Act is uncertain (it depends on passage through Parliament) and some operational aspects remain under development, so specific dates for each sector will be determined over a year in advance. Food Control Plans and National Programmes are to be phased in over a period of five years from the start of implementation.

The basic principles for each food sector are that:

- new food regulations and supporting notices will apply from the commencement date of the proposed Food Act
- tools for each sector will be in place six months before the scheduled Food Control Plan or National Programme implementation deadline
- recognised evaluators will be available six months before the scheduled Food Control Plan application lodgement deadline
- verifiers will be recognised by the earliest scheduled registration date, which is the same date that tools for the sector become available
- minimum required competency of key people in food businesses may be mandated for some sectors but food businesses will be given a reasonable time period to fulfil their education and training needs, where applicable
- all food businesses, whether their sector-specific activities are included in a new risk management tool or not, will be required to continue to meet food safety and suitability requirements stipulated by the proposed Food Act, such as the joint Food Standards Code and New Zealand-only standards, or by subordinate legislation
- food businesses with Food Safety Programmes that are registered upon commencement of the proposed Food Act, or that become so registered, may not choose to cancel them without replacing them with a Risk Management Programme, a Food Control Plan and/or National Programme, as applicable. For further detail on registered Food Safety Programmes refer to section 5.3.

Tables 3.1 to 3.5 contain the food sectors identified by NZFSA, together with the main risk management tool likely to apply to each sector, and a firm proposal of the transition year in which food businesses in each sector are to register Food Control Plans and/or with a National Programme (if required) under the new regime. The food sector transition timeline is primarily based on NZFSA's Risk Ranking and Prioritisation Model, with the higher-risk food sectors generally to transition first.

Within each sector that has an off-the-peg Food Control Plan available, there may be food businesses that nonetheless choose to register custom-made Plans. Also, within each food sector, there may be food businesses that meet the criteria for exemption from a Food Control Plan or National Programme and will instead be covered by Food Handler Guidance (see **Appendix 3**).

Table 3.1: Food sectors intended for registration in Year 1 of transition

Food Sector	Description/example	Risk Management tool
Food Service – on-site catering	<p>Businesses providing food service where food is served to large numbers of people simultaneously. Food is prepared and served at the same venue.</p> <p>Examples: defence catering, prison catering, boarding schools, university and college catering, in-house catering (eg, at clubs and similar venues), certain 'rent-a-chef' operations.</p> <p>This does not include restaurants offering buffet services, which are included in general food service.</p>	Off-the-peg Food Control Plan
Food service – off-site catering	<p>Businesses primarily providing food services at a venue other than where the food was prepared. They may have equipment and vehicles to transport meals and snacks to venues/events.</p> <p>Examples: office/corporate catering, gala meals, functions where food is brought into clubs or community halls.</p>	Off-the-peg Food Control Plan
Food service – general – with a full time liquor on-licence	<p>Businesses providing meals, snacks and beverages to customers for immediate consumption on premises, home delivery or take-away and that have a full-time liquor on-licence.</p> <p>Examples: Café, restaurant, permanent workplace canteen, large food chains, bars/pubs/clubs, hotels, backpackers, large bed and breakfasts.</p>	Off-the-peg Food Control Plan
Fresh salad manufacturer (ready-to-eat)	<p>Business making fresh salads (not for direct retail sale), including green salads, fruit salads, potato salad, bean salad, rice/pasta/grain-based salads.</p> <p>Includes fresh herbs and spices, fresh sprouts.</p>	Custom-made Food Control Plan
Providers to vulnerable populations (1) Manufacturers	<p>Manufactured products specifically targeted for vulnerable populations.</p> <p>Example: infant formula, baby foods</p>	Customer-made Food Control Plan

(1) 'Vulnerable populations' are defined as children under five years of age, elderly people over 65 years of age, pregnant women, and people with compromised immune systems.

Table 3.2: Food sectors intended for registration in Year 2 of transition

Food sector	Description/example	Risk management tool
Food Service –designated points of entry – International Health Regulations (IHR)	Food businesses within the boundaries of a Designated Point of Entry and subject to International Health Regulations (IHR), eg, international airports, ports. Example: airline catering, cafés within international airport boundaries, airline members lounges at international airport	Off-the-peg Food Control Plan
Food service –general – NO liquor licence or other than a full-time liquor on-licence	Businesses providing meals, snacks and beverages to customers for immediate consumption on premises, home delivery or take-away. Examples: café, restaurant, permanent workplace canteen, large food chains, ice-cream shop, delivery of pizzas or other meals, school dining room, large bed and breakfasts,	Off-the-peg Food Control Plan
Manufacturers of chilled sauces, spreads, dips, soups (excluding butter & margarine spreads)	Manufactures sauces, dips, soups, spreads (chilled) Examples: hummus, tzatziki, pesto, salsa, gazpacho, mayonnaise	Custom-made Food Control Plan
Nut processors	Processes nuts Examples: salted peanuts, raw nut mix, honey-roasted cashews	Custom-made Food Control Plan
Providers to vulnerable populations (1) Food service – live-in or 24-hour care	Food services associated primarily with vulnerable populations delivered in a residential (live-in or 24 hour care) setting. Includes cook/chill services. Examples: rest home, aged residential care, hospice, convalescent care facility, maternity home, meals on wheels	Off-the-peg Food Control Plan
Providers to vulnerable populations (1) Retailers and food services – day care	Food Services associated primarily with vulnerable populations. Example: elderly day care, crèche, kindergarten, children’s day care	Off-the-peg Food Control Plan
Providers to vulnerable populations (1) Retailers and food services – hospitals	Retailers and food services primarily serving vulnerable populations. Includes cook/chill services (where food is prepared for delivery to one or more hospitals). Example: public hospitals, private hospitals	Off-the-peg Food Control Plan
Raw milk (farm-gate sales)	Farmers selling raw milk at the farm, in amounts of no more than 5 litres at a time, for use by the purchaser and his/her family.	National Programme
Soy product processors/ manufacturers - short shelf life (excluding soy crisps, included in crisp manufacturers)	Manufactures soy products for short shelf life (chilled). Examples: Soy yoghurt, soy milk, soy ice-cream, soy sausages, soy burgers, tofu, soy cheese	Custom-made Food Control Plan

(1) ‘Vulnerable populations’ are defined as children under five years of age, elderly people over 65 years of age, pregnant women, and people with compromised immune systems.

Table 3.3: Food sectors intended for registration in Year 3 of transition

Food sector	Description/example	Risk management tool
Commercially sterilised products	Manufactures commercially sterile canned, bottled, poached, trayed, aseptically packaged foods Example: stocks, soups, vegetables, fruit, jams	Custom-made Food Control Plan
Eggs - further processing	Pulping, pasteurisation (secondary processing), boiling, drying	Custom-made Food Control Plan
Food retailer (1) - handles and retails food	Sells at retail packaged and/or unpackaged food and/or repackaged food (eg, fresh fruit) and/or small-scale food service (eg, serving ice cream, pick-and-mix lollies) Examples: some dairies, service stations, mini-marts, school canteen/tuck shop (no meals)	Off-the-peg Food Control Plan
Food retailer (1) – makes, handles and retails food	Sells at retail all forms of food, also handles and manufactures food Examples: supermarkets with butcher and/or bakery and/or delicatessen; dairies making and selling sandwiches, rolls, muffins, etc.	Off-the-peg Food Control Plan
Food service - mobile food services	Mobile (vehicle-based) food business providing meals, snacks and beverages to customers for immediate consumption Examples: ice-cream vans, vendors, gypsy vans, pie carts	Off-the-peg Food Control Plan
Herb and spice manufacturer (dried)	Manufactures dried herb and spices (including salt and pepper) Example: paprika, cinnamon, thyme	Food Control Plan
Horticultural packing operations (packhouses)	Packs horticultural products, including suitability decisions, sorting, grading & pre-market preparation	National Programme
Horticultural producers (2) – grasses	Growers of cereal grains, grasses for sugar or syrup production Examples: maize, wheat, sugar cane, sweet sorghum	National Programme
Horticultural producers (2) – fruit	Growers (farmers) of citrus fruits, pip fruits, stone fruits, berries and other small fruits, assorted tropical and sub-tropical fruits, peel Examples: kiwifruit, oranges, apricots, blueberries, olives, feijoas	National Programme
Horticultural producers (2) – nuts & seeds	Growers (farmers) of tree nuts, oilseed, seed for beverages & sweets Examples: chestnuts, walnuts, sunflower seeds, coffee beans	National Programme
Horticultural producers (2) – herbs & spices	Growers (farmers) of herbs and spices Examples: basil, parsley, root ginger, celery seed	National Programme
Horticultural producers (2) – vegetables	Growers of bulb vegetables, brassica vegetables, fruiting vegetables, leafy vegetables, legumes, pulses, root & tuber vegetables, stalk & stem vegetables Examples: garlic, onions, potatoes, cauliflower, courgettes, mushrooms, lettuce, runner beans, chick peas, carrots, celery	National Programme
Manufactured and fermented meat, poultry, fish manufacturers - not ready-to-eat	Manufactures non RTE manufactured meat, fish or poultry products. Examples: bacon, sausages, domestic boning rooms (does not include manufacturers selling direct for retail sale – included in 'Retail Butcher')	Off-the-peg Food Control Plan

Manufactured and fermented meat, poultry, fish manufacturer - ready-to-eat	Manufactures ready-to-eat meats (small goods); excludes manufacturers selling direct for retail sale (included in 'retail butcher') Examples: salami, liverwurst, beef jerky, smoked fish or chicken, paté	Custom-made Food Control Plan
Retail butcher (3) -not ready-to-eat meat	Prepares and sells raw meat direct for retail sale Example: sausages, meat cuts, roasts	Off-the-peg Food Control Plan
Retail butcher (3) -ready-to-eat meat	Manufactures ready-to-eat small goods and may also prepare and sell raw meat direct for retail sale	Off-the-peg Food Control Plan

(1) 'Food retailer' excludes retail bakeries, retail Confectionery-makers and retail butchers

(2) 'Horticultural producer' as defined in CAC/PR 4-1989: 'Guide to CODEX Recommendations Concerning Pesticide Residues, Part 4, CODEX Classification of Foods And Animal Feeds', Version 2, 1989, pages 1-59.

(3) 'Retail butcher' excludes supermarkets that have a retail butcher

Table 3.4: Food sectors intended for registration in Year 4 of transition

Food sector	Description/example	Risk management tool
Chilled meals manufacturer	Manufactures chilled meals unless captured elsewhere; assumes meals are to be reheated prior to consumption	Off-the-peg Food Control Plan
Confectionery manufacturer – wholesale	Manufactures all types of confectionery. Example: candy, chocolate, liquorice, jubes	Custom-made Food Control Plan
Confectionery manufacturer – retail	Makes confectionery direct for retail sale. Example: chocolate store, candy shop	Off-the-peg Food Control Plan
Distributors and transporters	Includes pre-retail distribution & transport not captured in another category Examples: cold storage, warehouses, wholesalers & transporters of food	National Programme
Manufacturer of food additives, processing aids, vitamins, minerals and other nutrients	Manufactures food additives for commercial and personal use Examples: colours, flavourings, emulsifiers, processing aids, vitamins, minerals	Custom-made Food Control Plan
Manufacturer of frozen meals & meal components	Manufactures frozen meals unless captured elsewhere. Examples: fish fingers, chicken nuggets, frozen dinners, frozen desserts, frozen fish/chicken/meat portions, frozen pies	Off-the-peg Food Control Plan
Juice manufacturer (1) – (vegetable and fruit) Short shelf life 100% juice	Manufactures short shelf life juices. May or may not be pasteurised. Example: 100% Orange juice (chilled)	Off-the-peg Food Control Plan
Juice manufacturer (1) – (vegetable and fruit) – short shelf life - less than 100% juice	Manufactures short-shelf-life juice drinks; may or may not be pasteurised. Example: berry juice smoothie drink (chilled)	Off-the-peg Food Control Plan

Juice Manufacturer (1) – (vegetable and fruit) – extended shelf life - 100% juice	Manufacturers extended-shelf-life juices Example: 100% tropical fruit juice (shelf-stable)	Off-the-peg Food Control Plan
Juice Manufacturer (1) – (vegetable and fruit) – extended shelf life – less than 100% juice	Manufacturers extended-shelf-life juice drinks Example: apple drink (shelf-stable)	Off-the-peg Food Control Plan
Retail bakery (2) – bakery products	Makes a range of bakery items direct for retail sale. Examples: slices, pies, cakes & pastries	Off-the-peg Food Control Plan
Retail bakery (2) - bread products	Makes a range of bread-type products direct for retail sale, but does not make foods such as cakes, pies, slices & pastries	Off-the-peg Food Control Plan

(1) 'Juice manufacturer' excludes juice squeezed and served directly to the customer (eg, at a juice bar), which is included in 'food service'.

(2) 'Retail bakery' excludes supermarkets with a retail bakery, which are included in 'Food retailer – makes, handles, retails food'.

Table 3.5: Food sectors intended for registration in Year 5 of transition

Food sector	Description/example	Risk management tool
Brewery/distillery/ vinegar manufacturer	Manufactures alcoholic beverages or vinegar; may also pack, store and transport product Example: beer brewery	Custom-made Food Control Plan
Carbonated and uncarbonated drink manufacturer	Manufactures all types of non-alcoholic drinks except juices Examples: sports drinks, cola beverages, cordial, water, energy drinks	Custom-made Food Control Plan
Cereal product manufacturer – perishable	Manufactures perishable/fresh cereal products; excludes those selling direct for retail sale (see 'retail bakery' categories) Examples: bread, pizza bases, naan, cakes, slices, muffins, rice milk, fresh pasta	Custom-made Food Control Plan
Cereal product manufacturer Shelf stable	Manufactures shelf-stable or long-shelf-life cereal products; excludes those selling direct for retail sale (see 'Retail bakery – bakery products'). Examples: breakfast cereals, pasta, noodles, pastry, breakfast bars, muesli bars, savoury biscuits, pappodums, sweet biscuits	Custom-made Food Control Plan
Crisp manufacturer	Manufactures chippies, chips, popcorn, pretzels, soy crisps & similar snacks	Custom-made Food Control Plan
Dried fruit and vegetable manufacturer	Manufactures dried fruit % dried fruit products Examples: dried apricots, sultanas, dried apples, dried peas, dried mushrooms, sun-dried tomatoes, banana chips, fruit leather bars	Custom-made Food Control Plan
Dry mix (powder) manufacturer	Manufactures drink, soup, sauce, flavour, dessert dry-powder mixes Examples: drinking chocolate, teabags, instant coffee, cake mix, jelly crystals	Custom-made Food Control Plan
Food retailer (2) – retail only	Sells only packaged foods Examples: some dairies, liquor store	Off-the-peg Food Control Plan
Manufacturer of food-type	This covers food dietary supplements not covered by any other	Custom-made

dietary supplements	sector	Food Control Plan
Manufacturer of frozen fruit & vegetables	Manufactures packets of frozen fruit and/or vegetables; excludes frozen chips, hash browns and similar products Examples: frozen mixed berries, peas and corn mix	Off-the-peg Food Control Plan
Grain processor	Processes grains into processed grain Examples: processing wheat, oats, corn or rice into flour, semolina, rice or couscous	Custom-made Food Control Plan
Ice & iced Confectionery manufacturer	Makes ice, ice-blocks, sorbet; excludes dairy-based frozen products (ice-cream) or desserts	Off-the-peg Food Control Plan
Manufacturer of acidified, preserved, and/or low-water-activity shelf stable condiments	Manufactures shelf-stable condiment foods. Example: Spreads, sauces, pickles, nut butters	Off-the-peg Food Control Plan
Oil & fat manufacturer	Manufactures oils and fats Examples: olive oil, vegetable or fruit oils, margarine, lard	Custom-made Food Control Plan
Soy product processors/ manufacturers – extended shelf life	Manufactures soy products with extended shelf life; excludes soy crisps (see 'Crisp manufacturers') Example: UHT soy milk	Off-the-peg Food Control Plan
Sugar/honey manufacturer	Processes/manufactures various sugar and sugar-based products Examples: raw sugar, brown sugar, icing sugar, honey & honey products, syrups (glucose, flavoured), malt, molasses	Honey: Off-the-peg Food Control Plan Sugar: Custom-made Food Control Plan
Any other 'food business'	Any 'food business' that does not fit into one or more of the other food sectors.	Custom-made Food Control Plan

5.3 Existing registered Food Safety Programmes

Some food businesses in sectors included in Tables 3.1 to 3.5 may currently have registered Food Safety Programmes. On the basis that a Food Safety Programme is sufficiently similar in approach to a Food Control Plan, they will become deemed Food Control Plans from commencement of the proposed Food Act. They will require alignment with Food Control Plans at the latest by the end of the transition period.

Food businesses with registered Food Safety Programmes will remain in NZFSA's registration database, subject to their ongoing compliance with registration requirements.

Registered Food Safety Programmes will continue to be non-transferable (as for registered Food Control Plans) and will become time limited from the earlier of the:

- food business' registration of an off-the-peg or custom-made Food Control Plan under the new regime; or

- alignment of the registered Food Safety Programme (deemed Food Control Plan) with the relevant requirements of the new regime.

Food businesses with a Food Safety Programme will have the opportunity to align it with, or adopt, an off-the-peg Food Control Plan when this is issued for their sector or when a custom-made Food Control Plan is to be registered. They can therefore make use of the supporting communications and education in place for their sector at that time. The transitional arrangements will ultimately include a final transition date for all Food Safety Programmes to be converted to Food Control Plans towards the end of the transition period.

If food businesses with deemed Food Control Plans (presently Food Safety Programmes) operate in a sector that is identified for a National Programme, then from the time the National Programme is implemented those food businesses will be required to **either**:

- operate under the National Programme; **or**
- retain and comply with their deemed Food Control Plan until required to align it with the relevant requirements of the new regime.

In addition, such businesses may choose to register a custom-made Food Control Plan at any time during the transition period (which would need to meet the requirements of the relevant National Programme).

Whether there is a suitable off-the-peg Food Control Plan or not, these businesses will have the option to apply for registration of a custom-made Food Control Plan at any time during the transition period. If such an application is in advance of the transition time period for their sector, the regulator would do its best to accommodate this, but will need to give priority to the scheduled mandatory Food Control Plan registrations.

NZFSA may review a deemed Food Control Plan (presently a Food Safety Programme) where there is reason to believe that food safety and suitability is not being adequately managed. While NZFSA would encourage the food business to remedy the issues identified, NZFSA may ultimately determine that the deemed Food Control Plan needs to be cancelled or revoked. If so, should that food business wish to continue to trade, it would need to register a Food Control Plan and/or operate under a National Programme under the new Food Act, or potentially register a risk management tool mentioned in section 4.3 and 5.4.

5.4 What about existing Risk Management Programmes, Regulated Control Schemes and Wine Standards Management Plans?

A list of those mostly exempt from the effects of the transition policy because of the application of other legislation is given in **Appendix 2**.

Risk Management Programmes registered under the Animal Products Act 1999, Regulated Control Schemes, or the direct application of specifications under the Animal Products Act, and Wine Standards Management Plans soon to be registered under the Wine Act 2003, will remain in force under those Acts. For clarity, food businesses are reminded that coverage by the Animal Products Act or the Wine Act does not negate the application of the Joint Food Standards Code or the New Zealand standards already in place or to be made under the proposed Food Act as the case may be.

A food business with a Risk Management Programme or Regulated Control Scheme (Animal Products Act) or a Wine Standards Management Plan (Wine Act) may also have other activities covered by the proposed Food Act. Some of those food businesses with activities not covered by their existing registration will be required to adopt and register a Food Control Plan and/or comply with a National Programme during the transition period, for those other activities.

Rationalising legal and administrative systems and processes is a key objective of NZFSA in dealing with the requirements of food legislation. Any changes to these regimes will be fully consulted on with the stakeholders involved.

Food businesses with Risk Management Programmes, Regulated Control Schemes and Wine Standards Management Plans will remain in the existing food regulatory register in which they are recorded.

5.5 Food Handler Guidance

Territorial Authorities are responsible for the delivery of guidance to activities/businesses covered by Food Handler Guidance. Food activities/businesses that meet criteria specified in **Appendix 3** do not need to operate under a Food Control Plan or a National Programme. Details for determining who Food Handler Guidance is to apply to is also given in **Appendix 3**. The criteria for determining whether Food Handler Guidance applies to a food activity/business and some guidance material will be publicly available before the start of the transition period. The availability of Food Handler Guidance specific to certain activities will not be a transitional matter, rather it will occur progressively

following commencement of the proposed Food Act. General guidance on food safety and suitability will be available from Territorial Authorities from commencement of the new Food Act.

Food Handler Guidance will cover good operating practices and other information concerning the production of safe and suitable food. Territorial Authorities may require food businesses subject to Food Handler Guidance to have an operating permit to ensure that they are eligible for, and get, such guidance.

There are two routes by which eligibility for Food Handler Guidance may be determined:

1. NZFSA determines qualifying activities

NZFSA identifies whether it is appropriate for a class or description of food businesses to operate using Food Handler Guidance. The criteria that NZFSA uses to assess this are:

- the food safety risks posed in the sector;
- sector implications in confirmed cases of foodborne illness
- sector implications in confirmed food safety and suitability complaints
- customer sphere of impact
- other factors that govern whether the operation needs regulation (such as competition/equity)
- the feasibility and practicality of controls.

For example, NZFSA has currently identified that Food Handler Guidance will be appropriate for bed and breakfast operations and home stays (with accommodation for less than 10 persons).

2. Territorial Authority determines

The proposed Food Act will provide for Territorial Authorities to make case-by-case decisions regarding the application of Food Handler Guidance. If an operator approaches a Territorial Authority to sell food using Food Handler Guidance, the Territorial Authority will do one of two things. It will either identify that they are in a sector determined by NZFSA as appropriate for Food Handler Guidance or, if not in one of those sectors, use criteria such as following to determine whether they may operate using Food Handler Guidance:

- the operator has a small sphere of impact because it serves or sells food to a comparatively small number of people
- the frequency is minimal – no more than 10 times per year

- the food risks are at the lower end of the risk scale
- is involved with community and/or fundraising activities (eg, charitable organisations).

5.6 Interim measures for evaluation, verification, education and training

All provisions associated with roles and responsibilities for each sector, such as evaluation and verification, will be scheduled to be in place in time to meet the sector registration periods.

5.7 Compliance, enforcement and operational response

New compliance and enforcement tools, penalties, monitoring and surveillance systems, operational response⁴, and recall procedures, will be empowered and applied from their legislative commencement date. Compliance and enforcement tools may be refined and clarified during the transition period. It is intended that the related information and dates will be widely published, including on the websites of NZFSA and Territorial Authorities.

⁴ Operational response relates to emergencies and cases of foodborne illnesses.

6 Questions and Answers

6.1 Starting a new food business

General

All new food businesses starting operations after the commencement of the new Food Act will be required to comply with the new Food Act and new food regulations from the time they commence operations.

Before the Transition of the Food Sector

From commencement of the proposed Food Act until the transition time for having a Food Control Plan and/or a National Programme new food businesses:

- will register with their Territorial Authority which will perform an annual verification (replacing inspection) of the premises; or
- if they would be exempt or partially exempt from registration under the Food Hygiene Regulations 1974, they will retain their exemption until their food sector is to transition; or
- may choose to register a custom-made Food Control Plan with NZFSA from the commencement of their operations.

After the start of transition for the Food Sector

New food businesses will be covered as follows:

The sector is to have an off-the-peg Food Control Plan

If the new business starts after the off-the-peg Food Control Plan is available then the business is to either use the off-the-peg Food Control Plan or may choose to register a custom-made Plan.

The sector is to have a custom-made Food Control Plan

If the new business starts after the guidance material is available for a custom-made Food Control Plan then the business must develop its custom-made Food Control Plan.

The sector is to have a National Programme

If the new business starts after the National Programme is implemented then the business is to operate in compliance with the National Programme immediately on start-up.

The sector is subject to Food Handler Guidance

If the food business is not in a sector identified for a Food Control Plan or a National Programme then that business must contact their Territorial Authority to determine whether Food Handler Guidance, a Food Control Plan and/or National Programme applies to it.

6.2 What do I do before my sector's Food Control Plan or National Programme is introduced?

As set out in section 6.1, this Position Paper makes clear what is intended to apply in the period of time between the commencement of the proposed Food Act and the food business's time period for registering a Food Control Plan or coming under a National Programme.

It is intended that not less than nine months before each registration deadline, each food business will be able to obtain either a relevant off-the-peg Food Control Plan and/or guidance for a custom-made Food Control Plan or National Programme guidance material from NZFSA or their Territorial Authority. Food businesses will then have at least six months in which to complete their Food Control Plan. If the food business uses an off-the-peg Food Control Plan, only the application will need be lodged with the Territorial Authority, who will be the Registration Authority for these model Food Control Plans. If the Food Control Plan is custom-made, the Evaluation Report (when required) must be lodged with the application. The Registration Authority for the custom Food Control Plan will generally be NZFSA. The process for businesses that come under a National Programme will be developed on a case-by-case basis in consultation with sector representatives.

If an off-the-peg Food Control Plan or relevant guidance material is not ready by the target date set by NZFSA, the lodgement and registration dates will be deferred in order to preserve the time available to food businesses, verifiers and Territorial Authorities (and evaluators for those in that sector who choose to have a custom-made Food Control Plan).

Most food businesses covered by the Domestic Food Review are currently registered by either their Territorial Authority or NZFSA. The regulator will maintain a distinction between food businesses in the 'old' and 'new' regimes in their registers throughout the transition period. Food businesses will be subject to their Territorial Authority's existing registration procedures, verification (a modified inspection based on the bulk of the current Schedule 1 of the Food Hygiene Regulations 1974) to meet the new food regulations and the Territorial Authority's cost-recovery processes, until their Food Control Plan is registered and/or they come under a National Programme.

6.3 Can Food Control Plans be registered early?

It is possible that food businesses may request voluntary early adoption of a Food Control Plan in advance of the registration time frame set for their food sector.

NZFSA expects that early registration will not be necessary in most circumstances. Given that the supporting regulatory regime for that sector is unlikely to be fully in place, in seeking early registration food businesses would likely experience costs and lose the benefits of freely available guidance material and, where applicable, a freely available off-the-peg Food Control Plan.

NZFSA recognises that there may be circumstances when early registration is sought nonetheless. The regulator will not be under an obligation to process a voluntary early registration within a particular time frame but would nonetheless apply best endeavours to do so considering the following factors:

- whether a similar off-the-peg Food Control Plan is available, or the food business has written a custom-made Food Control Plan
- whether the regulator has available resources to register the Food Control Plan without delaying other scheduled transitional responsibilities
- whether suitably skilled, recognised verifiers will be available by the date required
- the willingness of the food business to pay for possible additional registration costs for one-off assessment activity, eg, evaluation.

Once a food business has made a decision to register a Food Control Plan they cannot return to only needing to comply with the regulations. If a business is sold to a new owner, it becomes a new business that would follow the options in section 6.1.

6.4 Activities across more than one food sector (multi-sector food businesses)

When setting sector registration deadlines, consideration will be given to food businesses with activities covering more than one food sector (multi-sector food businesses). While it may be sensible for practical reasons to set a single registration deadline for those sectors, this will not always be possible. During transition, when a food business has activities in more than one food sector and those sectors are to implement the transition in different years, the food business:

- will be required to register a Food Control Plan for the first of their operations nominated for transition; and,

- has the option to either:
 - continue to operate the other activities under the pre-transition arrangements (see 5.2) and transition them in accordance with the relevant notified timeline; or
 - register a custom-made Food Control Plan at any time for either their remaining operations, or one Food Control Plan covering all operations.

In other words, during the transition period, a multi-sector food business may either register one custom-made Food Control Plan when the first of its operations must be registered, or it may have a staged registration of its operations.

The above options will only apply during the transition period. After the transition period a multi-sector food business would choose to either:

- register one custom-made Food Control Plan for all operations, or
- register one or more off-the-peg and/or custom-made Food Control Plans and/or comply with one or more National Programmes, which in total cover all of the operations of the food business.

The situation might arise when a multi-sector food business has broadly applied one off-the-peg Food Control Plan across some or all of the food sectors in which it operates. NZFSA might subsequently issue an off-the-peg Food Control Plan for a specific sector covered by the business. If this differs from the single off-the-peg Food Control Plan applied by a food business, the external verifier will compare the broadly applied, registered Food Control Plan with the off-the-peg Food Control Plan for that other sector and advise the food business whether any changes are required.

6.5 I am not required to register under the Food Hygiene Regulations 1974, what must I do?

The Food Hygiene Regulations 1974 give more than 10,000 'food businesses' exemption or partial exemption from registration of their food premises. Examples are aged care facilities, prisons, some ferries, horticulture producers and packers, warehouses, international airports, schools and early childhood education providers, and workplace canteens. These food businesses are not exempt from the Food Act 1981 or from the Food Hygiene Regulations 1974; only from registration requirements. All such food businesses will continue to be governed by the Joint Food Standards Code and New Zealand food standards under the proposed Food Act and the new food regulations from their commencement date. Many of these businesses will be required to register a Food Control Plan or to be covered by a National Programme by a notified date during the transition period.

Transitional arrangements will retain the above exemptions from registration until the relevant food sector is required to be registered or covered. Most of these food businesses are scheduled for transition in years one and two, with warehouses and stores scheduled for year four of transition.

Some food businesses such as those transporting or distributing, but not selling food, are not premises under the Food Hygiene Regulations 1974 and therefore are not covered by those regulations and do not need to register with their Territorial Authority. Such food businesses will be governed by the proposed Food Act and new food regulations from their commencement.

These food businesses will not be required to register or to have annual inspections/verifications until their new food control mechanism is required under the transition timeline. Transporters or distributors are set to be covered by the new food regulatory regime from year four of the transition period.

NZFSA will also work closely with representatives of these sectors or groups of food businesses in developing processes and procedures to bring them into the new regime.

7 Next Steps

7.1 Subordinate legislation

Prior to commencement of the proposed Food Act there will be further consultation on a variety of topics including the new external verifier and evaluator competency standards, the evaluation model and cost recovery.

7.2 Legislative change

Drafting on any legislative changes necessary to reflect the Government's decisions on the package has commenced and after its first reading in Parliament, will be followed by consideration by Select Committee to which interested parties may make submissions.

7.3 Internet Sales

Decisions on the treatment of internet food sales have yet to be made and will be advised in due course.

Appendix 1: Glossary of Terms

Note: the glossary associated with the Domestic Food Review remains subject to change and refinement.

Accreditation	formal assessment of competence of an agency against an international standard (such as ISO 17020) by an accreditation body
Accreditation Body	a national authority for the accreditation of agencies and persons, eg, IANZ or JAS-ANZ
Evaluation	an appraisal of a Food Control Plan, by an independent person recognised by NZFSA to determine compliance with regulatory requirements, appropriateness to the operation, and technically sound and capable of reliably providing safe and suitable food – prior to registration
External Verifier	a person recognised by the NZFSA to undertake verification activities on behalf of the regulator
Food	<p>any thing or article, whether processed, semi-processed or raw, that is intended for human consumption; includes drink, chewing gum and any substance which enters into or is used in the composition, manufacture, preparation and preservation of any food or drink; but does not include cosmetics or tobacco, or substances used only as medicines and drugs;</p> <p>includes bottled water, primary produce eg, live shellfish, fruit on a tree, water used in manufacture of a food, chewing gum, by-products of animals if they go into food;</p> <p>may include live animals and plants (depending on intended use);</p> <p>excludes cookware and related products (eg, pie dish and packaging, except for edible packaging)</p>
Food Business	any food producer, processor and handler, seller or importer
Food Control Plan	a management plan to produce safe and suitable food that incorporates Good Operating Practice and HACCP thus science-based/ risk-based to the extent practicable
Food Handler Guidance	educational material covering the necessary steps to deliver safe and suitable food, intended to be used where a Food Control Plan or a National Programme are determined to be inappropriate, unnecessary or impracticable
Food Regulatory Regime	the overarching food regime 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 contributes to the production, processing, distribution, storage and sale of safe food
Food Safety Programme	a documented programme to identify, control, manage and eliminate or minimise hazards and other risk factors in the provision of food to ensure the food is fit for its intended purpose: registered under the Food Act 1981
Food Sector	one of the groups of similar food businesses (as contained in Tables 3.1 to 3.5)
Good Operating Practice (GOP)	<p>all Good Hygienic Practice (GHP) components plus components of Good Agricultural Practice (GAP) and Good Manufacturing Practice (GMP) that affect safety and suitability appropriate to the 'food business'</p> <p>excludes purely commercial GMP or GAP components that do not affect suitability and/or safety</p>
Hazard	a biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect

Hazard Analysis and Critical Control Point (HACCP)	a system that identifies, evaluates and controls hazards that are significant for food safety
Intended Purpose	the purpose stated or a purpose that could reasonably be presumed to be intended for a food, having regard to its nature, packaging and identification
Internal Verifier	the 'food business' or someone on his/her behalf, undertaking internal verification of that food business's Food Control Plan or in accordance with a National Programme
Multi-sector 'food business'	a food business that covers more than one food sector
National Programmes	whole-of-New Zealand or regional programmes that apply consistently to a sector or group; developed because of the need to involve core government (eg, where access to property is necessary) or for cost-effectiveness (eg, national sampling programmes)
Operator	in relation to a food business, means the owner or other person in control of the business
Processor	in relation to a food for reward or sale, a person who processes and handles food
Processes and Handles	in relation to a food for reward or sale includes preparing, manufacturing, packing, transporting, storing, displaying, and serving the food
Provider of last resort	<p>Required when:</p> <ol style="list-style-type: none"> 1. verification, evaluation and related services are to be provided by third party agencies or Territorial Authorities, but no third party agency or Territorial Authority comes forward to provide these services. In such circumstances it has to date fallen to the NZFSA VA to supply industry with the verification and related services which are required by New Zealand food safety legislation; or 2. verification, evaluation and related services are to be provided by third party agencies or Territorial Authorities and one or more third party agency(ies) does come forward to provide these services but the services available and/or provided by the third party agency(ies) are assessed by NZFSA as not being capable, competent or performed acceptably. In such cases NZFSA, as the competent authority, can require that the VA undertakes the verification, evaluation and related services required under New Zealand food legislation.
Recognition	NZFSA recognises agencies and persons to perform certain functions, such as external verification of a Food Control Plan, against set competency criteria and requirements
Registration Authority	the chief Executive, NZFSA or as the case may be, the relevant Territorial Authority
Regulated Control Scheme	<p>a special regulatory regime to provide for a case where —</p> <ol style="list-style-type: none"> (a) it is inappropriate or impracticable to manage risk factors under risk management programmes; or (b) risk factors may need to be addressed in relation to the production of animal material or the processing of animal product that is not required by this Act to be covered by a registered risk management programme; or (c) special provision is required for the purposes of overseas market access 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 'food business'
Risk Management Programme	a documented programme to identify, control, manage and eliminate or minimise hazards and other risk factors in the processing of animal material in order to ensure that the animal product is fit for its intended purpose: as registered under the Animal Products Act 1999

Seamless	without legislative or operational duplication or gaps
Science-based	based on objective and verifiable information on all relevant hazards: term applied to regulatory decisions, standards and actions
Sphere of impact	the number of consumers likely to be put at risk if there is a failure of food hygiene and safety procedure
Suitability	covers composition and labelling, as well as aesthetic defects and matters such as ensuring the product does not contain anything offensive, unexpected or unusual that does not directly relate to food safety (eg, a snail in a ginger beer bottle) but generally excludes quality issues (eg, floury apples)
Template or model	means a document or suite of documents issued or approved by the Chief Executive as a template or model or code of practice for a Food Control Plan
Territorial Authority	a City Council or District Council as defined in the Local Government Act 2002
Verification	<p>the application of methods, procedures, tests and other checks to confirm:</p> <ul style="list-style-type: none"> ▪ ongoing compliance of any food business to the legislation ▪ ongoing compliance of the Food Control Plan to the legislation ▪ compliance of the operation to the documented Food Control Plan or National Programme ▪ the applicability of the Food Control Plan to the operation
Wine Standards Management Plan	a documented programme to identify, control, manage and eliminate or minimise hazards and other risk factors in the making of wine in order to ensure that the wine is fit for its intended purpose: as registered under the Wine Act 2003

Appendix 2: Food Sectors Excluded from the Transition Policy

Animal and wine products

Primary process animal products, secondary process animal products requiring official assurances for export, and wine products are covered in New Zealand by the Animal Products Act 1999 and the Wine Act 2003 respectively. As these Acts were developed within the risk-management framework, these sectors (as described in the following tables) are generally considered exempt from the application of Food Control Plans, National Programmes or Food Handler Guidance under the proposed Food Act for those parts of their operations covered by the Animal Products Act 1999 and the Wine Act 2003.

Those with Food Safety Programmes registered under the Food Act 1981 and those who choose to come under the Food Act will be affected by relevant requirements of the new food regulatory regime.

Sectors covered by the Animal Products Act 1999 that do not produce food for human consumption are **not** affected by the Domestic Food Review and are excluded from the tables below.

a) Exclusion due to requirement to operate with a Risk Management Programme

Food Sector	Sub-sector	Description/example
Red meat operations (including game, ostriches and emus)	Primary Processors	Slaughter and dressing
	Secondary processors	Requiring official assurances
Seafood operations (including fin fish and shell fish)	Primary processors Excludes primary processing on premises where fish is for retail sale	Heading, gutting
	Secondary processors	Requiring official assurances
Dual operator butchers	Secondary processors	Processors of both home kill and regulated material
Deer velvet processors		
Poultry processors	Primary processors	Slaughter and dressing
	Secondary processors	Requiring official assurances
Egg producers	Primary processors Excludes primary processors with <100 hens who sell direct to the public – see table (e)	Harvesting and candling/packing of eggs
	Secondary processors	Requiring official assurances – mostly limited to cracking and pasteurisation
Export honey and other bee product processors	Secondary processors	Requiring official assurances
Pharmaceutical and biological processors		Requiring official assurances. Examples: gelatine, rennet
Animal products stores		Requiring official assurances
Farm dairy operators		Milking animals, including cows, sheep , goats

b) Exclusion due to requirement to operate with a Risk Management Programme or a Food Safety Programme

Note: Registered Food Safety Programmes will be deemed Food Control Plans initially and then aligned with Food Control Plans in accordance with the transitional arrangements.

Food Sector	Description/example
Cream products manufacturers	Butter, butter oils, cultured butter, dairy spreads, AMF
Dried dairy product manufacturers – milk powders	Skim milk powder, buttermilk powder, whole milk powder, nutritional (fortified) milk powder, cream powder, yoghurt powder
Dried dairy product manufacturers - protein products	Caseins, caseinates, total milk proteins, milk protein concentrates and isolates, whey powders, whey protein concentrates, whey protein isolates, hydrolysates
Liquid milk and Cream processors	Manufacturers of pasteurised milk or cream, flavoured milk, UHT milk
Dried dairy product manufacturers	Milk powder, casein, whey powder, cheese powder
Cheese Manufacturers	Hard grating cheese, cheddar, mozzarella, brie, blue vein, camembert, cottage cheese, cream cheese, feta, quarg
Cultured milk products Manufacturers	Yoghurt, yakult, drinking yoghurts, frozen yoghurt, kefir
Dairy based dietary supplement producers	eg, colostrum tabulating
Dairy product stores	Storage, warehousing, etc.
Dairy packing operations	Includes repacking
Butter, butter oils and dairy spreads	Butter, cultured butter, AMF
Frozen milk products manufacturers	Ice cream in tubs, cones or bars
Specialist Dairy manufacturers	Co-packers, manufacturers of dairy whip, lactose manufacturers
Dairy transporters	
Fish trader – domestic	Where fish is sold by a combination of wholesale and retail sale

c) Exclusion due to requirement to operate with a regulatory programme developed by risk-management principles (eg, Regulated Control Scheme)

Food Sector	Description / Example
Limited process fishing vessels	
Bivalve molluscan shellfish – growing & harvesting	
Fish depots	Temporary holding or storage of fish en route to a primary processor or direct to retail premises
Risk Management Programme transporters	Transport of animal material between Risk Management Programme premises Note: all other distributors and transporters will be covered by the new Food Act, refer table 3.4

d) Exclusion due to requirement to operate with a Wine Standards Management Plan

Food Sector	Description / Example
Wine maker & Suppliers of associated 'commodity inputs' (eg, wine grape growers)	Grape wine, fruit and vegetable wine, cider and mead

e) Exclusion due to coverage by Animal Products Act 1999, or risk-management decision not to require operation in accordance with Risk Management Programme or Regulated Control Scheme

Food Sector	Description / Example
Apiarist/beekeeper	Hive activities not requiring a Risk Management Programme
In-shore fishing vessel	Vessels currently not requiring a Risk Management Programme or Regulated Control Scheme
Egg primary processing <100 hens	All eggs sold direct to the consumer or end user; and not sold to any 'food business' for further sale
Raw deer velvet collection	Harvesting, collection, storage, grading, or transport
Certain tourist or charter fishing vessel operators and fishing guides	Caught fish or seafood. Catering by the tourism or charter operator will be covered by the new Food Act.
Whitebait	Catching or harvesting, chilling, washing, storage, and sale for consumption or processing
Muttonbird primary processors	Harvesting and preparation for human consumption
Airline holding facilities operators	Temporary holding of goods for export by air during aircraft loading and unloading procedures if the facilities are within the confines of the airport and adjacent to the tarmac

f) Exclusion due to coverage by Animal Products Act 1999, or risk management decision not to require operation in accordance with Risk Management Programme or Regulated Control Scheme

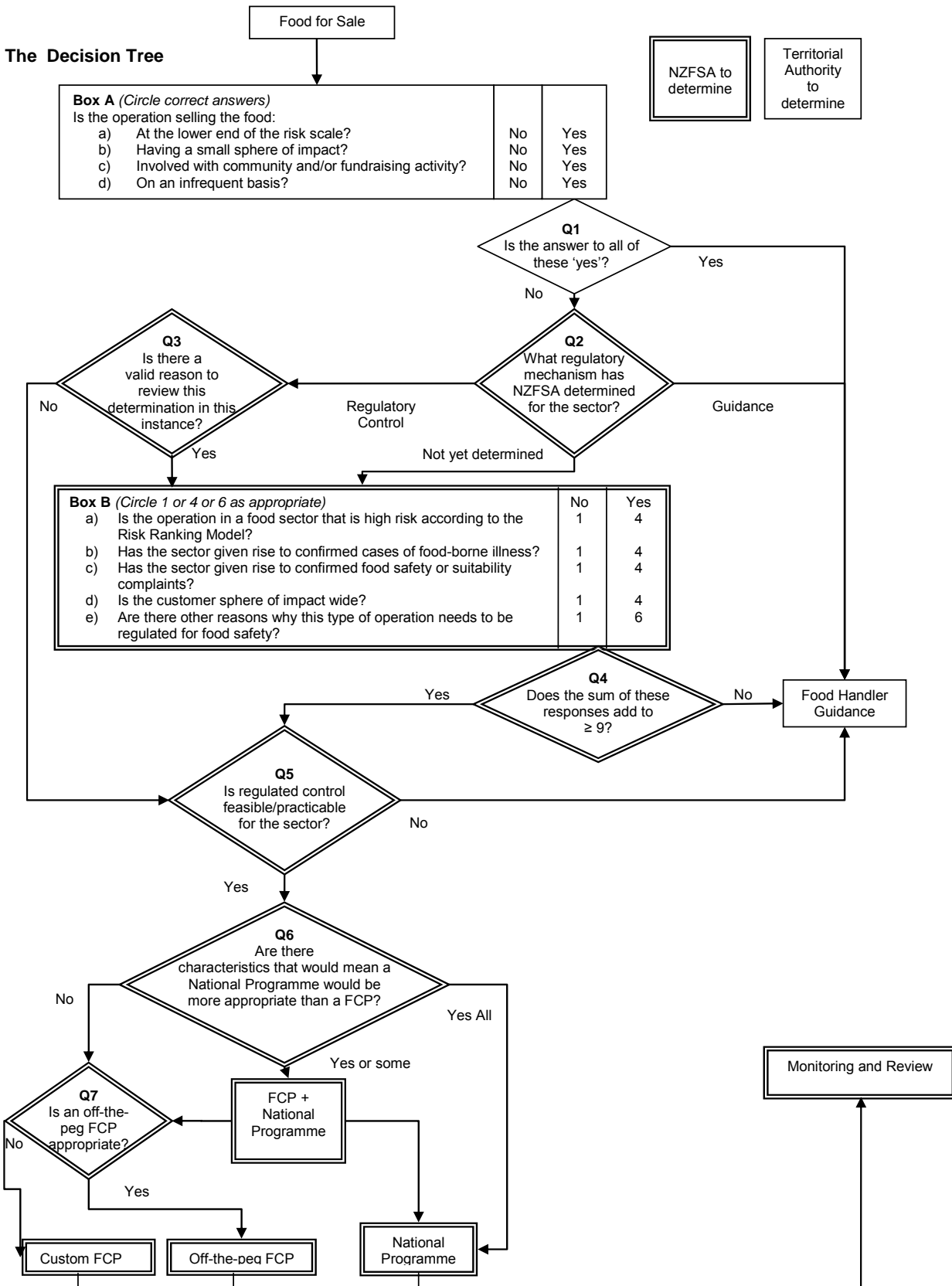
Food Sector	Description / Example
Home-kill and recreational catch service providers (other than dual operator butchers)	Slaughter and/or processing services to animal owners who have been actively engaged in the day-to-day maintenance of the animal; or processing services for recreational hunters and harvesters to get product for human or animal consumption (eg, dressing and butchering of killer animals)
Fish – temporary holding and storage places	Temporary holding, storage, or transport of fish pending their transport; or delivery to the premises of a primary processor of fish
Primary production of animals for red meat, fish and poultry material	Farming of animals; does not include farm dairies or bivalve molluscan shellfish growing/harvesting

Appendix 3: Food Handler Guidance

Part 1: Decision tree

The decision tree below is designed to provide a mechanism to determine whether a Food Control Plan, National Programme or Food Handler Guidance is the most appropriate tool to apply to certain food operations. The criteria are being used to deliver reasoned and consistent results across food sectors, and are being used as a guidance tool to assist with establishing the most appropriate tool for a food business to deliver safe and suitable food.

The Decision Tree



Part 2: Explanatory notes

In applying the decision tree, the criteria used include:

- the type of operation and risk presented to consumers
- implications from the failure of food-safety controls
- community acceptance of particular types of food-selling activities
- the proportionality of controls
- the feasibility and practicality of controls
- the appropriateness of controls
- the equity of applying regulated and non-regulated mechanisms
- recognition of investigations into failures of food safety controls leading to confirmed cases of foodborne illness and complaints.

A Territorial Authority may use the decision tree to determine whether any local food operation may operate using Food Handler Guidance. Starting with the question 'is food for sale?', if the answer is 'no', then none of the control mechanisms apply. If the answer is 'yes, the food is for sale', then the four questions in **Box A** need to be answered. They relate to the risk associated with the type of food; the 'sphere of impact' of the operation (see Glossary); frequency of operation (no more than 10 times per annum); and whether it is for the benefit of a charity or the community.

To determine whether the operation is involved with community and/or charity fundraising, evidence would be required to show that the operation is selling food to provide a charitable or community benefit, that is proceeds from the sale of food are not for individual/business financial gain. For example, the food business might be registered as a charity with the Inland Revenue Department, or be widely recognised in the community as a beneficial provider.

If all answers to the questions in **Box A** are 'yes', then **Question 1** identifies that Food Handler Guidance is considered to be the appropriate tool.

One or more 'no' answers to the questions in **Box A** leads on to **Question 2**. NZFSA has already determined the appropriate food control mechanism for food sectors, as discussed in Tables 3.1 to 3.5. Territorial Authorities will take appropriate action to regulate an operation within one of these food sectors.

Question 3 will be considered where an operation or group of operations consider they have valid reasons for a review of the regulatory decision, eg, their activities may not be accurately portrayed by

the identified food sector. If there is a valid reason to review the initial decision then the questions in **Box B** are considered.

The questions in **Box B** are also used when a determination has not yet been made for a specific food operation. NZFSA will utilise the criteria that identifies food risks, confirmed complaints, potential impact of operation and other reasons to assist in determining where a type of operation sits within the new regime.

Higher-risk operations are generally those listed for registration in years 1 and 2 of the transition period (see Tables 3.1 and 3.2). Charitable or community fundraising events, for example sausage sizzles, would score '4' for a high-risk operation (temperature controls and infrequent event catering) but '1' elsewhere, resulting in Food Handler Guidance as the appropriate route.

Questions b and c in Box B, will require analysis of the NZFSA FoodNet database. Until illness can be traced to a sector or 'food business', or a complaint is substantiated, the answer to these questions would be 'no'. It is likely that the seriousness of the incident would also need to be considered.

Issues that may need addressing in **Question e in Box B** include:

- equity issues with non-regulated food operations providing food in competition with local, regulated food businesses
- regulation necessary to prevent uncontrolled, 'backdoor' food operations
- ensuring that any part of a business that manufactures or provides food for vulnerable consumers (children under five years of age, elderly people over 65 years of age, pregnant women and immuno-compromised people) is properly regulated
- regulation represents a proportionate response to stakeholder expectations to control hazards and safety and suitability issues
- those identified from the monitoring and review process.

Answers to the questions in **Box B** have been given a score to simplify the decision process, which is determined by **Question 4**. For example, if the total score is less than 9 for the sector or group, then Food Handler Guidance is the appropriate tool to be used.

Question 5 addresses the practical issues surrounding regulated control for a food sector or group such as the availability of external verifiers, evaluators or regulators and the distribution of food businesses.

Question 6 identifies an opportunity to regulate through a National Programme, rather than by Food Control Plan. National Programmes may be developed to control some or all food safety or suitability issues for a particular sector or group of food businesses. They may apply to all or part of a sector, or to a particular part of the food chain. They may be used instead of a Food Control Plan or may be complementary to a Food Control Plan. The decision tree takes this option into consideration with the 'FCP + National Programme' box below question 6. National Programmes might build on existing voluntary schemes. These may require minimal external verification, but will require some method of identification, registration and external verification as agreed with NZFSA.

In determining whether or not to have a National Programme, NZFSA is likely to consider:

- the need to protect the health of consumers and users of food
- the most effective way of handling the relevant risks
- the desirability of maintaining consistency between New Zealand standards and any relevant standards, requirements, or recommended practices that apply or are accepted internationally
- the relative costs of having the programme or not having it, who bears the cost, and any positive and negative impacts on consumers and users
- whether the programme is the most cost effective way of achieving its prime purpose
- such other matters as the Minister considers relevant.

If a National Programme is inappropriate, then **Question 7**, using the off-the-peg criteria developed by NZFSA, will assist in identifying whether an off-the-peg or custom-made Food Control Plan is the appropriate control tool.

A process to monitor and review decisions is part of the 'decision tree' process.

Part 3: Examples

The table below contains particular food operations that are likely to be subject to Food Handler Guidance after applying the decision tree in part 1 and the explanatory notes in part 2 above. Other operations may also fit into this category if the decision tree were applied to them. Contact NZFSA for further guidance on this matter.

Food operation	Description	Examples
<p>Infrequent Event (Food Service)</p>	<p>Food primarily sold/served in infrequent event-based situations that also meet the other Food Handler Guidance criteria in the decision tree.</p> <p>These operations may use equipment and vehicles to transport meals and snacks to events and / or prepare food on site or off site.</p>	<ul style="list-style-type: none"> • sausage sizzles for charity/ community/ fundraising purposes • cake stalls • certain operations at food festivals • food provided by sports club for teams on match days only • dinner provided for trekking party at a climbing hut • non-animal product food from approved sources, processed for infrequent sale at an event or market (eg, jam) • unprocessed food at an event or market – that is fruit or vegetables sold direct to consumer • pub/club regulated meat-pack auction / raffle – fundraising • making biscuits at home and selling door-to-door for pocket money • commercial coffee cart (drinks only) • family selling home-made curry once-a-year at annual festival ('one-off' operation)
<p>Bed and breakfast accommodation, including home stays, farm stay, and small lodges</p>	<p>Providing food together with accommodation for less than 10 persons per night.</p>	<ul style="list-style-type: none"> • provides food for guests only; no other food operation
<p>Very small horticultural producers</p>	<p>Small growers, small volume production, low community reach. All product sold direct to the consumer or end user; and not to any food business for further sale. No animal products sold.</p>	<ul style="list-style-type: none"> • home-grown sales • farm gate sales - sole means of retail • roadside stalls selling own produce