



Food Unit Notice

Businesses involved in the primary production and sale of fruit and vegetables

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Distribution of Notice

Food Act 2008 (WA) (Food Act) enforcement agencies.

Purpose

To provide a consistent approach to the application of the Food Act registration and notification provisions to the sale of fruit and vegetables directly to the public by primary food production businesses.

Actions

Food Act enforcement agencies are to follow the approach outlined in this notice to Food Act notification and registration of the sale of fruit and vegetables directly to the public by primary food production businesses.

Background

Primary food production

Primary food production businesses (as defined in section 11 of the Food Act) are required to comply with the Food Act but are exempt from the registration and notification provisions of Part 9 as they are excluded from the meaning of “food business” as defined in section 10 of the Food Act.

Under section 11 of the Food Act primary food production does not include any activity that involves the sale or service of food directly to the public. Therefore if a primary food producer is involved in the retail sale of their produce at the ‘farm gate’ this activity would fall within the definition of “food business”. This type of food business activity would then be subject to the provisions of Part 9 of the Food Act.

Exempted food businesses

Under section 109 of the Food Act certain “exempted food businesses” are not required to register. Exempted food businesses are prescribed by the *Food Regulations 2009 (WA)* (Food Regulations).

Regulation 11 of the Food Regulations states that if a food business consists of selling food: (a) that is not potentially hazardous food; and (b) that cannot be handled in the course of conducting the food business because the food is contained in a closed package; then the food business is an exempted food business.

Application of Part 9 to the sale of fruit and vegetables directly to the public by primary food producers

Whole fruit and vegetables should be considered to fall within the scope of regulation 11 because whole fruit and vegetables are not considered potentially hazardous and the food safety risk when handling them is low. Therefore primary food production businesses involved in the sale of whole fruit and vegetables directly to the public are required to notify under section 107 of the Food Act but are exempt from registration.

If the food business is involved in the processing of fruit and vegetables (e.g. fruit salads, fruit juices) then they would not fit within this exempt category and would be required to apply for registration.

These notification and registration provisions only apply to the activity of selling food directly to the public, and not the primary food production activities.

Useful Resources and websites

- WA Department of Health ww2.health.wa.gov.au
- Food Standards Australia <http://www.foodstandards.gov.au/code/Pages/default.aspx>

More information

Contact the Environmental Health Directorate

Email: foodsafety@health.wa.gov.au

Phone: (08) 9222 2000

Website: ww2.health.wa.gov.au

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