

CHBDC:Part 24:2008

CENTRAL HAWKE'S BAY DISTRICT COUNCIL BYLAWS



Part 24 – Food Safety

Superseding Model General NZS 9201:Part 24:1999

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Explanatory Note

This Bylaw is based on the Model General Bylaw NZS9201:Part 24:1999 Food Safety as compiled by Standards New Zealand. This Bylaw amends that Standard as necessary to meet the requirements of the Central Hawke's Bay District Council.

Copyright

The copyright of the Model General Bylaw NZS9201:Part 24:1999 Food Safety is the property of the Standards Council. The copying and amendment of the Model Bylaw has been carried out by a Territorial Authority in the process of preparing its local bylaw, as permitted by the Standards Council.

Referenced Documents

Reference is made in this document to the following:

New Zealand Legislation

- Food Act 1981
- Food Amendment Act No. 2
- Food Hygiene Regulations 1974
- Health Act 1956
- Health (Registration of Premises) Regulations 1966
- Local Government Act 1974
- Local Government Act 2002

Foreword

The CHBDC Bylaws series covers various matters under local authority jurisdiction. Local authorities are empowered under a variety of Acts including the Local Government Act 2002 to make Bylaws.

This CHBDC Bylaw is based on the Model General NZ Standard Food Safety Bylaw prepared by Standards New Zealand. The Model General has been reviewed by technical staff and amendments have been made where required to meet the requirements of the Central Hawke's Bay District Council. Further updates have been made where necessary to reflect changes in related legislation.

The objective of this Part of the Bylaw is to ensure that all establishments preparing food for sale have on the staff persons who are adequately trained in food hygiene. The Bylaw also aims to ensure that safe food is available in all food premises throughout the District.

Reference should be made to CHBDC:Part 1 *Introductory* and to the legislation referred to under Referenced Documents, for any other definitions not included in this Part.

CHBDC BYLAWS

Part 24 - FOOD SAFETY

2400 SCOPE

2400.1 The purpose of the CHBDC Bylaw Part 24 is to set requirements so that all premises, where food is prepared for sale, employ staff who are adequately trained in food hygiene. The bylaw also allows territorial authorities to close premises that are insanitary.

2400.2 The aim of this Part of the bylaw is to ensure that safe food is available in all food premises throughout the District.

2400.3 This bylaw is made pursuant to section 145 of the Local Government Act 2002 and section 64 of the Health Act 1956.

2400.4 The Local Government Act 2002 gives authority to Council to adopt bylaws to protect, promote and maintain public health and safety, and to minimise the potential for unnecessary food safety risk to the public.

2400.5 Part 8 (subpart 1) of the Local Government Act 2002 and other relevant Acts e.g. Health Act 1956 and Food Act 1981, outline some of the powers and requirements of Council in regard to food safety. Areas of control so prescribed by this legislation are not necessarily repeated within this bylaw and therefore the relevant sections of the Local Government Act and other Acts should be read in conjunction with it.

2401 DEFINITIONS

For the purposes of this Bylaw, unless the context requires otherwise, the following definitions apply:

Authorised Officer - means a duly authorised officer of Council.

Certificate - means the National Certificate in Food Safety issued by the New Zealand Qualifications Authority or equivalent certificate approved by Council.

Council - means the Central Hawke's Bay District Council or a duly authorised officer of Council.

Food - shall have the same meaning as in Section 2 of the Food Act 1981.

Food Handler - means any person employed in or on any food premises who at any time may be involved in the manufacture, preparation or packing of food.

Exempted Food Handler - means:

- (a) any person involved in any food premises that is not involved in the manufacture, preparation or packing of food but does handle pre-packaged foodstuffs at point of sale or in storage; or
- (b) any person who has a trade qualification that includes an approved safety component.

Exempted food handlers may include:

- (a) supermarket checkout operators; or
- (b) persons employed exclusively in the handling of packaged goods in storage or the carriage of goods to and from storage; or
- (c) persons employed exclusively in the delivery of packaged foods to and from food premises; or
- (d) persons employed predominantly in the wholesale or retail sale of fruit or vegetables; or
- (e) any other person employed in a food premises or who works in connection with any food premises who in the opinion of an authorised officer is an exempted food handler.

Food Premises - shall have the same meaning as in Regulation 2 of the Food Hygiene Regulations 1974 but shall not include occasional food premises as defined in that Regulation.

Occupier - shall mean the owner of the food premises or any person or persons, occupying the premises and includes any supervisor, food handler, manager or agent acting or apparently acting in the general management or control of the food premises.

2402 COMPULSORY TRAINING FOR FOOD HANDLERS

2402.1 All food premises are required to have a complement of food handler staff trained to the appropriate certificate levels as set out under Schedule A of this Bylaw.

2402.2 It shall be the duty of the occupier of every food premises to ensure that new, temporary, or replacement staff are already trained to the appropriate level required by Schedule A or will gain the required level within three months of employment.

2402.3 Every food premises shall have at least one person employed in a supervisory and staff training capacity who is trained to the level required under Schedule A (ie Level [3] of the certificate). Upon application, an authorised officer may grant an exemption or partial exemption where full compliance may be unreasonable taking into consideration the site and nature of the premises.

2402.4 In the case of food premises which consist of separate departments or sections, each of which functions more or less in isolation from the others at least one person shall be appointed to act in a supervisory position within each separate department or section.

2402.5 The occupier of every food premises shall ensure that adequate records are kept relating to staff training under Schedule A and that copies of all certificates gained by staff are kept on the premises for perusal by an authorised officer upon request.

2403 CLOSURE OF PREMISES

2403.1 Where any food premises or part of any food premises or any appliance, fitting or fixture or other equipment on any food premises by reason of their situation, construction, disrepair, or state are in such a condition that any food in the food premises may be exposed to contamination or taint or become dirty or deteriorated, an authorised officer may serve a notice in writing on the occupier of the premises requiring him / her:

- (a) to cease to use the premises as food premises, or to clean or reconstruct, or to repair the premises, or part of the premises, or;
- (b) to cease to use or to clean, reconstruct, or repair any appliance, fittings, fixture or other equipment on those premises

in accordance with the requirements and within the time specified in the notice.

2403.2 Where an occupier has been directed to cease to use any food premises the occupier shall not recommence use of those food premises until permission has been given in writing by any authorised officer.

2403.3 An occupier shall not continue to operate any food premises if Council has revoked the Certificate of Registration pursuant to Regulation 9(3) and (4) of the Health (Registration of Premises) Regulations 1966.

2404 OFFENCES AND PENALTIES

2404.1 Every person who breaches the terms of this Part of the Bylaw commits an offence and is liable accordingly under the provisions of section 239 of the Local Government Act 2002 and sections 66 and 137 of the Health Act 1956.

2404.2 The penalty for any breach of this bylaw will be set out in section 66 of the Health Act 1956 or section 242 of the Local Government Act 2002.

2404.3 Any occupier of food premises in respect of which any decision or requirement has been made by the authorised officer under this bylaw may appeal to Council against that decision or requirement. Upon hearing the appeal, Council may confirm, reverse or modify the decision or requirement made by the authorised officer. This right of appeal is in addition to any other statutory right made available to the occupier.

2405 BYLAW APPROVAL DATE

The Common Seal of the Central Hawke's Bay District Council was attached, under Resolution (*Reference - CHBDC:Part24:2008*) passed at a meeting of the Central Hawke's Bay District Council held on (Day) (Month) (Year).

DATE CONFIRMED : ____ / ____ / ____

SCHEDULE A

QUALIFICATION REQUIREMENT

QUALIFICATION REQUIRED	DATE REQUIRED BY	STAFF TRAINING REQUIRED
<p>NATIONAL CERTIFICATE IN FOOD SAFETY as issued by the New Zealand Qualifications Authority (NZQA) or equivalent certificate approved by Council.</p>	<p>NOW</p>	<p>All food handlers engaged in a supervisory or sole responsibility capacity shall have passed Level 3 of the certificate.</p> <p>All remaining food handling staff shall have passed Level 1 of the certificate subject to the conditions of Section 2402.2 of this Bylaw.</p>