

EXPLANATORY STATEMENT

DETERMINATION NO. 9 OF 1994

DETERMINATION OF FEES UNDER THE FOOD ACT 1992 (AS AMENDED) FOR LICENSING UNDER THAT ACT.

The Food Act 1992 provides that the Minister for Health may by notice in the Gazette determine fees for the purposes of the Food Act 1992 as amended.

The Food Act 1992, as amended by the Food (Amendment) Act 1993, governs the manufacture and sale of food in the ACT. Part 11B Section 19D requires a person carrying on a food business to do so in accordance with a licence issued under the Act. Section 19E requires an application for a licence to be accompanied by the determined fee, Section 19M allows a fee to be determined for renewal of a licence and Section 19N allows a fee to be determined for an application to approve alterations in a food premises.

Regulations are being drafted to exempt specified classes of persons from the need to hold a licence. Proposed exempted classes are listed in the Attachment to this Statement. A licensing scheme is not considered the appropriate regulatory food safety control for these groups either because of the existence of other controls or the lack of any benefit.

Section 19E Licence fee

This instrument sets out four different fees each to accompany a licence application for four different classes of food businesses.

The purpose of the fee is to contribute towards the cost of the ongoing food safety monitoring program that involves interaction with food businesses throughout the licence period of twelve months.

Classification of a business is based on the degree of risk to consumers of causing food borne illness from the food produced for sale by that business. Certain types of food, termed "high risk", are more likely to cause food poisoning. Examples are cooked meat and high protein meals.

The majority of food poisoning cases reported result from faults in handling and storage of food. Contributing factors include inadequate refrigeration of high risk food and food prepared too far in advance of eating. Some types of food businesses provide increased opportunity for these factors to occur due to the high risk nature of the food and extent of preparation, handling and storage. On this basis a graduated fee structure classifying premises into three different groups is proposed.

A fourth class comprises those businesses which will not be charged a fee.

The fees have been based on recovering some of the costs of processing the licence application and carrying out a monitoring system on the premises during the licence period. Businesses operating from premises that are programmed to receive one

inspection per year, do not sell food requiring inclusion in microbiological and chemical sampling programs and seldom give rise to a food poisoning complaint will be charged the minimum fee of \$50. Businesses that will require at least two inspections in a year and handle food that is a greater risk will be charged \$100. Those businesses that are classed as presenting the greatest risk, that is Class 3, will be charged \$150. It is expected that this class of business will require considerable resources in implementing licensing and will have the potential to be inspected at frequent intervals.

The fee structure is as follows:

Persons carrying on a business that falls within:

Class 1

No cooking is involved in operations within this class.

Includes:-

all businesses not falling into Classes 2, 3 or 4,

wholesalers of food,

sellers of perishable, non "high risk" foods whether packed or not, (eg. bread, cakes, raw meat, raw fish, fruit, vegetables),

sellers of only prepacked food not otherwise exempt,

businesses which involve only minimal handling of unwrapped foods (eg. serving ice-cream). *A business that slices cooked meat and wraps it prior to display for sale* would not be included in the expression "minimal handling".

A fee of \$50 has been determined.

Class 2

Businesses that handle both raw and cooked food and/or cook food on the same premises with most of the food being prepared for immediate consumption. These businesses present a risk of causing foodborne illness due to the types of food handled and a risk of cross contamination from raw to cooked food.

Businesses not falling into Class 3 or 4 below.

Businesses that sell non-prepacked, high risk food.

Businesses that handle high risk foods such as the example in italics above are included.

A restaurant is included in this class and a delicatessen that sells cooked chicken, cooked meats and raw meats such as chicken and sausages would not be included because some of the products such as the sliced, cooked meat would not necessarily be for immediate consumption.

A fee of \$100 has been determined.

Class 3

Businesses presenting the greatest risk of causing foodborne illness due to the nature of the food prepared, the storage of food or the degree of susceptibility of the persons consuming the food. The types of businesses that are included in this class are those involving extensive pre-cooking of food with temperature controlled storage facilities, and/or providing food for susceptible classes of consumers eg. elderly or young children (and not falling in class 4 below).

A fee of \$150 has been determined.

Catering businesses that entail the transport of high risk, ready to eat food from site of preparation to site of consumption are also considered to be of a hazardous nature and therefore included in Class 3.

Licences that do not incur a fee

The licensing scheme is designed to ensure that it does not disadvantage certain businesses such as charities, fund-raising organisations, sporting clubs raising money to promote or support their clubs, or organisations selling food that is an incidental part of the service they offer such as child care centres. Such bodies have been included in the licensing scheme and not excluded by regulation under the provisions of Section 19D(2) because they form an important part of the consumer picture and may require information about food recalls or illness outbreaks.

These businesses are grouped into a fourth class that is not based on the risk they present but on the proposition that the operators should not be required to pay a fee.

Class 4

Child care centres, health facilities, educational facilities, charities and sporting clubs.

Comparison with previous schemes

The licensing arrangements under the Food Act replace the scheme under regulations made under the Public Health Act 1928 which license meat vendors, provide for the issue of permits to sell prepared meat goods and register eating houses. Existing arrangements expire at the end of the year and the regulations will be repealed. All such businesses will fall within the scope of the Food Act and in some, but not all cases, proprietors will pay a fee that is greater than that under the present scheme.

The present scheme has a flat fee of \$70 per application. The new scheme will include some classes of businesses that previously have not been required to hold a licence and therefore have paid no fee. For example, fruit and vegetable sellers will fall into Class 1 and pay a fee of \$50. However for some businesses there will be a decrease from \$70 to \$50. For example a butcher who sells fresh meat only ie. no cooked food or ready to eat food, will pay only \$50 instead of the present \$70.

The class facing the biggest change are restaurants with a liquor licence which sell a range of menu items, some pre-prepared and requiring considerable input from health officers. They are excluded from registration under the current scheme and make no direct financial contribution compared with unlicensed restaurants that pay for registration under the Public Health (Eating Houses) Regulations. The restaurants will now be classified on the basis of risk to food safety, and not on whether or not they sell liquor. With a large number of people choosing to eat regularly in restaurants, and the wide range of foods offered, the contribution to food safety monitoring of the maximum fee, \$150, is considered reasonable.

Section 19M Application to renew a licence

Under Section 19M a licence issued under the above provisions will be renewed for twelve months if the application is made prior to the expiry date and is accompanied by the determined fee.

The fee is as follows:

- Class 1 - \$50
- Class 2 - \$100
- Class 3 - \$150.
- Class 4 - no fee

If a person intends to carry on the same type of business as specified in the licence then the fee is the same as the application fee for that class. If the person wishes to alter the business then the fee charged will be that applicable to that class of business.

Section 19N Application for approval to carry out alterations in a food premises.

A licensee must seek approval to carry out structural alterations to his or her food premises or alter food processing appliances. This requirement is to ensure that enforcement officers are aware of any alterations that may compromise food safety. The application is to be accompanied by a fee of \$50.

The fee is a contribution towards administration costs of processing the proposal, visits to the premises and other matters aimed at ensuring alterations comply with requirements. It is proposed to apply the provisions of this section only when fairly major alterations take place.