



# NEW SOUTH WALES ENVIRONMENTAL HEALTH

*promoting human health through management of the community's environment*

## Presidents Report

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Welcome to the first Food Safety Focus information sheet prepared by the NSW Division of the Australian Institute of Environmental Health. As you would all be aware, the operational landscape of food safety regulation has shifted and we are in the midst of dealing with a new Act and a new State regulatory body which is in its infancy, all whilst the ink is still relatively wet on the Food Safety Standards. Exciting times indeed!!.

The Institute has maintained its advocacy role at the forefront of these changes, beginning with comprehensive submission made during the Section 73 (Kerin) review and continuing through to our current work with the NSW Food Safety Authority. This work is being co-ordinated by our new Food Technical Advisory Group. The Food TAG was developed to improve upon the efforts of the previous Food Special Interest group and there is specific detail later in this newsletter regarding how you can have input into this group.

We have included specific detail regarding training for the new Food Act 2003 that will be hosted at venues across the State. This training is being developed in partnership with the NSW Food Authority and will provide a comprehensive review of the new legislation and its impacts. As part of the agenda for the Training day, the Institute will be presenting information on the new AS4674 – Design, Construction and Fit-out of Food Premises.

In the future, the Institutes web site will be significantly altered to include the outcomes of the training workshops, and detail as to how your input on the effectiveness of the legislation can be provided as you continue to use it. This newsletter provides some general detail regarding these matters, but participation in the training opportunities will be

I would like to take this opportunity to point out the positive relationship that is already developing between the Institute and the NSW Food Authority. Your Food TAG representatives have been busy working with the Authority addressing matters such as training opportunities for the new Act, preliminary work on developing a framework for a partnership approach to food safety surveillance between local government and the Food Authority and considerations for the introduction of penalty infringement notices. The commitment of the Food Authority to a true partnership approach to the challenge of providing safe food for the community in NSW is refreshing and sets a positive background for the move through the new legislation. In particular, I would like to highlight the contribution of Karen Krist of the Food Authority for her commitment to the task of ensuring opportunity for involvement is provided.

Graham Pares

President – NSW Division AIEH

future?

## NEW FOOD TECHNICAL ADVISORY GROUP

The NSW Division of the Institute has commenced a trial of a new Technical Advisory Group (TAG). The purpose of the TAG is to build upon the great work carried out by members of the previous Special Interest Groups, in particular the Food SIG that has delivered quality outcomes through the Modern Food School and the Food Safety Auditor Training programmes.

The terms of reference for the TAG are as set out below:

With consideration of the range of membership of the Institute, including the work landscapes of regional, rural and metropolitan Councils,

1. To provide policy direction for the NSW Division in matters as they relate to food safety including surveillance, sampling, education and training
2. To develop training opportunities for members that address specific identified professional needs of the membership
3. To represent the interests of the memberships at identified meetings with external partners
4. To provide guidance and advice on behalf of the Division to both members and external partners

The TAG has commenced with the agreement of several volunteer members who are listed on the opposite panel. It is envisaged that all positions on the TAG will be offered to members that are interested at the time of the next State Elections so that any interested parties may participate. The TAG will also have identified members from our Regional groups and student participation.

The TAG is not an exclusive membership group. The tasks for the TAG are to facilitate communication between membership and ensure that policy and comment is drawn from as vast a range of membership as possible. This will necessitate a range of activities such as training workshops, skill sessions and discussion forums. It is hoped that all members will find a way to participate in the work of food safety. Below you will find a dedicated email address, specifically for this TAG to which you may send any information, query or offer of assistance.

### NSW FOOD TAG

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Convenor  
Blue Mountains

Tony Gleeson  
Parramatta City

Catherine Gorrie  
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Stephen Davidson  
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Steve Holroyd  
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Contact via email  
or phone.

(02) 9181 3320

nswfood@aieh.org.au

## NEW FOOD ACT 2003 – A Few Facts

The Food Act 2003 commenced on 23 February 2004. The Food Act 1989 and the Food Regulation 2001 were repealed at the same time. The Act can be viewed at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

The objects of the Act are to ensure food is safe and suitable for human consumption, to prevent misleading conduct in connection with the sale of food, and to provide for the application of the Food Standards Code in this State.

The Food Regulation 2004 took effect concurrently with the commencement of the Act. The object of the regulation is to allow continuity without significant administrative change and facilitate the introduction of the NSW Food Authority.

The Act defines the Director-General of the Food Authority as the Regulatory Authority, retaining sole responsibility for emergency powers such as prohibiting the sale of a particular food, or directing that a food be recalled.

Local government councils are prescribed as “enforcement agencies” along with the Food Authority by the regulation. This enables councils to continue their existing roles and functions under the Food Act whilst new responsibilities are established.

The Director-General is defined as the “appropriate enforcement agency” for some specific provisions in both the Act and the Food Standards Code, however the Food Regulation allows for delegation to General Managers of local councils. Specific delegations have been prepared for some provisions in the Food Safety Standards.

Part 5 of the Act, improvement notices and prohibition orders, take effect immediately. This part continues and expands the clean-up and closure provisions currently delegated to many local councils. Although wider than the current provisions, it is restricted to food handling and food safety matters.

The structure for offences has changed substantially. Offences are divided into serious and other offences, with the serious offences attracting substantial fines up to 5,000 penalty units in the case of corporations. Types of offences include sale of unsafe food, sale of unsuitable food and misleading conduct. Previous definitions of “adulterated” are now defined as “false descriptions”. Compliance with the food standards code is a separate offence, with a maximum penalty of 2,500 units for a corporation.

Penalty notice provisions under section 120 will not be operative immediately. The Food Authority is presently working with the Institute and DEPA to identify those provisions of the food safety standards that will be subject to penalty notices.

Powers of authorised officers are substantially the same as those for food inspectors under the Food Act 1989, with the addition of the power to require a person to provide information or answer questions in connection with the authorised officer’s functions.

Inspectors’ powers of seizure are retained, however subsequent dealings with seized foods are vested in each enforcement authority rather than only the Director-General. The Department has a seizure policy drafted with assistance from ICAC that will be redistributed to councils.

Welcome to [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)

## New Food Act 2003 – A Few Facts (cont..)

Notification requirements will continue, and the provisions from the Food Regulation 2001 for a local council to accept notifications on behalf of the Director-General are carried over into the new regulation. The Food Regulation 2004 also continues the exemption from notification requirements for fundraising events

The savings provisions in the Act continue the appointment of inspectors under the previous Act as authorised officers under the new Act. There will be no need to re-appoint existing inspectors, however it is recommended that new Certificates of Authority be prepared anyway. New officers can be authorised by each enforcement agency.

A directions paper for State and Local Government is available at [www.safefood.nsw.gov.au/pdf/0311-slg-directions.pdf](http://www.safefood.nsw.gov.au/pdf/0311-slg-directions.pdf). The paper recognises that local government involvement is essential in food law enforcement and makes proposals for moving forward

**Draft Improvement and Prohibition Notices  
Now available by contacting the  
NSW Food Authority Contact Centre  
1300 552 406**

## TRAINING OPPORTUNITIES

*"..training workshops will be provided at Regional and Metro venues."*

The Food TAG, in conjunction with representatives of the NSW Food Authority, are finalising a comprehensive one-day training package addressing the new Food Act 2003 and AS 46-74. The training workshops will be provided at Regional and Metropolitan venues across NSW in the coming months.

Numbers at the workshops will be limited only by venue capacity, however they will be booked on a "first in" basis with all booking being taken by email. Notification of the workshops will occur on both the AIEH and Food Authority website and by broadcast email to all local governments in NSW. In addition, all AIEH members will receive a direct email regarding these training opportunities.

The workshops will also be an opportunity to obtain feedback from you as to any problems experienced with either the new legislation or Australian Standard. This feedback will be compiled and used to advocate for appropriate changes when opportunity arises.



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## AS 4674 – Design, Construction and Fit-out of Food Premises

AS 4674 – Design, Construction and Fit-Out of Food Premises, has completed development and is now available for purchase from Standards Australia. The Standard is based upon the Institutes “National Code for the Construction and Fit out Of Food Premises”, a document which is now superseded with the introduction of the Standard. The Standard was developed in response to a request from FSAANZ to have a uniform standard for food premises throughout Australia.

It is recognised that the transition to a Standard has presented some difficulties for Councils in respect of copyright issues associated with reproducing copies of the document for use by the public. This matters has been raised with Standards Australia with a view to reaching a position whereby information can be provided to the general public at an appropriate cost. The use of the Institutes code in the past has always been on an educational basis and we continue to advocate that position. The outcome of these discussions will be notified to all members.

Please forward any feedback on the Standard to the Food TAG at [nswfood@aieh.org.au](mailto:nswfood@aieh.org.au) to enable compilation of any issues that will be added to the Frequently Asked Questions section of the new AIEH website.

