

Health Legislation Amendment Bill 2011

Amendments agreed to during Consideration

1 Clause 2 (Commencement)

Page 8, lines 10 and 11—

omit, insert—

‘(b) section 16, to the extent it inserts new section 303;

(ba) section 18, to the extent it inserts new definitions *conduct, disallow, disallowance notice, food business rating scheme* and *prescribed requirements*’.

2 Clause 14 (Insertion of new ch 11, pt 3B)

Page 13, line 18—

omit, insert—

‘271F Definitions for pt 3B’.

3 Clause 14 (Insertion of new ch 11, pt 3B)

Page 13, after line 19—

insert—

‘**conduct**, in relation to a food business rating scheme, includes each of the following—

- (a) advertise or promote the scheme;
- (b) seek participation by a food business in the scheme;
- (c) enter an agreement for a food business to participate in the scheme;
- (d) enter an agreement about the scheme with an entity that represents, or whose membership includes, entities carrying on food businesses.

disallow, in relation to a food business rating scheme conducted by a local government, means disallow under section 271L.

disallowance notice see section 271L(2).’.

4 Clause 14 (Insertion of new ch 11, pt 3B)

Page 14, after line 2—

insert—

‘*prescribed requirements*, for food business rating schemes, means the requirements prescribed under section 271G(1).’.

5 Clause 14 (Insertion of new ch 11, pt 3B)

Page 14, after line 6—

insert—

‘(2) A local government that conducts a food business rating scheme must ensure the scheme complies with the prescribed requirements for food business rating schemes.’.

6 Clause 14 (Insertion of new ch 11, pt 3B)

Page 14, lines 7 to 22—

omit, insert—

‘271H Notices to be given by local government before a food business rating scheme is conducted

‘(1) If a local government intends to start conducting a food business rating scheme, it must give the chief executive notice of its intention to conduct a food business rating scheme.

‘(2) Before starting to conduct a food business rating scheme, a local government must give the chief executive a notice stating—

(a) details of the scheme proposed to be conducted sufficient to enable the chief executive to assess the compliance of the proposed scheme with the prescribed requirements for food business rating schemes; and

- (b) the date from which the scheme is proposed to be conducted.
- ‘(3) Without limiting subsections (1) and (2), this section applies if a food business rating scheme is disallowed and the local government intends to change the scheme and start conducting it again.

‘271I Chief executive to assess compliance of proposed food business rating scheme with prescribed requirements

‘On receiving a notice from a local government under section 271H(2), the chief executive must—

- (a) assess whether the proposed food business rating scheme complies with the prescribed requirements for food business rating schemes; and
- (b) advise the local government and the Minister whether the proposed scheme complies with the prescribed requirements.

‘271J Notice of proposed disallowance of food business rating scheme

- ‘(1) This section applies if the Minister reasonably suspects a food business rating scheme—
 - (a) is being conducted by a local government; and
 - (b) does not comply with the prescribed requirements for food business rating schemes.
- ‘(2) The Minister may give the local government a notice (a *show cause notice*) stating each of the following—
 - (a) the Minister proposes to give the local government a disallowance notice in relation to the food business rating scheme;
 - (b) the reasons the Minister reasonably suspects the scheme does not comply with the prescribed requirements for food business rating schemes;

- (c) the local government may, within the period stated in the notice, make a submission to the Minister against the proposed disallowance;
 - (d) the submission may include information about whether disallowance of the scheme would cause significant financial detriment to 1 or more food businesses participating in the scheme;
 - (e) how to make the submission.
- ‘(3) For subsection (2)(c), the period must be at least 30 days after the local government receives the show cause notice.

‘271K Submission against proposed disallowance

- ‘(1) The local government may make a submission against the proposed disallowance of the food business rating scheme in the way stated in the show cause notice given to the local government under section 271J.
- ‘(2) The submission must be made—
- (a) within the period stated in the show cause notice; or
 - (b) if the Minister gives the local government a notice allowing a longer period for making the submission—within the longer period.

‘271L Disallowance of food business rating scheme by Minister

- ‘(1) This section applies if—
- (a) the period within which the local government may make a submission against the proposed disallowance under section 271K has ended; and
 - (b) the Minister has considered any submission made by the local government; and
 - (c) the Minister is reasonably satisfied—
 - (i) a food business rating scheme is being conducted by the local government; and

- (ii) the scheme does not comply with the prescribed requirements for food business rating schemes; and
 - (iii) disallowance of the scheme is unlikely to cause significant financial detriment to any food businesses participating in the scheme.
- ‘(2) The Minister may disallow the food business rating scheme by giving the local government notice (a *disallowance notice*) stating—
 - (a) the local government—
 - (i) must immediately stop conducting the scheme; and
 - (ii) must not start conducting the scheme again unless the scheme has been changed so it complies with the prescribed requirements for food business rating schemes; and
 - (b) the reasons for the disallowance; and
 - (c) the local government must give notice of the disallowance as required under section 271M(1)(c).
- ‘(3) A decision of the Minister to give a disallowance notice is not subject to review or appeal.

‘271M Compliance with disallowance notice by local government

- ‘(1) A local government that receives a disallowance notice in relation to a food business rating scheme must—
 - (a) immediately stop conducting the scheme; and
 - (b) must not start conducting the scheme again unless the scheme has been changed so it complies with the prescribed requirements for food business rating schemes; and
 - (c) within 14 days after receiving the disallowance notice—
 - (i) send a notice that complies with subsection (2) to all food businesses participating in the scheme; and

- (ii) publish a notice that complies with subsection (2) in a newspaper circulating generally in the local government's area.
- '(2) For subsection (1)(c), the notice must—
- (a) be in the approved form; and
 - (b) state—
 - (i) the food business rating scheme conducted by the local government has been disallowed; and
 - (ii) under this Act, the local government must immediately stop conducting the scheme and must not start conducting the scheme again unless the scheme has been changed so it complies with the prescribed requirements for food business rating schemes; and
 - (iii) the action the local government proposes to take in relation to the scheme.'

7 Clause 16 (Insertion of new ch 12, pt 3)

Page 16, after line 27—

insert—

'303 Application of provisions about food business rating schemes to existing schemes

- '(1) This section applies to a local government that is, on the commencement of chapter 11, part 3B, conducting a food business rating scheme.
- '(2) Within 90 calendar days after the commencement of chapter 11, part 3B, the local government must give the chief executive a notice stating details of the food business rating scheme sufficient to enable the chief executive to assess the compliance of the scheme with the prescribed requirements for food business rating schemes.
- '(3) The chief executive must—

- (a) assess whether the food business rating scheme complies with the prescribed requirements for food business rating schemes; and
 - (b) advise the local government and the Minister whether the scheme complies with the prescribed requirements.
- ‘(4) The Minister may disallow the food business rating scheme under chapter 11, part 3B.’.

8 Clause 18 (Amendment of sch 3 (Dictionary))

Page 17, after line 18—

insert—

‘conduct, in relation to a food business rating scheme, see section 271F.

disallow, in relation to a food business rating scheme conducted by a local government, see section 271F.

disallowance notice see section 271F.’.

9 Clause 18 (Amendment of sch 3 (Dictionary))

Page 17, after line 26—

insert—

‘prescribed requirements, for food business rating schemes, see section 271F.’.

10 Clause 26 (Amendment of s 50 (How commission must deal with a health quality complaint))

Page 23, line 22, after ‘action’—

insert—

‘, or not to take action,’.

11 Clause 52 (Amendment of s 160 (What is a *prescribed period* for a contagious condition))

Page 36, line 7, after ‘school’—

insert—

‘, education and care service’.

12 Clause 53 (Amendment of s 161 (When parent must not send a child to school or child care service))

Page 36, line 10, after ‘school’—

insert—

‘, education and care service’.

13 Clause 56 (Amendment of s 164 (Person in charge may direct parent not to send child to school or child care service))

Page 36, line 25, after ‘school’—

insert—

‘, education and care service’.

14 Clause 57 (Amendment of s 165 (Person in charge may advise parent of child not vaccinated about suspicion of vaccine preventable condition))

Page 37, line 8, after ‘school’—

insert—

‘, education and care service’.

15 Clause 58 (Amendment of s 167 (Chief executive may authorise examination of children at school or child care service))

Page 37, line 18, after ‘school’—

insert—

‘, education and care service’.

- 16 Clause 59 (Amendment of s 169 (Chief executive may direct person in charge in relation to child))**
Page 38, line 2, after ‘school’—
insert—
‘, education and care service’.
- 17 Clause 59 (Amendment of s 169 (Chief executive may direct person in charge in relation to child))**
Page 38, line 10, after ‘school’—
insert—
‘, education and care service’.
- 18 Clause 62 (Amendment of s 180 (Directions to person in charge of school or child care service))**
Page 39, line 2, after ‘school’—
insert—
‘, education and care service’.
- 19 Clause 62 (Amendment of s 180 (Directions to person in charge of school or child care service))**
Page 39, line 6, after ‘school’—
insert—
‘, education and care service’.
- 20 Clause 63 (Amendment of s 181 (Temporary closure of school or child care service))**
Page 39, line 12, after ‘school’—
insert—
‘, education and care service’.