



Queensland

# Food Production (Safety) Amendment Regulation (No. 2) 2004

## Explanatory Notes for SL 2004 No. 320

made under the

*Food Production (Safety) Act 2000*

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## General outline

### Short Title

The short title of the subordinate legislation is the *Food Production (Safety) Amendment Regulation (No. 2) 2004* (the ***Amendment Regulation***).

### Authorising Law

The *Food Production (Safety) Amendment Regulation (No. 2) 2004* is amended under section 39 of the *Food Production (Safety) Act 2000* (the **Act**). Section 39 provides that the Governor in Council may make a Food Safety Scheme under the Act.

### Objectives of the subordinate legislation

The broad objective of the amended regulation is to implement a new Food Safety Scheme for eggs and egg products. Specifically the new Food Safety Scheme seeks to—

- reduce the incidence of, and potential for, food borne illness from eggs and egg products;

- provide a framework for the rapid management of emerging agents of human food-borne illness significance associated with the primary production of eggs and egg products and for the implementation of National Food Safety Standards where appropriate; and
- provide a framework to optimise the cost-benefit of administration and monitoring of food safety initiatives for eggs and egg products.

### **Reasons for the amendments to the subordinate legislation**

The *Food Production (Safety) Act 2000 (FPS Act)* was implemented by the Queensland Government as part of a new regulatory system for managing food safety. The FPS Act provides a mechanism to develop and implement co regulatory preventative food safety regimes, called Food Safety Schemes (*FSS*), in order to minimise food safety risk associated with the production of primary produce. Such an approach is considered international best practice and is consistent with the recommendations of the Commonwealth Review of Food Regulation (1997-1998).

The FPS Act established Safe Food Production Queensland (SFPQ) and tasked it with developing and implementing the Food Safety Schemes. The first subordinate legislation to the FPS Act, the *Food Production (Safety) Regulation 2002 (FPS Regulation)* was introduced on January 1st 2003. While this FPS Regulation prescribed the Food Safety Scheme for Meat and the Food Safety Scheme for Dairy Produce, it also set-up a template that, with minor alterations, could be applicable to address food safety management in other areas of primary production.

Queensland Health Department (QHealth) has confirmed that the egg industry is the highest priority of those primary production sectors that, on the basis of food safety risk, need to be brought under the coverage of a formal food safety scheme. QHealth's assessment is based on the number of actual egg related food borne illness outbreaks in recent years in Queensland. In the past seven years, there have been at least 12 outbreaks of food borne illness in Queensland related to eggs and egg products resulting in almost 800 cases of illness, 81 hospitalisations and 2 deaths. This data is regarded as an under-estimate of the level of food borne illness related to eggs and egg products.

## **The way in which policy objectives are to be achieved by the subordinate legislation**

The amended regulation will introduce new arrangements to reflect the recently agreed national requirements for food safety. The proposed regulation is risk- based and when the food safety risks warrant, the Scheme will provide for accreditation where business is engaged in the production, transportation and processing of eggs and egg products. The proposed Scheme dovetails seamlessly with QHealth's responsibilities, and continues the Governments co-regulatory approach to food safety. Compliance with the regulations will require each accreditation holder to develop their own Food Safety Program. Where appropriate, these programs will include critical limits for each hazard and effective preventative measures that can be used by industry to control or eliminate hazards and to produce safe food on a consistent basis.

The production and supply of eggs and egg products intended for human and animal consumption is to be covered by the proposed new eggs and egg products FSS. The concept of production is broad and includes the following matters—

- rearing a bird at an egg production farm for egg production;
- handling, washing, grading and packing eggs and assessing eggs for cracks;
- the pulping of eggs by removing the shell;
- the supply of eggs and egg products;
- the transportation and the storage of eggs up until the back door of retail;
- identifying and tracing eggs and egg products;
- managing contamination of birds and their feed by agents of food-borne illness significance; and
- the processing of eggs to egg products and the pasteurisation of egg products.

These activities are not presently covered by any existing food safety regulatory arrangements, a situation which creates a potentially serious “gap” in food safety coverage, especially in view of recent food poisoning events that can be traced to eggs or egg products (notably from cracked or dirty eggs or from unpasteurised product).

The proposed new egg and egg products FSS will not extend to cover the manner in which eggs are stored in retail premises and displayed for sale at such premises as these matters are beyond the scope of what can be legally covered in a Food Safety Scheme for eggs and egg products under the Act.

### **Consistency with authorising law**

The amendment regulation is consistent with the objects of the Act to ensure that the production of primary produce is carried out in a way that makes the production of primary produce fit for human or animal consumption, maintains food quality and provides for food safety measures for the production of primary produce consistent with other State laws relating to food safety.

### **Alternatives to subordinate legislation**

The following alternatives were considered for achieving the policy objectives as follows—

- no legislative intervention; or
- self management; or
- mandatory regulation

### **No legislative intervention**

There are no existing food safety regulatory requirements for eggs and egg products (in the primary production sector) in either the Food Standards Code, the *Food Act 1981* nor the *Food Production (Safety) Act 2000*. It has become increasingly obvious that many eggs available to the public and food service industry do not meet any food safety requirements. When one examines the causative agents implicated in egg-related food borne illness it becomes clear that a significant proportion are best addressed on farm or as part of the grading operation.

With an unregulated primary production sector it is difficult for those further down the supply chain to identify product that is produced under an acceptable program. Authorities would need to act on complaints and employ expensive testing to show non-compliance,

and, for logistical reasons direct effort toward random or targeted sampling rather than assessment of all product. Such end-point testing is but one of the tools available to manage food safety and, on its own, is considered ineffective.

The likelihood of food borne illness occurring due to lack of food safety measures (as opposed to the breakdown of appropriate food safety measures) will always be related to the lowest level of compliance in an industry. In time, the market would determine the appropriate value of food safety from a business perspective in terms of—

- customer health and satisfaction
- protection from and defence of litigation
- the availability or contraction of markets.

In the worst case scenario businesses could be affected by market failure in the face of a serious food safety issue.

However, the economic model does not necessarily reflect the needs and expectations of all stakeholders. In terms of regulatory responsibility, the Queensland Government is party to an Inter-governmental Agreement (*IGA*) committing it to the adoption of risk-based food safety regulation for the good of all Australian consumers. By not regulating, not only would the Government set-up regulatory inequality between the States, but could be seen to be abrogating its social mandate to manage provision of a safe supply of food.

Crucially, in an unregulated environment there are extremely limited mechanisms to sanction poor/dangerous operators or remove them from the industry.

## **Self management**

Self management refers to a wide range of rules or arrangements by which industry/Government influences businesses to comply, but which do not form part of explicit Government regulation. Some examples of such quasi-regulation include industry codes of practice, guidance notes and industry/Government agreements.

Queensland egg industry experience suggests that it currently resembles many other industries where such voluntary arrangements

are working well with the large-scale operations that have state-wide, or nationally, recognised brand names. In Queensland, and indeed other States, many such producers have introduced food safety or quality assurance systems while a number of smaller suppliers are appreciative of food safety or have implemented requirements required by the major retailers. Furthermore, there is an industry-sponsored initiative, the AEIA/AECL National Egg Quality Assurance Program, which provides a cost-effective quality assurance model with a food safety component. Such industry initiatives are encouraged, as it is clear evidence of the industry driving change and taking responsibility for food safety outcomes.

However, history suggests that all producers do not embrace the uptake of such strategies. It is generally accepted that it is the producers that are not part of voluntary arrangements that pose the greatest potential threat to food safety and to the good reputation of the large number of responsible operators within industry.

For this reason it is considered that self-regulation or voluntary regulation will not deliver the food safety outcomes that are expected by the public and to which the Queensland Government has committed.

Furthermore, in time and without positive reinforcement it is likely that some producers currently employing food safety measures may find it difficult to financially justify maintenance of their programs if there is no sanction for non-compliance. This could eventually lead to a worse food safety situation than the current one.

## **Mandatory regulation**

Mandatory regulation refers to rules or arrangements with which businesses must comply in order to legally participate in the industry. A consequence of this is some form of Government infrastructure to administer monitoring activities and assess compliance.

The Queensland Government is committed to the nationally endorsed minimum food safety standards by way of the Food Standards Code. Part of the philosophy behind this new national process was to move away from prescriptive and toward outcome-based requirements for food safety management. Under such an outcomes-based regulation it is expected that businesses that already have appropriate food safety

arrangements in place would either meet the new requirements or would do so with minor modifications to their programs.

The three options outlined above were assessed against the following criteria—

- the ability to reduce the incidence of food-borne illness;
- the ability to reduce the uneven regulatory burden on industry;
- cost effectiveness for the community, Government and business;
- establishment of a preventative approach to food-borne contamination;
- encouragement of business to take full responsibility for the safety of the food they produce;
- consistency with National Standards; and
- consistency with international best practice.

Based on the above test criteria the options of no legislative intervention and self management were considered inadequate to control the incident of food-borne illness and in some cases may even increase the incidence of food-borne illness. Both options are not consistent with either domestic and international best practice or industry initiative and, as such, do not facilitate trade domestically or internationally.

### **Benefits and costs of implementing the proposed amendments to the subordinate legislation**

Compiling a quantitative cost benefit analysis of Food Safety Schemes is complex because it is analysing neither a fixed environment nor a simple equation. The environment is continually changing and with that, the profile of risk changes continually across an industry. This in turn alters the likelihood and impacts of that risk. A simple example of this is the recent discovery that *Salmonella*, a pathogen commonly associated with eggs and poultry, may increase chances of patients suffering from a longer-term condition known as reactive arthritis.

Many of the costs and benefits associated with the regulatory options are intangible such as loss of human life and lifetime illness. It is very difficult to attribute absolute or dollar amounts to costs and benefits of this kind. The approach taken in the assessment of the Regulator

Impact Statement for the proposed eggs and egg products scheme was to rank potential risk against which no dollar amount can be calculated while also taking into account likely costs and benefits.

Accordingly, assessment of the proposed regulations indicates that following benefits and costs—

### **Benefits to government**

- potential to reduce costs associated with providing health services to consumers who become ill from food-borne illness;
- proactive and preventative approach to protecting consumers from unsafe food – benefit much higher than the no legislative intervention and self management options;
- compliance with nationally agreed to food regulation reform obligations; and
- less probability of legal expenses through litigation.

### **Costs to government**

- The costs of implementing, administering regulation, is higher than the current situation where there is no food safety regulatory requirements at all.

### **Benefits to industry**

- Higher consumer confidence in the safety of eggs and egg products, which protects the market share of eggs and egg products in the food market; and
- Promotion of a level playing field for all participants resulting in responsible producers not being at a cost disadvantage.

### **Costs to industry**

- Government accreditation charges to the egg industry. When the individual farms accreditation charges are multiplied by all the farms in Queensland this could sum to \$32 500 per annum;



- Cost of developing food safety arrangements. This would vary depending on risk and the complexity of the business; and
- Compliance/audit costs. This would vary depending on risk and the complexity of the business.

### **Benefits to community**

- Consumers are major beneficiaries of the proposed regulation, as they will benefit from the introduction of food safety procedures by producers that do not currently employ them. The scheme will better enable consumers to identify eggs not produced under an approved food safety arrangements.

The principal benefits of the proposed regulation are—

- Prevention of sickness in humans from contaminated and unsafe eggs and egg products; and
- Prevention of economic loss by maintenance of public perception of the safety of eggs and egg products.

Food safety is a public health issue. As with other aspects of public health it can never be principally considered on economic grounds.

Based on an analysis of the cost and benefits to the affected sectors of the community, the proposed regulation is considered to represent the best way to minimise the incidence and cost of food-borne illness in Queensland. It should provide industry with a flexible regulatory environment with minimal prescription, national consistency and the opportunity to compete effectively in domestic and international markets.

### **Consistency with fundamental legislative principles**

The *Legislative Standards Act 1992* outlines fundamental legislative principles, which require that legislation will have sufficient regard to the rights and liberties of individuals and the institution of Parliament. The proposed regulation has sufficient regard to these principles.

## **Consultation**

### **Industry/Community**

As required by the FPS Act, SFPQ established an advisory food safety committee for eggs and egg products to assist SFPQ in the development of the new FSSs and the RIS. The advisory committee comprises wide industry representation and representation from government and has been directly involved in the development of a RIS.

There has also been extensive consultation with the Queensland Egg Farmers' Association (*QEFA*), the recognised producer body in this industry.

A RIS was developed and circulated broadly to the egg industry and other interested parties in September-October 2004. All known commercial layer hen egg producers were sent a copy of the RIS.

### **Government**

The following Departments were consulted, initially in regard to the preparation of the RIS, and subsequently in the preparation of this submission—namely the Department of the Premier and Cabinet, Treasury, Queensland Health Department, Department of Communities and Department of State Development and Innovation (Business Regulation Reform Unit).

## **Results of consultation**

### **Industry/Community**

The RIS was in public circulation for 30 days to allow adequate time for industry and community responses to be analysed and considered by SFPQ prior to finalisation of the FSS.

Approximately 300 copies of the RIS were distributed with public meetings held at Cairns, Townsville, Rockhampton, Toowoomba, Redland Bay, Gympie, Beaudesert and Caboolture. Eighty-five of Queensland's 125 known commercial egg producers attended.

There was strong support, which was unanimous at some meetings, for a FSS for egg and egg products with growers at all meetings being strongly in agreement that cracked and dirty eggs and unpasteurised egg product represents a significant food safety hazard, and that there must be simple enforcement tools for traceability of the product.

## **Traceability**

Options presented in respect of traceability were, namely—

- individual coding linked to the accreditation number and displayed on containers,
- stamping of individual eggs linked to identification on the carton; and
- eggs being wrapped in sealed containers prior to sale.

The QEFA, representing commercial layer egg producers, has indicated that it would prefer that the stamping of individual eggs be mandated (that is, made compulsory in the FSS), as they consider that this methodology is the most effective way to implement the objective of through chain traceability.

However, it is not proposed to seek mandatory individual egg identification as part of the initial egg and egg products FSS. A range of factors including the inability to impose such a standard on interstate produce as well as a lack of national standards in respect of such individual identification act as impediments to specifying individual egg identification as a mandatory requirement. Since the RIS process concluded, SFPQ has engaged in additional consultation with commercial layer hen egg producers, via QEFA, and has obtained agreement that, while traceability is recognised as a cornerstone to managing food safety, this objective could be achieved by having an outcome statement in the FSS regulations which will effectively allow the process to be managed though each individual's approved food safety program.

This mechanism will allow scope for individual producers to suggest the traceability methodology that is most cost-effective for them, and suits their particular circumstances.

## **Coverage of the Scheme**

Industry, through the consultation process, unanimously argued that both transportation of eggs and egg product from their premises to the backdoor of retail ought to be covered in an eggs and egg product FSS. It was originally identified in the RIS that transportation to wholesalers and retailers would not be covered under the FSS. However, in the main, transportation is conducted through associated enterprise or an egg producer/processor's associated vehicle and therefore ought to be considered as part of the production elements of the industry.

QHEALTH have further advised that the extension of the coverage to the transportation elements up to the backdoor of retail, manufacturer or commercial user of eggs or egg products is consistent with the State's co-regulatory approach. Accordingly and given the feedback from industry, operational responsibility is most effectively achieved though its addition to the eggs and egg products FSS.

## **Coverage of all avian species**

The RIS proposed that the FSS should cover commercial egg sales from all avian species. While this was clearly stated in the RIS, and hence should be clear to any producer of eggs of other avian species, it is cannot be said with certainty that every such producer has been contacted, particularly as there are no recognised representative bodies for producers of eggs from species such as duck, quail, pheasant or emu.

Therefore it is possible that some of these producers may not be aware of the possibility that they will be subject to the proposed FSS from as early as 1 January 2005. Accordingly, it is proposed that the FSS requirements will only apply after a 6 month lead in time during time SFPQ will actively seek to identify these producers and will ask them to formally notify SFPQ of their operations. This process should allow adequate time to identify all the commercial producers who supply eggs derived from other avian species. The 6 month lead in time will also ensure ample opportunity is provided to known egg producers to develop their respective programs for their business.

SFPQ, QEFA and Queensland Health all consider that its is essential to have the Egg FSS apply in respect of all avian eggs intended for human or animal consumption, particularly as the food related risks

applies equally to all types of avian eggs (that is, there is no evidence to suggest that the food safety risk is any less for eggs of other avian species compared to layer hen eggs, even if, so far as is known, the documented cases of known food poisoning episodes related to layer hen eggs).

### **Storage at retail premises**

The proposed new egg and egg products FSS will not extend to cover the manner in which eggs are stored in retail premises and displayed for sale at such premises as these matters are beyond the scope of what can be legally covered in a FSS for eggs and egg products under *Food Production (Safety) Act 2000*.

Both SFPQ and the major commercial egg marketing company in Queensland, Sunny Queens Eggs Pty Ltd, see this as an area that needs to be further addressed, especially in regard to the matter of the temperature level in display cases and storage rooms.

### **Proposed level of FSS Fees**

The proposed fee schedule has been developed in such a way as to be consistent with the accreditation categories already approved by the Queensland Government for the Meat and Dairy industries and formally implemented as an element of the original FPS Regulation, which implemented both the meat and dairy FSS's as from 1 January 2003.

During the RIS consultation process, there was no opposition to the concept of FSS fees being set at the same level as those that apply in the FPS Regulation for the meat and dairy FSSs.

### **Government**

There is agreement within government as to the proposed amendments.

## **Notes on provisions**

### **Part 1 Preliminary**

#### **Short title**

Clause 1 provides that the short title of the regulation is the *Food Production (Safety) Amendment Regulation (No.2) 2004*. (the ***FPS Regulation***).

#### **Commencement**

Clause 2 provides that the Regulation will commence on 1 July 2005 with the exception of section 8 (to the extent it inserts a new chapter 3A heading and section 87F) and section 9. These provisions will commence immediately and will establish an obligation for a person who is required to be an accreditation holder under the egg scheme to notify SFPQ of details relating to their egg production business.

#### **Regulation amended**

Clause 3 provides that this Regulation amends the *Food Production (Safety) Act 2002* (the ***FPS Act***).

#### **Amendment of s 4 (Compulsory standard and advisory standard)**

Clause 4 amends section 4 of the FPS Regulation, which provides for Compulsory and Advisory Standards for Food Safety Schemes under the Act. Specifically clause 4 inserts references to the compulsory and advisory standards for the new Egg Scheme.

#### **Amendment of s 16 (Record keeping requirements)**

Clause 5 amends section 16 of the FPS Regulation, which references the record keeping requirements for the relevant Food Safety Schemes under the FPS Act. Specifically clause 5 inserts references for the record keeping requirements for the new Egg Scheme.

### **Amendment of s 31 (Application of pt 4)**

Clause 6 amends section 31 of the FPS Regulation, which stipulates the application of Part 4—Food Safety Requirements. Part 4 contains the food safety requirements that are generic across the food safety schemes. The amendment references the specific Food Safety Scheme provisions of the dairy, egg and meat schemes respectively.

### **Amendment of s 43 (Frequency of audits for risk category)**

Clause 7 amends section 43 of the FPS Regulation, which provides the frequency of audits for risk category. Specifically clause 7 inserts references to the specific risk categorisation of activities carried out in relation to eggs and egg products production.

### **Insertion of new ch 3A**

Clause 8 inserts a new chapter 3A entitled “Chapter 3A Egg Scheme”. New chapter 3A contains new provisions which set out the contents of the Egg Scheme and the food safety requirements which apply to the production of eggs and egg products. inserts the Egg Scheme into the FPS Regulation.

### **Egg scheme applies for eggs and egg products**

New section 87A provides that the egg food safety scheme applies for eggs and egg products intended for human or animal consumption.

### **Production of eggs and egg products for which egg scheme applies**

New section 87B stipulates that the Eggs Scheme applies for the production of eggs and egg products. The section also set out non-exhaustive examples of the production of eggs and egg products.

**Production of eggs and egg products for which egg scheme does not apply**

New section 87C states that despite new section 87C, the Eggs Scheme does not apply for certain activities that might otherwise be concerned or connected with the production of eggs and egg products.

**Application of pt 2**

New section 87D provides that new part 2 of the Egg Scheme applies for food safety requirements for the Egg Scheme. It also provides that the generic food safety requirements set out in Chapter 2, part 4 of the of the FPS Regulation apply. New section 87D(3) provides that if, the rearing of a bird at an egg production farm for egg production or growing stock food at an egg production farm for consumption by a bird to be used for egg production, occurs in a location that is physically separate from another activity set out in new section 87B, then the only food safety requirement that applies is the requirement set out under section 38 of the FPS Regulation.

**Information to be contained in food safety program—Act, s 41(1)(f)**

New section 87E requires that a person's food safety program prepared under the Egg Scheme must state the person's egg production identification, if the activities carried out, or proposed to be carried out, by an accreditation holder or applicant for accreditation include the production of eggs or egg products for supply.

**Information about production business to be given to Safe Food**

New section 87F applies in circumstances where a person is engaged in the production of eggs or egg products and is, or is required to be, an accreditation holder under the egg scheme. It specifies that before starting production of eggs or egg products, a person must provide written notice to SafeFood of certain matters pertaining to their egg and egg product business.



**Birds must be free of disease**

New Section 87G provides that an accreditation holder must not obtain eggs for human or animal consumption from a bird the person knows, or ought reasonably to know, is affected by a disease, if the eggs may be unsafe. Non-compliance with this requirement carries a penalty of 50 penalty units.

**Stock food for consumption by birds**

New section 87H provides that an accreditation holder must not feed stock food to a bird used for egg production if the holder knows, or ought reasonably to know, the food may introduce a risk of contaminating the eggs.

The new section further requires that stock food must not contain microbiological or chemical hazards at levels greater than the MRLs (maximum residue limits) stated in the compulsory standard for the requirement. The compulsory standard refers to Food Standards Code, Standard 1.4.2 Maximum Residue Limits (Australia Only).

Non-compliance with these requirements carries a penalty of 50 penalty units.

**Eggs supplied must be free of chemical contaminants**

New section 87I provides that an accreditation holder must not supply eggs for human or animal consumption if the holder suspects, or ought reasonably to suspect either the eggs have a residue level greater than the MRLs stated in the compulsory standard for the requirement, or the eggs have been obtained from a bird that has been treated for a disease or illness, if the bird's treatment does not comply with the Chemical Usage (Agricultural and Veterinary) Control Act 1988, part 2.

The compulsory standard refers to Food Standards Code, Standard 1.4.2 Maximum Residue Limits (Australia Only). Non-compliance with these requirements carries a penalty of 50 penalty units.

## **Identifying eggs and egg products**

New section 87J requires that an accreditation holder who produces eggs must not supply the eggs to a retailer, manufacturer or commercial user unless the holder has marked each carton containing the eggs with the holder's egg production identification in the way stated in the holder's approved program. This is the minimum traceability requirement that is required of egg producers and processors.

New section 87J also requires that an accreditation holder who produces egg products must not supply the products to a retailer, manufacturer or commercial user unless the holder has marked each package containing the product with the holder's egg production identification per the holder's approved program. This requirement seeks to ensure that an accreditation holder's program is complied with in terms of the identified mechanisms for traceability for particular production. It is recognized that there currently exists a range of options to ensure effective and appropriate traceability, which is contingent on the supply of eggs or egg products. This may range from simply marking an egg container with an egg production identification as required, through to sealing egg containers or stamping or marking individual eggs.

The critical requirement is that a traceability mechanism identified in a program and accredited by SafeFood must be complied with.

Non-compliance with these requirements carries a penalty of 50 penalty units.

## **Supplying eggs**

New section 87K provides that a person must not supply an egg for sale if the person knows, or ought reasonably to know, its shell is cracked or has visible faeces, soil or other matter on it. This provision is a critical requirement of the egg scheme because it seeks to provide a prohibition on the supply of an inherently dangerous food—a cracked or dirty egg.

The requirement does not apply to circumstances where a cracked or dirty egg is supplied to an accreditation holder for processing the egg and pasteurising the egg product. Also, if the person is an accreditation holder, it is a defence for the person to prove the person complied with the person's approved program in producing the egg.

This ensures that appropriate supplies for the purpose of treating eggs to food safe standards can occur in respect of cracked or dirty eggs i.e. The application of approved pasteurization technique to egg products to ensure that is safe for human or animal consumption.

Another restriction on the supply of eggs provided by new section 87K is that an accreditation holder who supplies eggs under a preferred supplier arrangement must not supply eggs other than under the arrangement. A preferred supplier arrangement connotes an exclusive supply of eggs from a producer to a processor. In respect of such an exclusive supply, the producer may not be subject to a fee in respect of accreditation due to the simplicity of its supply arrangements. Accordingly it is imperative that the exclusive supply arrangement is maintained by an egg producer in order to assure the integrity of their egg production.

Non-compliance with these requirements carries a penalty of 50 penalty units.

### **Supplying egg products**

New section 87L provides that a person must not supply an egg product the person knows, or ought reasonably to know, has not been pasteurised. However this requirement does not apply if the person supplies the egg product to a person appropriately authorized to pasteurize the egg product. Non-compliance with this requirement carries a penalty of 50 penalty units.

### **Pasteurising egg products**

New section 87M provides that a person who produces egg products must pasteurise the egg products according to the compulsory standard for the requirement. This requirement does not apply if the person supplies the egg products to an accreditation holder for pasteurising the egg products. Again this requirement seeks to ensure that egg product is treated in way that ensures its fitness for consumption.

The compulsory standard refers to Food Standards Code, Standard 1.6.2 Processing requirements. Non-compliance with this requirement carries a penalty of 50 penalty units.

### **Tracing birds used in production**

New section 87N specifies the records that are to be kept by an accreditation holder in respect of birds used in egg production. The records are required to assist in the swift pinpointing of a causal factors in the event of a egg food borne or related illness. The critical requirement is that records are maintained which—

- confirms that the birds used in production are not affected by disease; and
- confirms the suitability of birds used in the production to ensure only eggs that are not contaminated are used.

New section 87N also requires that an accreditation holder must keep records for any supply or receipt an egg, the shell of which is cracked or has visible faeces, soil or other matter on it or an unpasteurised egg product.

### **Tracing stock food**

New section 87O provides that an accreditation holder who produces eggs must keep records to trace stock food purchased for birds used in the production to ensure only appropriate stock food is used.

### **Register of egg producers**

New section 87P establishes a register of egg producers that is to be maintained by SafeFood. The register must contain each egg producers egg production identification and all information that is provided by such a producer to SafeFood under new section 87F. SafeFood must ensure the register is available for inspection by members of the public during normal office hours at Safe Food's head office.

### **Insertion of new ch 5**

Clause 9 inserts a new chapter 5 entitled “Transitional provision for Food Production (Safety)”. New chapter 5 contains transitional provisions to ensure the effective implementation of the new Egg Scheme.

### **Application of s 87F before 1 July 2005**

New section 135 provides for the immediate operation of new section 87F, which requires a person to notify SafeFood about their intended production in respect of eggs or egg products.

The transitional requirement is that section 87F applies to a person engaged in the production of eggs or egg products on the commencement of the section as if the egg scheme mentioned in new section 87A had commenced and that the requirement in section 87F to give Safe Food information before starting production of eggs or egg products were a requirement to give the information before 1 April 2005.

This provision ensures that SafeFood is made aware of the full extent of production within the egg industry and will assist SafeFood collaborate with industry to ensure smooth and timely implementation of the Egg Scheme upon its commencement on 1 July 2005.

### **Amendment of sch 1 (Fees)**

Clause 10 amends the Schedule 1 of the FPS Regulation which sets out the fees under the Act. The amendment includes references, where relevant, for the Egg Scheme. It also set out an effective exemption from the payment of a fee in respect of an egg producer who supplies eggs under a preferred supplier arrangement.

### **Insertion of new schs 3A and 3B**

Clause 11 inserts a new Schedule 3A entitled “Standards for egg scheme”. New schedule 3A contains the compulsory and advisory standards in respect of requirements for the Egg Scheme. The standards are referenced to the Food Standards Code of the trans-Tasman agency, Food Standards Australia New Zealand.

Clause 11 also inserts new schedule 3B entitled “Risk categories for egg scheme”. These risk categories determine audit frequencies and reflect the risk classification or profile of the relevant primary production activity. Schedule 3B provides that producing eggs and transporting eggs or egg products are low risk for the Egg Scheme, whilst processing eggs or egg products or pasteurising egg products are high risk for the Egg Scheme.

### **Amendment of sch 6 (Dictionary)**

Clause 12 inserts definitions into Schedule 6 of the FPS Regulation. The definitions are those specifically relied upon for the purposes of the new Egg Scheme.

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### **ENDNOTES**

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Primary Industries and Fisheries.