

# Food Safety Auditor's Handbook

4th Edition

This is the 4th edition of the handbook for auditors issued March 2016

This handbook reflects the *Food Act 1984*, and departmental procedures as at March 2016.

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# Abbreviations

FSANZ	Food Standards Australia New Zealand
the Code	The Australia New Zealand Food Standards Code
FSP	Food safety program
HACCP	Hazards and critical control points
NFSA	National food safety auditor
QA	Quality assurance
RABQSA	Registrar Accreditation Board Quality Society of Australasia
RTO	Registered training organisation
TAFE	Technical and Further Education

# 1. Introduction

This is the 4<sup>th</sup> edition of the Auditor's Handbook.

It has been revised to promote consistency in the auditing process and to assist auditors to work effectively with councils and the Department of Health and Human Services (the department) within the regulatory framework of the *Food Act 1984* (the Act).

Most food businesses in Victoria are regulated by the Act. This handbook only relates to the audit of those businesses that require a food safety audit under the Act. This handbook does not apply to any audits of businesses licensed by PrimeSafe or Dairy Food Safety Victoria, as these audits are conducted for the purposes of separate legislation administered by those agencies.

This edition of the Handbook has been revised to include:

- updated forms for use as certificates and notices under the Act
- information about the auditor performance management process
- inclusion of a code of conduct in mandatory conditions
- removal of phrase 'under the Act' as auditors should fully understand that all of their actions, activities, reports and follow up are carried out under auspices of the Act.

**This 4th edition of the Auditor's Handbook has been updated in August 2017 to include the recent addition of the allergen, lupin. Websites listed in the handbook and Appendix 8 have also been updated. These are the only changes made to the 4th edition.**

## 2. Background

Following consideration of the Blair Report, a comprehensive review of food regulation tabled in July 1998, all Australian governments agreed to a new food regulatory system, moving from an end-product inspection to a risk-based assessment and prevention approach where food businesses were required to identify where food safety hazards occur in the production and handling of food and implement systems to manage those risks. The *Food Regulation Agreement 2000* provided for consistent food regulation across Australia.

The Commonwealth, State and Territory Governments jointly agreed upon national food standards, which are embodied in the Australia New Zealand Food Standards Code (the Code). This collection of bi-national standards promotes consistency in Australia's and New Zealand's food laws. Food Standards Australia New Zealand (FSANZ) developed the *Model Food Act 2000* and revised the Code to provide the legislative framework for the national food regulation system. This legislation determined how the states and territories would adopt and implement the food standards developed by FSANZ and agreed to by the Australia and New Zealand Ministerial Forum on Food Regulation.

Annex B of the *Model Food Act* included provisions for the auditing of food safety programs (FSPs) and for the regulatory approval of food safety auditors. The State and Territory Governments reviewed their legislation against those provisions. Each State and Territory implemented FSPs that supported the national system and aligned with their jurisdictional policies and legislative requirements.

The 2006 National Food Safety Audit Policy provided the policy basis for the approval and management of food safety auditors and food safety audits, providing national consistency of food safety audits for regulatory purposes with flexibility for individual states and territories. The National Regulatory Food Safety Auditor (NFSA) Guideline (the Guideline) was developed to support the National Food Safety Audit Policy. These documents can be found at: <http://foodregulation.gov.au/internet/fr/publishing.nsf/Content/publication-National-Regulatory-Food-Safety-Auditor-Guideline-and-Policy>.

### **The Victorian Food Act 1984**

The principal Act that controls the sale of food in Victoria is the *Food Act 1984* (the Act). It provides the regulatory framework for the food industry to ensure that food sold is safe, suitable and correctly labelled.

Under the Act, food business owners operating in Victoria are legally responsible for ensuring that the food they sell meets all of the Act's requirements.

The Act:

- sets out offences for breaches of the food laws and the applicable penalties and defences
- provides the means through which the Code is applied as the law in Victoria (which includes the food safety standards)
- establishes a food premises classification system and enforcement powers, including emergency powers where there are immediate threats to public health
- provides the means through which municipal councils register food businesses.

The Act is available at [www.legislation.vic.gov.au/](http://www.legislation.vic.gov.au/).

Victoria's food premises classification system, regulations, standards, policies and enforcement align with the Model Food Act and national guidelines and standards. However, it does differ from other

jurisdictions in one aspect; the requirement for an auditor to conduct the initial systems audit, (for example, for a new premises) to ensure the FSP is effective in controlling the identified food safety hazards in the production of safe and suitable food.

## **Food classification system**

The Act adopts a preventative approach to food safety.

It groups food premises into separate 'classes', and sets out different food safety requirements for each class based on the food safety risks of its highest risk food handling activity.

There are four classes – from highest risk (class 1), such as a nursing home, to lowest risk (class 4), such as a newsagent selling only pre-packaged confectionery.

The level of regulation is largely determined by the microbial hazards posed by food handling onsite. The greater the chance of something going wrong during the food handling process, and the greater the potential impact on people's health, the higher the level of regulation.

The classification system is risk-based. It seeks to match regulation with the food safety risk that different food business activities pose to public health. A declaration under the Act sets out these classes. It was published in the Government Gazette, 22 June 2010 (Gazette No S 232).

Councils are responsible for classifying every food premises within their municipal districts in accordance with this declaration.

Further information about the [classification system](http://www2.health.vic.gov.au/public-health/food-safety) can be found at: [www2.health.vic.gov.au/public-health/food-safety](http://www2.health.vic.gov.au/public-health/food-safety) and then choose C for classification from the A-Z listing.

This includes a tool which outlines a wide range of food business activities and indicates the correct classification of 1 to 4 according to the food safety risk of each activity.

**The only food premises that must have a FSP are class 1 and class 2 food premises. These are the only food premises that may require a food safety audit for the purposes of the Act.**



## 3. Food safety auditor requirements

The Department of Health and Human Services (the department) has developed processes to assess, approve and monitor the competencies of auditors.

In Victoria, only auditors approved by the department's Secretary (or delegate) under s. 19P of the Act are allowed to audit food premises.

### 3.1. Educational requirements

The Act requires the Secretary to be satisfied that the auditor is competent to conduct a food safety audit.

Approval of a person under the Act is required because:

- the auditor must be competent to perform this type of audit
- legal consequences flow from these audits for businesses
- councils who register audited businesses must be able to rely on the audits
- these audits must be carried out in ways set out in the Act
- the outcomes must be reported to councils and the department in ways prescribed in the Act.

The Food Regulation Standing Committee approved the National Regulatory Food Safety Auditor Framework in 2009. This framework, which has been adapted for the Victorian context, details the required qualifications, skills, abilities and assessments required to gain approval (see Appendix 2).

All food safety auditors applying for approval must be able to show they have been trained and assessed as competent against the national units of competency. There are additional specialised competencies required for other high risk areas, for example the cook chill process, which the auditor must also complete if they want to audit premises engaging in these high risk processes.

Courses and certification are offered through training bodies that are formally registered to do so. They may be personnel certification bodies (for example, RABQSA International-now known as Exemplar Global) or tertiary education bodies (for example, TAFE, registered training organisations).

Practical auditing ability must be assessed by a qualified skills examiner. The requirement is for one supervised audit following completion of the national units. It is the auditor's responsibility to organise this and provide proof of the assessment to the department

The Secretary certifies auditors subject to conditions that they must adhere to.

### 3.2. Code of conduct

It is a recommendation of the National Regulatory Food Safety Auditor Framework that food regulators require auditors to re-certify against a regulator's code of conduct each time their approval is renewed. In Victoria the expectation has been that the auditor will act in a professional manner but there has not been a formalised code of conduct which details what this would entail.

The department is finalising an auditor's code of conduct. Once finalised, this will need to be read, understood and agreed to as a condition of approval. Further, on-going compliance with the department's code of conduct will be a condition of any approval agreement. The formalisation of the code of conduct provides the opportunity to inform auditors of departmental expectations and will also be used as a reference for performance management if required.

Auditors may find the requirement to adhere to the departmental code of conduct is in addition to the auditor's requirement to sign an employer's or personnel certification body's code of conduct.

### 3.3. Conflict of interest

Included in the code of conduct is a section on conflict of interest. Section 19S of the Act specifically addresses conflict of interest for an auditor. Auditors should be familiar with this section as well as the detailed explanation of conflict of interest in the National Regulatory Food Safety Auditor Guideline.

**Specifically, auditors should not be auditing a food premises if they have written or assisted in the preparation of the FSP for that premises or if the auditor is the proprietor or an employee or officer of the proprietor of the premises being audited.**

Auditors who are unsure of whether a situation constitutes a conflict of interest should check with the department for clarification after reviewing this section in the code of conduct in the National Regulatory Food Safety Auditor Guideline.

### 3.4. Approval process

A person seeking to be an approved auditor must apply to the department.

The Act provides a mechanism for certifying the competency of auditors who are then 'approved auditors' for the purposes of the Act.

Section 19P of the Act empowers the department Secretary (or delegate) to certify in writing that a natural person (individual) is competent to conduct a food safety audit for the purposes of the Act. A person's approval may:

- apply to all or only to specified classes or categories of food premises, and
- be subject to conditions set out in the certificate, and
- be for a specified period of time.

The process and requirements for approval are outlined in the application form found on the department's Food Safety [website](https://www2.health.vic.gov.au/public-health/food-safety/food-businesses/food-safety-audits-assessment/food-safety-audits): <<https://www2.health.vic.gov.au/public-health/food-safety/food-businesses/food-safety-audits-assessment/food-safety-audits>>.

### 3.5. Auditor conditions of approval

The Secretary or delegate under s.19P (2)(b) of the Act, may impose any conditions on the certification of auditors.

Conditions of approval have, in the past, been set out in the *Auditors Arrangements* with some of the conditions being a minimum attendance at one departmental forum per year and demonstrated knowledge of the Act, the auditor's handbook and the food safety standards of the Code.

The department has revised the auditor arrangement format. The new format is a list of conditions that are imposed upon any approval granted by the Secretary or delegate.

An on-line assessment of auditor knowledge is being developed and there will be an expectation that when it is finalised, satisfactory completion of this assessment will be required for on-going auditor approval.

Auditors will be kept up to date with versions of the application form and the list of standard conditions that will be imposed by the Secretary or delegate. Additionally, the Secretary or delegate may impose additional, non-standard conditions on any approval granted.

### 3.6. Term of an auditor's approval

If an approval is granted, it will generally be for a period for two years. Renewal is the auditor's responsibility following receipt of a reminder notice from the department. Documentation previously

supplied does not need to be re-sent. If an auditor retires or is no longer available to conduct audits the department should be notified by email: [foodsafety@dhhs.vic.gov.au](mailto:foodsafety@dhhs.vic.gov.au).

### **3.7. Auditor register**

In line with other food regulators in Australia, the department lists the details of all approved auditors on a publicly available register on the department's food safety website.

The register provides industry with a ready reference to identify and locate auditors who can conduct audits and also to verify whether persons claiming to be approved auditors are approved to do so.

The register contains the auditor's name, contact details, company name, attainment of high risk competencies, and expiry date of the auditor approval granted under the Act.

### **3.8. Auditor performance management**

The primary focus of performance management is to ensure high standards to protect public health.

Under s. 19T of the Act, the Secretary or delegate may, after giving the person a chance to be heard, revoke the person's approval if satisfied that the person:

- has failed to comply with any requirement imposed by the Act on approved auditors
- is not sufficiently competent to conduct food safety audits
- has been found guilty of fraudulent conduct in conducting an audit
- has not satisfactorily carried out two or more food safety audits
- obtained approval under the Act to conduct food safety audits on the basis of fraud, misrepresentation, or concealment of facts.

The Act is clear about auditor obligations, competency and conduct. It is the auditor's responsibility to ensure they are working within the Act.

When the department receives a complaint or establishes the performance of an auditor is unsatisfactory, an assessment, investigation and possible disciplinary action may occur.

A policy for performance management has been developed by the department with consideration for obtaining correct, verifiable information while dealing with the matter in an impartial manner. It allows for the auditor to be fully informed and to have the opportunity to provide verbal and written information. A support person can attend interviews at the auditor's request.

If disciplinary action is taken, the opportunity exists for a review of the decision and finally to have the matter referred to Magistrate's Court if the auditor does not accept the Secretary's decision.

The department is currently establishing an 'Audit-the-Auditor' program.

## 4. Roles and responsibilities

The department, local council, auditors and food businesses all play a role in the audit system under the Act.

### 4.1. Department of Health and Human Services Food Safety Unit

The department has general oversight of the administration of the Act. This includes providing guidance to councils, auditors and authorised officers to promote the consistent application of the Act.

The role of the department in relation to the Victorian food safety audit system is to:

- establish and maintain processes to approve auditors
- set application and selection criteria for new auditors based on technical expertise, competence, training, qualifications and experience
- maintain a register of auditors approved under the Act
- investigate complaints made against auditors
- revoke or suspend the approval of an auditor under the Act, if required
- monitor and evaluate the implementation and outcomes of the auditing system
- review and change the system where evaluation shows objectives are not achieved.

### 4.2. Local government councils

In Victoria, the enforcement agency for a food business is the local council that registers the food premises (the registering council). References to council in this handbook mean the registering council. The terms are used interchangeably.

The registering council has a number of roles under the Act that form part of the audit system, or which involve the monitoring of food businesses.

In the case of class 1 and class 2 food premises, the registering council is responsible for:

- conducting an annual assessment of all class 1 food premises and also those class 2 premises with a standard FSP
- conducting discretionary inspections of food premises
- deciding whether a food business is able to operate, by granting registration of a food premises
- checking that class 1 and class 2 food premises that are required under the Act to be audited are audited within the time frame and frequency declared in the Government Gazette by the department Secretary (currently one audit per annual registration period) as at November 2015.
- receiving information from approved auditors about these audits and:
  - taking a certificate of adequacy of a FSP into account when deciding whether to grant an initial registration or to renew registration annually
  - taking into account certificates received from an auditor about a compliance audit when renewing registration, and
  - responding to notifications by an auditor about non-conformances
- investigating complaints made against a food business
- enforcement action where required in the case of a non-compliant business.

Registering councils may also:

- liaise with auditors concerning compliance matters raised during an audit, or seek information from an auditor due to the investigation of the potential source of an outbreak of food related disease
- query an auditor about unreasonable notifications or non-notifications
- report any concerns they have regarding an auditor to the department.

### **4.3. Food safety auditors**

An approved auditor's only role under the Act is to conduct food safety audits.

Audits are one way in which the Act seeks to protect public health. The competency and independence of the persons conducting these audits is therefore integral to the regulatory framework established by law.

Auditors must:

- ensure that system and compliance audits are performed in accordance with the Act, the Food Safety Auditor's Handbook and professional qualifications and approval
- report the audit outcome to the local council and the department (where appropriate) within the time frames specified in the Act
- ensure the premises have appropriately remedied deficiencies in their FSP as identified during the audit process within 14 days of the expiry of the period specified in the notice to the proprietor
- provide written notices and certificates appropriate to the audit outcomes as specified in the Act using the designated forms provided by the department
- notify the department and council about cases where food labels do not declare allergens present in the food as required under the Code
- keep all records pertaining to an audited premises for at least four years
- have a robust record keeping system so as to provide the department with audit information immediately on request, for example, date certificates sent/provided to business or council.

### **4.4. Business/food premises**

Premises must:

- ensure the auditor they have chosen is registered and approved by the department and should request evidence of auditor approval
- ensure that a food safety audit of the premises is conducted as required under s. 19H by a food safety auditor. Premises should provide the auditor with reports of past audits, instructions, advice or notices given by the registration authority or consultants
- work with the auditor to organise and manage the audit process. This includes correcting non-conformances within the specified time frame or immediately as requested
- ensure they have an adequate FSP which is reviewed and updated if there are any changes in the activities carried out in the premises
- keep and have available a copy of any report prepared for the premises by an auditor within the previous four years.

## 5. Audit process

### 5.1. Prior to conducting the audit

- 5.1.1. The auditor should check their approval is current. If the approval has expired, an audit for the purposes of the Act cannot be conducted.
- 5.1.2. Review qualifications to ensure ability to audit the processes undertaken by the business.
- 5.1.3. Make sure there is no conflict of interest associated with auditing the premises. Refer to s. 19S and s. 19U of the Act, and the National Regulatory Food Safety Auditor Guideline Appendix A, s. 8.0. Auditors should also consider if there are any other situations where there may be a conflict of interest, and refrain from auditing in such a case. For example, if the auditor trains staff to use a business' FSP they will not be sufficiently independent to be able to audit compliance with that program.
- 5.1.4. Check with the class 1 premises when the last council assessment was done as there needs to be three months in between the council assessment and the audit. Additionally, checking with the council will give the auditor the opportunity to check if there have been any issues, complaints or outbreaks associated with the premises since the last audit.
- 5.1.5. Review documents including the FSP. Keep in mind that in Victoria the registering council does not approve the FSP. It is the auditor who forms an opinion as to the adequacy of the FSP and provides that advice to the proprietor and registering council in a certificate. This may influence the documentation that an auditor may wish to collect prior to commencing their audit of the food premises. Review of the FSP is essential and an auditor must not rely on their memory of the last visit to the premises.
- 5.1.6. Hazards for food handling are site specific. If a food business operates from a number of sites with such a program, each site must be audited separately. The procedures (including certificates and notices) apply to the audit of each site.

If auditing a number of sites, each site is treated separately. Sites may also have different registering councils, if they are located in different municipal districts. Make sure the correct council receives copies of certificates and notices issued under the Act.
- 5.1.7. In planning an audit, auditors must ensure their plan encompasses the audit purpose, activities to be undertaken, timeframe, compliance history for premises, and notification requirements with required forms.

### 5.2. Conducting the audit

#### 5.2.1. Opening meeting

Before commencing an audit it is suggested that the auditor communicate the objectives and intent of the audit to the food business proprietor or their designated representatives in an organised, succinct and clear manner. This should ensure an effective use of time for both the auditor and the proprietor.

The conversation should also include provision of identification including approval to audit, the approximate length of time required to conduct the audit, fees, possible future fees, right of appeal, and the role of the auditor if there is a non-conformance.

#### 5.2.2. On-site examination of the premises and completion of the audit process

During the on-site component, the auditor should review evidence collected by the business (for example, records, sampling logs, documentation protocols) that demonstrate whether:

- it is complying with its approved system. This is to check whether the business is maintaining its system consistent with its FSP and with the version that underwent desk top audit; and
- any deficiencies that needed to be addressed, as identified in previous audits or council food safety assessments, have been incorporated into the system.

In the case of a system audit that is only assessing the adequacy of a FSP, the auditor must consider whether the program meets the requirements of s. 19D of the Act, based on the activities conducted at the premises.

It is recommended that auditors collect *their own evidence* from a business during the on-site component of the audit to allow them to make an objective determination. For example, whether:

- the business is maintaining its system consistent with the FSP, and operating in accordance with the program, and
- the program is still adequate or it requires updating to take into account new processes introduced since the program was last amended.

Evidence may be collected through interviews, independent examination of documentation and records in addition to the essential visual observation of activities carried out at the business.

In particular, it is important to make sure that the Code standards 3.2.2 and 3.2.3 are being complied with.

Where a non-conformance is detected in a compliance audit, auditors should:

- clearly document these incidences against the requirements of the program or the food safety standards, and
- inform the business in a notice as required under the Act.

### 5.2.3. Exit meeting

The auditor is responsible for discussing audit findings with the food business upon completion of the audit. During this meeting, the auditor can discuss non-conformances identified during the audit and seek comment from the business before listing them in the corrective action notice given to the proprietor.

The exit meeting provides the business with the opportunity to discuss audit findings and provide further information as required. The auditor's role in this process should not include providing the food business with the solution to the identified non-compliance as this should be the role of the food business proprietor.

**The auditor is responsible for providing statutory audit certificates or notices to the council after auditing a food business.**

## 6. Notices and certificates

The Act refers to notices and certificates depending on what actions are required by the auditor. The use of the word 'form', with a numerical number has been implemented to facilitate departmental advice about which document must be provided under the Act.

Thus, 'form', is used to describe each of the different notice/certificate requirements. It is important to note however that each form is **titled** according to the requirements of the Act.

Forms can be altered to incorporate an auditor's logo and formatting **however the forms must be used as directed by the department.**

**The title and the actual wording of the forms cannot be changed and must be used as written and approved by the department.**

The forms are included in Appendix 1, along with a short narrative for guidance.

This handbook also outlines some exceptional situations, with supporting case studies, and the forms required.

However, many of those situations would not be a routine or regular feature in an auditor's career. They are provided to assist should these exceptions occur.



## 7. Auditor reporting requirements

It is essential that auditors comply with the reporting requirements as detailed in this handbook. A failure to do so may impact on the auditor's approval.

A failure to provide the necessary documentation to council or the department is a breach of the Act and may have consequences for all, most importantly the consumer.

The Act specifically identifies when a certificate or notice must be provided and auditors must adhere to those requirements. Also within the Act are references to the time frame of 14 days and it is the auditor's responsibility to ensure they are aware of those time frames. If time frames are identified they cannot be extended or changed.

The audit report is a useful reference for council and the department, detailing past performance for both the premises and the auditor.

Additionally the proprietor is legally obliged to provide any report prepared by an auditor within the previous four years, within 14 days of a request by the registration authority.

It is important the report is comprehensive enough to assist in recollection, explanations, justification of requirements and actions including the correction of deficiencies.

The audit report must include:

- auditor's name, contact details and department approval number
- dates and times of audit initiation and completion
- address of the premises audited
- details of the activities and section of the FSP audited
- auditor's opinion as to whether the activities comply or do not comply
- if non-conformances are identified, details of issue, actions taken or proposed actions to be taken, with time frame given and reasons for these actions
- if a FSP needs amendment the reasons for requesting this
- date, time and details of re-audit for non-conformances
- details of referral to council with regard to critical non-conformances.

**The report must clearly detail that the adequacy of the FSP has been assessed.**

The reference documents for that level of detail are the Code standards 3.2.2 and 3.2.3 and s. 19D of the Act.

Victoria does not have an Audit Report proforma but this is being reviewed by the department. Auditors will be formally advised if any changes are made.

If auditors currently have their own report form they should continue to use it but this does not negate the requirement to provide all of the information as described.

### **Where there are non-conformances identified**

Auditors should ensure their report clearly identifies areas of non-conformance, with reference to the section of the accredited FSP, the clause of the food safety standards, the specific area of the food business where the non-conformance was observed along with the date and time of the observations.

The council will use the report to determine further actions, change the audit frequency or use other enforcement options, so it is important that all relevant information is provided.

Additionally, the council officer may ask the auditor for further information or want to discuss the audit and the non-conformances.

**Auditors must provide the proprietor, the council and the department with the required notices and certificates as defined in the Act and described in this handbook. A failure to do so constitutes a breach of auditor approval conditions and the Act.**

## 8. Types of audits conducted by auditors

Approved auditors' only role under the Act is to conduct food safety audits.

In the future, if templates for class 1 FSPs are registered with the department under the Act, auditors may also conduct one annual food safety assessment of these premises. Refer to appendix 3 for more information.

Whilst an audit is privately arranged with the proprietor of a business, the audit itself is conducted under the Act and is *for a statutory purpose*.

The National Food Safety Audit Policy refers to an audit as:

'A systematic, independent and documented process for obtaining evidence and evaluating it objectively to determine the extent to which the audit criteria are fulfilled.'

There are three kinds of audits undertaken by approved food safety auditors:

### 8.1. Adequacy audit (systems audit)

This audit is undertaken to review a FSP to ensure that the food management system is effective in controlling identified food safety hazards, thus ensuring the production of safe and suitable food. S. 19D of the Act defines the parameters of a FSP. A FSP is adequate if it meets the requirements specified in s. 19D

### 8.2. Compliance audit

This is an audit of a premises that includes both the systems audit and the assessment of whether the business is complying with the program and the food safety requirements that apply under the Act (a 'regulatory audit'). Currently this full audit must be conducted annually.

### 8.3. Re-audit

This audit is undertaken when the auditor has determined there are non-conformances at the premises and there is a requirement for deficiencies to be remedied. The auditor must check to see whether the deficiencies have been remedied.

## 9. Audit outcomes: actions and responsibilities

### 9.1. Adequacy audit (systems audit)

Auditors may also see a systems audit referred to as an audit of the adequacy of a FSP.

It is important to understand the principle intent of this kind of audit is to ensure the written FSP complies with s. 19D of the Act.

This type of audit occurs most commonly in the following situations:

- a first audit of a new premises where the auditor does not have a previous history of compliance with the FSP or the premises is not operational yet
- if a change in the nature of the food handling activities on the site means that the business has changed classification under the Act and must have a FSP for the first time
- if a premises that already has a FSP alters the way it handles food and a change in the FSP is required as a result. This might be considered as part of an annual regulatory audit. However, if that annual audit has already been carried out for the registration period and the change in food handling practice occurs after this date, the proprietor may require a further audit that is confined to the adequacy of the FSP. The Act requires the business to tell council if it has changed its FSP and then, depending on circumstances an adequacy audit will be conducted within three months if it has already had an annual audit.

**NB:** A council may grant a conditional registration to the business for up to three months, pending the receipt of a certificate from an approved auditor indicating that the FSP is adequate.

For any of the above, the FSP must meet the requirements of s. 19D of the Act. It must be a written document that applies to the food premises that:

- systematically identifies the potential hazards that may be reasonably expected to occur in each food handling operation that is to be, or that is being, conducted at the premises
- specifies where, in a food handling operation, each hazard identified under paragraph (a) can be controlled and the means of control
- provides for the systematic monitoring of those controls
- provides for appropriate corrective action when each hazard identified is found not to be under control
- provides for the regular review of the program by the proprietor of the food premises
- provides for appropriate records to be made and kept by the proprietor of the food premises demonstrating action taken in relation to, or in compliance with, the FSP.

The auditor must assess the adequacy of the FSP after taking into account the activities at the food premises and ensuring all aspects of those activities are covered in the program.

#### **Adequacy (systems) audit only: audit outcomes and response**

If the auditor:

- **Identifies the FSP is adequate, meeting all of the requirements of s. 19D.** The auditor can issue a certificate to this effect under s. 19E(3)a of the Act. Use Form 1 and tick the box which indicates this is a certificate of adequacy of FSP only.

- **Identifies the FSP is initially inadequate but is subsequently rectified.** The auditor will need to advise the business about the deficiencies in the program that need to be addressed. When the revised program is checked and it meets all of the requirements of S. 19D, a certificate can be issued to this effect. Use Form 1 and tick the box which indicates this is a certificate of adequacy of FSP only.
- **Identifies that the FSP continues to be inadequate.** If the revised program document does not rectify the deficiencies identified and continues to fail to meet the requirements of s. 19D, a **certificate of adequacy must not be issued.** It then becomes a critical non-conformance.

The auditor must notify the council and it will resolve the non-compliance.

Without a certificate from an approved auditor the council cannot re-register (or in some cases initially register) a food business that uses a non-standard FSP.

## 9.2. Compliance audit

Businesses with FSPs are also audited annually under the Act, which means a system audit and compliance audit are conducted together.

The Act requires the auditor, when conducting a compliance audit, to check that:

- the FSP is adequate as outlined above, and
- the food safety requirements have been complied with.

Under the Act, food safety requirements mean:

- the premises is complying with the food safety standards (in Chapter 3 of the Code). The relevant standards are currently standards 3.2.2 (food safety practices and general requirements) and standard 3.2.3 (food premises and equipment). Standard 3.1.1 contains definitions. Further information about these standards is available at [www.foodstandards.gov.au/](http://www.foodstandards.gov.au/).
- the FSP has been complied with during the period covered by the audit, including (but not limited to) the keeping of all required records; and
- appropriate action has been taken by the proprietor to remedy any deficiencies identified in any previous food safety audit (or, if relevant, any previous food safety assessment).

The purpose of the compliance audit is to:

- check whether the business is operating satisfactorily with regard to the handling of food, and if it is not, take steps to ensure the Issues are remedied. In some cases the registering council may need to be involved to achieve this, particularly where there are serious problems at the premises or where corrective action has not been taken by the business; and
- give the registering council relevant information about the level of compliance of the business. **The council must *always* be made aware of the outcome.**

The audit documentation must specify the period to which the audit relates. This will typically be for a 12 month period but can be longer.

All of these aspects, as well as the adequacy of the FSP, must be covered by the annual audit, or in any extra audits required by council under the Act.

When a compliance audit is being undertaken there are **three possible outcomes**:

1. **Full compliance:** the FSP is adequate and there is compliance with the program and the food safety requirements (this includes addressing any outstanding non-conformances).

2. **Critical non-conformances are identified:** this is a non-conformance that may lead to a serious risk of food being sold that is unsafe or unsuitable; or
3. **Non-critical non-conformances are identified.**

Given that critical non-conformances involve a serious threat to public health, they must be notified to the registering council **when first detected by the auditor.**

Other *non-critical* non-conformances must be notified to council if, after they have been detected, they are not corrected by the business in the period of time set by the auditor, as identified in the corrective notice issued by the auditor to the proprietor.

The steps an auditor must take depend on:

- the seriousness of the non-conformance, and
- the nature of the non-conformance. That is, whether it relates to the content of the FSP, or is a failure to comply with the requirements of the FSP or the food safety standards, or a failure to remedy non-conformances identified in a previous audit cycle.

Completion of this process is an essential part of an audit under the Act. It ensures that the registering council can take action where necessary, or contact the auditor to discuss the non-conformance. It is a safeguard to protect public health. Community confidence in the audit process is linked to the auditor's ability to act independently by notifying council as required by law.

A failure to comply with the requirements of the Act may constitute grounds for revoking an auditor's approval.

### 9.2.1. Full compliance

For the period covered by the audit, the premises complies because:

- the FSP is adequate, and
- the food safety requirements applying to the premises are complied with.

The auditor can therefore issue the s.19L certificate of compliance as illustrated in case study 1.

#### Case study 1

##### Full compliance

The auditor audits a child care centre and is satisfied that the FSP for the premises is adequate and is being complied with, and that the premises complies with the food safety requirements of the Act.

The auditor provides the proprietor of the premises with the s. 19L certificate of compliance (Form 1 – tick both adequacy and compliance)

Within 14 days of giving the proprietor this certificate the auditor sends a copy of the certificate to the registering council.

### 9.2.2. Critical non-conformance

**Critical non-conformance** is an inadequacy in the FSP or a failure to comply with the food safety requirements (including whether any outstanding non-conformances from a previous audit have been remedied) that, in the opinion of the auditor, may lead to a serious risk of food being sold or prepared that is unsafe or unsuitable.

In practice it would include any significant inadequacies in the FSP, or hygiene or handling breaches that constitute a serious risk.

## **Audit outcome**

The premises does not comply because:

- the food safety requirements have not been complied with; and/or
- the FSP is inadequate.

## **Auditor actions**

The auditor must provide a notice under s. 19M (2) to the proprietor of the food premises. (Use Form 2):

- stating their opinion and the reasons for it,
- identifying the non-conformances that need to be remedied, and
- advising that the non-conformances must be remedied (such as corrective action taken) within the time specified in the notice. In fixing timeframes, the auditor takes into account that there is a serious risk that food may be sold or prepared that is unsafe or unsuitable. This should be explained to the proprietor of the food business.

Further:

- The auditor must notify the registering council as soon as practicable under s. 19N (3) that the non-conformance/s may lead to a serious risk of food being sold or prepared that is unsafe or unsuitable.
- Verbal notification of the critical non-conformance must be attempted and Form 3 must be sent to the council with a copy of the notice given to the proprietor (Form 2).
- If it is not feasible to email these forms to the council within 24 hours, the auditor should verbally advise the council within 24 hours of this issue and provide the two written notices as soon as practicable.
- The auditor should also send a copy of both notices to the department by email (foodsafety@dhhs.vic.gov.au).

## **Council actions**

- Council may inspect the premises, depending on the information provided by the auditor and take any necessary action to close out the non-conformance.
- Council must advise the auditor about their response.
- Council notifies the proprietor of the premises and the auditor if the non-conformance is rectified.

## **Follow up auditor actions**

- Within 14 days of the expiry of the period specified in the notice for the non-conformances to be remedied, the auditor must check to see whether the non-conformances have been remedied (s. 19M (3)).
- Prior to doing so, the auditor must contact the council to check what steps the council may have taken to require compliance, and the outcome. This is to ensure that a consistent, co-ordinated approach is taken.

## **Re-auditing can be done by:**

- An on-site visit, especially if council has advised the auditor that it will not be attending the premises at this stage, but will await the outcome of the re-audit (for example, if the non-conformance is to be remedied the next day and the auditor will check it immediately); or

- If council, has issued an enforcement notice (such as an order under s. 19), the auditor cannot act in any way that contradicts the council enforcement notice. The auditor could simply check whether the items noted in their notice have been corrected by the due date (bearing in mind the terms of the order). This could be done as an on-site visit or by obtaining independent evidence (for example, photographs). Reliable verification is essential; or
- If the council has resolved the matter, and confirmed this in writing with the auditor (for example, email), the auditor can choose to accept this advice together with discussions with the proprietor or conduct a re-check personally.

Auditors must keep records of:

- all corrective actions that are to be taken to address non-conformances identified during audits, and
- the evidence used to verify that agreed corrective measures have been implemented.

**Case study 2** is a complex scenario of a critical non-conformance with other complicating factors. **This is a scenario that auditors will rarely, if ever, come across but is detailed here as a possibility.**

## **Case study 2**

### **Critical non-conformance and re-audit**

An auditor audits a restaurant that offers a variety of food for sale including fish and meat meals, pizza, 'homemade' dips and sauces, and desserts such as chocolate mousse.

The auditor notes a number of problems that range from those that are serious to those of lesser importance to do with poor maintenance and housekeeping. Two issues are of particular concern to the auditor.

One issue is that the business cooks a variety of pizza, ranging from the more simple margarita to one 'with the lot' that is stacked with toppings that are potentially hazardous (for example, chicken, raw egg). These are cooked in a pizza oven that uses a conveyor belt. The proprietor explains to the auditor that staff adjust the conveyor belt speed to a cooking time of six minutes for pizzas that only have toppings that are not potentially hazardous. For any pizza with potentially hazardous toppings the conveyor belt is adjusted so that the pizza is cooked for 11 minutes.

Further inquiries by the auditor reveal that the different times of cooking for different types of pizza are not documented in the FSP, nor have any temperatures been taken of 'cooked' pizza to verify that these adjusted times work. Additionally, many of the staff are casuals and there are no written instructions anywhere.

The proprietor cannot produce any evidence as to how he came up with the cooking times other than 'experience'. The proprietor gives the auditor a demonstration of a pizza with 'the lot' being cooked. The pizza appears well cooked, and the proprietor probes meat portions with a probe thermometer which reveals temperatures of 80°C. This satisfies the auditor that the outcome is not a serious risk to public health. However, the auditor is concerned that there is so much potential for things to go wrong in practice.

The auditor also checks the cool room, and finds it is at 7.5°C. The auditor is advised that the records for the past six months of the cool room temperatures cannot be found, even though they are kept. The auditor is unable to verify whether or not the current cool room temperature is just an aberration (as claimed by the proprietor). The lack of records must be listed as a non-conformance.

### **Auditor actions**

The auditor must issue the business with a correction action notice (Form 2) which details the areas where corrective action is required, and the date by which it must be completed. The items include the following:

- Documenting the cooking times for pizzas with different toppings (based on the settings for the speed of the pizza conveyor belt) in the FSP.
- Verifying the cooked product with a probe thermometer (that has been calibrated in the last six



months) to the centre of the pizza ingredients to see if raw, potentially hazardous ingredients on the pizza have been cooked to at least 75°C in the times used.

- Creating a record in the FSP to be completed to record the times of cooking, and the temperatures at which the oven cooks the pizza. The times and temperatures are to be verified weekly.
- Placing signage at the front of oven that displays the appropriate speed of the oven conveyor belt for different types of pizza.
- The temperature settings of the cool room should be adjusted so that the temperature of the food inside the cool room is at 5°C or cooler at all times.
- Locating the temperature records for the cool room and provide them to the auditor for examination.
- Keeping records of the cool room temperatures (the FSP specifies twice a day).

The auditor also lists a few other items in the notice.

Some of these non-conformances pose a serious risk of food being prepared or sold that is unsafe. After discussion with the proprietor, the auditor specifies in the notice that these items are to be remedied within seven days.

As some of the non-conformances are critical, the auditor also verbally notifies the registering council and sends both Form 2 and Form 3 by email within 24 hours.

A copy of both Form 2 and Form 3 are also emailed to the Food Safety Unit of the department.

#### **Follow up auditor action**

One week later the auditor contacts the council, who advises that it has checked the premises and agrees with the actions of the auditor. The council has not served a s. 19 notice and is awaiting further advice from the auditor.

The auditor returns to the premises eight days after the initial visit and finds that all the items in the list of corrective actions have been completed.

The auditor concludes that all non-conformances that can be corrected have been corrected and the FSP is adequate. However, the inability of the business to produce six months of temperature records for the cool room is the one non-conformance that can no longer be remedied.

The auditor issues a certificate to this effect using Form 5. It notes the non-conformances that have been corrected, and also the non-conformance that it is no longer possible to remedy.

Within 14 days of giving the proprietor this certificate the auditor sends a copy of it to the registering council.

### **When the non-conformance is remedied on the spot**

In the situation where the auditor has identified a critical non-conformance and the business has rectified the non-conformance on the spot, the auditor must still follow the requirements outlined above and:

- complete Form 2. The auditor should indicate on the form that the non-conformance(s) were remedied on the day; and
- notify the registering council as soon as practicable that the critical non-conformance was identified (and rectified). Use Form 3 and Form 5. Also send these forms to the department.

The council may still decide to inspect the premises to satisfy itself that the non-conformance no longer poses a risk. Contributing factors that the council may take into account include any complaints it may have received about the premises or a poor compliance history.

Case study 3 is an example of this situation.

### Case study 3

#### Critical non-conformance remedied on the spot and notified to council

During an audit of an aged care facility the auditor observes that in addition to a number of minor issues, kitchen staff are using the same cutting board to cut up raw chicken and to prepare fresh salad.

The staff explain they were running short on cutting boards and new boards are arriving soon. In the meantime the same cutting boards are being used for raw meats and ready to eat foods, but the staff advise they are careful and thoroughly clean the board between uses. After further questioning, the auditor is not satisfied that the boards used for raw food such as chicken are satisfactorily disinfected before being used for ready to eat foods. In any case the auditor finds it is unacceptable to use the same cutting board for both forms of food preparation due to the risks involved in this case.

The auditor checks the FSP. It does not refer to the use of different cutting boards for raw and ready to eat foods. The auditor believes that the FSP is inadequate, and also that the food safety requirements are not being complied with.

The manager of the facility is advised that this is a critical non-conformance, as the practice may lead to food being prepared that is unsafe for the residents of the facility to eat. Any salad ingredients that have been prepared on the cutting boards in question should not be served, and separate cutting boards must be used for cutting raw food and for cutting ready to eat foods such as salads.

The manager acts immediately and disposes of all food that had been prepared for the day. She sends a staff member to purchase more cutting boards, which are brought back before the auditor leaves. The cutting boards are labelled as per the auditor's advice. In this time the manager has inserted an appropriate paragraph into the FSP about using separate cutting boards for raw and ready to eat foods.

### Critical non-conformances identified, that occurred in the past and now cannot be remedied

There may be situations where there are no actions which can be taken to rectify a non-conformance, for example, a failure to keep some of the records required by the FSP. The Act refers to this type of non-conformance as a failure to comply with a food safety requirement that it is no longer possible to remedy.

#### Auditor actions:

If this is the only non-conformance identified, and the FSP is adequate, the auditor must describe it to this effect under s.19M. Use Form 2, noting that:

- the FSP is adequate
- the deficiency identified can no longer be remedied
- no other deficiencies were identified, and
- the notice to the business simply notes the non-conformance. It does not require corrective action, as it is too late to take any such action
- as it is a critical non-conformance (such as one that may lead to a serious risk of food being sold that is unsafe or unsuitable), the auditor must still advise the council about it under s. 19N(3), using Form 3. The auditor must also provide both the council and proprietor with Form 5.

#### 9.2.3. Non-critical non-conformance

If all the deficiencies identified regarding the FSP, or failures to comply with the food safety requirements, **do not** create a serious risk of food being sold that is unsafe or unsuitable at the time they are detected, then the auditor should consider the nature and extent of the deficiencies. When

setting the subsequent time frame for correction (negotiated between the auditor and the business) it is important to remember it cannot be a year or longer than the registration period.

In practice:

- there may be one breach or there may be a number of low risk situations that the auditor does not at this stage consider may lead to a serious risk of food being sold or prepared that is unsafe or unsuitable. However, they do need to be corrected to prevent such a risk from arising in the future, or
- there may be a technical breach, such as a failure to keep certain records in the FSP that do not affect the safety or suitability of food.

### **Non-conformances identified that are not critical, which are remedied**

**Case study 4** is a situation where the auditor identifies a non-conformance that the auditor does not consider, at this stage, will lead to a serious risk of food being sold or prepared that is unsafe or unsuitable. However, it does need to be corrected swiftly to prevent such a risk from arising in the future.

#### **Case study 4**

##### **Non-critical non-conformance that is remedied**

During an audit of an aged care facility the auditor observes there are inadequate hand drying facilities at the hand washing basin. The proprietor explains that staff constantly dry their hands using tea towels. These towels are not sighted by the auditor. The auditor knows that dirty tea towels can re-contaminate food handlers' hands. The FSP is inadequate as there is no reference to appropriate hand drying facilities being maintained at the hand basin.

The auditor does not consider this leads to a serious risk of food being prepared or sold which is unsafe, at this point in time. This is the only non-conformance identified.

The auditor issues a corrective action notice Form 4 to the proprietor that details the corrective action to be taken (which is to have appropriate hand drying facilities at the hand washing basin and update the FSP) and the date by which it is to be done, which is the next day. Later the next day the proprietor emails the auditor photographs of a paper towel dispenser at the hand washing basin, and emails the revised FSP.

It is up to the auditor to decide whether they conduct a further site visit, or rely on the photographs and email.

The auditor issues a certificate describing the non-conformances and how they have been remedied, and noting that the premises is otherwise compliant, using Form 5.

Within 14 days of giving the proprietor this certificate the auditor sends a copy of this certificate to the registering council.

### **9.3. Re-audit of non-conformances**

If an auditor detects non-conformances that can be remedied in a food safety audit, the auditor must check to see if these corrections have been carried out. This check must be conducted within 14 days of the expiry of the time specified in the notice for the business to complete these steps. This applies to all such non-conformances, not just those that are critical.

The **re-audit** will result in one of two outcomes.

1. **Full compliance:** a certificate can now be issued using Form 5  
or
2. **Non-compliance:** the business has not remedied all non-conformances at the premises that can still be remedied.

In terms of the second outcome, the auditor cannot issue a certificate as there are non-conformances that can still be remedied.

The steps to be taken depend upon the nature of the breach and the risk to public health.

The auditor must notify the registering council.

As there are outstanding non-conformances, the council will need to consider what steps must be taken, as the council is the regulator and has the necessary powers under the Act.

There are three possible scenarios:

1. the only non-conformance is that the FSP is inadequate  
or
2. the FSP is **inadequate** AND there are also other non-conformances that can still be corrected that have not been corrected  
or
3. the FSP is **adequate**, but there are other non-conformances that can still be corrected that have not been corrected.

The auditor must consider whether *any* of these outstanding non-conformances may lead to a serious risk of food being sold or prepared that is unsafe or unsuitable.

If the answer is **yes**, follow the procedure for critical non-conformances (section 9.2.2). Use Form 6 to notify the registering council.

If the answer is **no**, follow the procedure outlined for other non-conformances (section 9.2.3) Use Form 7 to notify the registering council.

If the non-conformance relates to a continued failure to declare allergens present in food or have a warning statement in accordance with the Code, refer to the allergens section of this handbook (section 10).

## **Non critical non-conformances not remedied which become critical**

**Case study five** is a more complex situation where there are a number of non-conformances, ranging from the more serious to minor non-conformances. One of the non-conformances detailed relates to the FSP being inadequate.

At the initial audit, the auditor forms the view that none of the non-conformances are critical. Separate timeframes are given for the correction of different non-conformances, after discussion with the proprietor. These are set out in the Form 4 notice to the proprietor.

The auditor checks to see if the non-conformances have been rectified and whether the FSP has been revised so that it is now adequate. However there is still a non-conformance that has not been satisfactorily resolved. It now poses a serious risk that food may be prepared which is unsafe to eat.

The auditor can only issue a certificate under s. 19E(3)(a) that the FSP is adequate using Form 1 tick *FSP adequacy only*.

The auditor must notify the council of the (now) critical non-conformance using Form 6.

This enables council to be satisfied as to the adequacy of the FSP, and concentrate on resolving the outstanding non-conformances.

## Case study 5

### A non-critical non-conformance not remedied that has become a critical non-conformance

During an initial audit of a supermarket the auditor observes that there is a self-serve food display containing various salads and cut fruit. The auditor uncovers several areas of concern.

- The temperature of the food in the display is 15°C. The auditor is advised that food is placed in the display at 8am and when a tray is running low it is replaced with a fresh tray. The responsible staff member estimates that turnover of the trays is between two and 10 hours, however, no records are kept.
- Staff at the deli area nearby are responsible for supervising the display. The auditor notes that when the deli is busy no-one is watching the display.
- There is no reference to the self-service display in the FSP.

The auditor decides that the FSP is inadequate because it does not deal with hazards associated with self-serve display such as temperature control and supervision. The display does not comply with the food safety standards. The auditor uses their professional judgement to decide that the risk is not such that it poses a serious risk of food being prepared or sold that is unsafe, at this stage. The council therefore does not need to be notified initially.

After meeting with supermarket management the auditor issues the business with a s. 19M(2) notice (Form 4), which details the areas in which corrective action must be taken and the date by which this must be completed.

Food in the self-service display should be kept at 5°C or less, or if kept at 15°C must be disposed of every four hours and records for the option selected must be kept. This is to commence immediately.

Management must also document a system where the display unit is under supervision at all times and this must start within 24 hours.

The FSP needs to include the self-service display and the food safety management measures (with appropriate records to be kept) that will be used to keep the food in the display safe and this is to be done within seven days.

### Re-audit

The auditor returns eight days later and is shown the changes that have been made to the FSP about the self-service display. The program states that food in it will be kept at 5°C or lower. There is also a record to be completed that requires the temperature to be checked twice daily. The deli manager is responsible for keeping the display under supervision.

However, when the auditor checks the temperature of the display he notes it is 12°C. The manager who is accompanying him tells him that you can keep sushi at 15°C for eight hours so 'what's the big deal with keeping salads for that length of time?' The auditor replies that that is irrelevant because the program states that foods will be kept at 5°C or less and the temperature and time for sushi has been scientifically validated. If the supermarket wishes to keep its food at a higher temperature than that agreed it must validate it first.

Whilst walking away from the deli, the auditor sees a young child stick her finger into one of the trays for a 'taste'. This is not noticed by any of the staff members. In fact, because it is a Monday morning there is only one staff member at the deli and she is unloading cooked chickens from a cooker.

### Auditor actions

The auditor concludes that there are non-conformances that can be corrected but which have not been corrected. However, the FSP is now adequate.

The auditor is also of the view that the outstanding non-conformances may now lead to a serious risk of food being prepared or sold that is unsafe. These are critical non-conformances.

The auditor must:

- notify the registering council using Form 6 of the risk as soon as practicable (by email). If it is not feasible to do this within 24 hours, the auditor must telephone the council within 24 hours to advise of the non-conformance and provide the two written notices as soon as practicable

- email a copy of both notices to the Food Safety Unit at the department
- issue the proprietor with a s. 19E(3)(a) certificate that the FSP is adequate. Use Form 1 with only *Adequacy* of FSP ticked, and
- within 14 days of giving the proprietor this certificate, send a copy of it to the registering council.

Resolving the non-compliance now becomes the responsibility of the registering council.

## Non-conformances which are not remedied and are not critical

This is a situation where the auditor identifies a number of non-conformances at a premises but does not believe at this stage that they may lead to food being prepared that is unsafe.

The auditor advises the proprietor about the timeframes that are feasible to correct them, bearing in mind the nature of the risks and the vulnerability of the persons who will be consuming the food. These timeframes are specified in the corrective action notice to the proprietor (Form 4).

Upon re-audit, the auditor is satisfied that all the non-conformances of most concern have been rectified but there are still some non-conformances not complied with that are in contravention of the food safety standards. They are not likely to lead to food being prepared that is unsafe in the next year. The auditor cannot issue a certificate of compliance because there are outstanding non-conformances. The auditor must notify the council using Form 7. However, the auditor can issue a certificate under s. 19E (3)(a) that the FSP is adequate (Form 1 with only *Adequacy* ticked).

The registering council will decide how best to follow up on remaining non-conformance.

### Case study 6

#### Non-conformance not remedied but remains non-critical

During an audit of a private hospital the auditor observes that there are cracked floor tiles in the kitchen area, a build-up of grease in the filters of the exhaust canopy above the stoves, and packaged food being stored on the floor of the cool room.

The auditor negotiates with the proprietor of the food premises that the filters are to be cleaned within 24 hours, packaged food is not to be stored on the floor of the cool room, and within 30 days the proprietor will purchase adequate shelving for the cool room. The proprietor also advises that the cracked tiles will be replaced within 30 days.

#### Auditor actions

The auditor issues a corrective action notice to the proprietor (Form 4) that details the corrective action to be taken and the dates when the action must be completed.

To close out the non-conformances, the auditor verifies that they have been rectified. This may be by a re-audit or by having the business send photographs of the clean filters and the new cool room shelving showing all of food that is stored in the cool room.

The proprietor advises they 'haven't got onto the cracked tiles as yet as it is such a small job' and is having difficulties finding someone to fix them for a reasonable price. The proprietor would also like to replace ugly tiles elsewhere in the building in six months and would prefer to get all the tiling done at the same time.

This is the only non-conformance outstanding.

The auditor cannot issue a certificate of compliance as the business remains non-compliant in some respects.

Within 14 days of becoming aware of the remaining non-conformances the auditor must notify the registering council using Form 7.

As the auditor is satisfied that the FSP is adequate, the auditor issues the proprietor with a certificate to this effect (Form 1 with only *Adequacy* ticked).

The auditor sends a copy of this certificate to the registering council. The council can take this

certificate into account when considering whether to renew registration.  
The council will decide how best to address the non-conformances that remain.

# 10. Allergens and labelling failures

Some foods and food ingredients or their components can cause severe allergic reactions including anaphylaxis. Whilst such failures do not render food unsafe to eat by persons who are not allergic to the substances in question, they pose a serious threat to the health of persons who are allergic to them.

The Code requires allergens to be disclosed on the label.

S. 16 of the Act directs that a food business selling food must comply with this obligation.

Allergens and the declaration of allergens in food must also be addressed in the FSP as hazards in the food handling operations of the business. Therefore, the auditor must be familiar with the requirements of the Code regarding the declaration of substances and warning statements.

The information below is a summary, which is current as of May 2017.

It is imperative that auditors check the Code for any updated amendments. The auditor must ensure that their knowledge is up to date. This is essential to understanding hazards associated with the food handling operations and the checking of the adequacy of the FSP.

Currently, standard 1.2.3 of the Code specifies requirements for the mandatory warning, advisory statements and declarations of allergens in food. This standard can be found at:  
<<http://www.foodstandards.gov.au/code/Pages/default.aspx>>

The Code states:

- the information must generally appear on the label of packaged food
- if the food is not required to bear a label (generally when it is unpackaged), the information must be declared in connection with the display of the food, or to the purchaser upon request
- currently the substances and their products that must be declared include:
  - crustacea (shellfish)
  - egg
  - fish
  - milk
  - soybeans
  - tree nuts
  - peanuts
  - sesame seeds
  - cereals containing gluten and their products (wheat, rye, barley, oats and spelt and their hybridised strains)
  - lupin

They must be declared when they are present, no matter how small the amount, as:

- an ingredient
- an ingredient of a compound ingredient (for example, in a binder)
- a food additive or component of a food additive
- a processing aid or component of a processing aid.

Added sulphites in concentrations of 10 mg/kg or more must also be declared.

Auditors should also check whether a warning statement is required to be on a label or displayed with food not required to bear a label. For example, in relation to products containing royal jelly - 'this



product contains royal jelly which has been reported to cause severe allergic reactions and in rare cases, fatalities, especially in asthma and allergy sufferers’.

As food with incorrect labelling may have been sold throughout the State, and also interstate, auditors must notify the department (and the registering council) when they detect this type of non-conformance as a matter of urgency, so that the level of risk to consumers can be assessed and action taken where required

## 10.1. Auditor actions if undeclared allergen noted

Once a non-conformance has been noted, and this can be either or both the lack of labelling and a failure to have this hazard identified in the FSP, the auditor must notify the department and provide a notice to the proprietor.

Form 2 is used if the failure(s) in labelling relate to packaged goods being sold beyond the bounds of the council and with state wide or national implications.

Form 4 is used if the lack of labelling is a non-critical local issue, such as within council boundaries and relating to unpackaged food. Most commonly this is a single incident lapse which is resolved immediately; such as a new staff member who does not know about the product information sheets and is then instructed about them.

Importantly a level of judgement is called for here if the issue relates to an allergen of serious significance. For example, peanuts included in a food product without labelling, which may result in anaphylaxis or other serious health issues, if information is not provided to the public.

If this situation, or what would be deemed a critical systemic error, is identified, the auditor should liaise with the department to discuss the best course of action. The time frame for correction and compliance of this identified critical error would then become ‘as soon as practicable’ which the department defines as within 24 hours.

The notice to the proprietor of the food premises should describe any breach regarding a failure to declare allergens or have a warning statement, specifying the time in which it must be remedied. Addressing these hazards should be a part of a FSP.

Even if the business agrees to organise a food recall, change future labels and follow the FSP from now on, the auditor must still notify the department immediately, and conduct a re-audit to check that the program is being complied with (such as the practice is now compliant with the Code).

### Case study 7

#### Allergen labelling

The auditor audits a medium sized manufacturer of packaged rice biscuits.

The auditor notes that one of the ingredients in the recipe could include egg powder. Upon investigation this fact is confirmed. Egg is not declared on the label of the rice biscuits.

The manufacturer explains that the ingredient in question is a ‘binder’ that contains only a small amount of egg. The manufacturer expresses a preference to correct the error once the current stock of labels is used up.

Biscuits containing the binder have been sold with this deficient label.

The auditor examines the FSP and notes that there are specific sections contained in it regarding the requirement to label foods (including allergens) in compliance with the Code. It refers to eggs and egg products.

#### Auditor actions

- The auditor advises the manufacturer that it must stop using the current labels immediately and must contact the department to consider whether a recall of the incorrectly labelled product is appropriate.

- The auditor provides a notice to the proprietor of the food premises, describing the breach and specifying the time in which it must be remedied (Form 2). In this case, this would be that the label must not be used on any further product that contains the binder. If the binder is used, the fact that the product contains egg must be specified on the label.
- The auditor notifies the department immediately by telephone. Afterwards the auditor completes Form 3 and sends both Form 2 and 3 by email to the department. A copy is also sent to the council.

#### **Department and council actions**

- As this labelling breach has statewide/national implications, the department will coordinate the necessary action and liaise with council, as necessary.
- Either the council or the department will advise the auditor about the response taken and any other corrective action to be taken, including possible recall of foods already in the marketplace.

#### **Follow up auditor actions**

Within 14 days of the expiry of the period specified in the notice the auditor must check whether the non-conformances have been remedied. Prior to re-auditing the premises, the auditor should contact the department to check what further steps may have been taken to require compliance, and the outcome.

In this case, the matter has been resolved as there has been a product recall. Council has checked and advised the department that the business has not produced any further product with the same label that contains the egg binder. The auditor accepts this advice, after confirming this by telephone with the proprietor.

As there are no other current non-conformances, \*the auditor issues a Form 5. The auditor notes in this certificate the non-conformances that have been remedied, along with the non-conformances that can no longer be remedied (such as there will be product in the market that may have already been consumed). The auditor also notes that the original non-conformance was notified to the department. Within 14 days of giving the proprietor this certificate the auditor sends a copy to the registering council to close out the audit.

\*If the FSP had been deficient, the auditor would also need to include this in the Form 2 corrective notice to the proprietor of the business, and once remedied to note this on the Form 5.

\*If there had been other non-conformances identified during the audit, in addition to the failure to declare allergens, these would need to be recorded and advice given about rectification on the forms given both to the proprietor and council.

# Appendix 1

## Forms and short narrative for each form

Short narrative for each auditor form

### Form 1: Certificate of Adequacy or Certificate of Adequacy & Compliance.

This certificate contains 2 options:

**Option 1 – Certificate of Adequacy:** The auditor can certify a premises as having an adequate food safety program **only** under section 19(3)(a).

Why use this option?

It could be for the first audit of a new premises where the auditor cannot form a view as to compliance with the food safety program due to insufficient history – this may also apply to major changes to an existing FSP.

**Or**

The premises has a large number of non-compliances (related to the food safety standards and/or non-compliance with the FSP). Despite all these non-conformances the auditor is of the opinion that the FSP is adequate.

Without a certificate from an approved auditor the council cannot re-register (or in some case initially register) a food business that uses a non-standard FSP.

However, even if there are numerous non-conformances, including critical non-conformances, the registering council can still register a food premises if it has a certificate from an approved auditor that the FSP is adequate. This can be very important to the food business particularly around re-registration time.

**Option 2: Certificate of Adequacy & Compliance** (formerly just called a certificate of compliance).

The auditor can certify that the premises is fully compliant with the Act by issuing a Certificate of Adequacy & Compliance, s. 19L.

This certificate is used when a food premises has been audited and the auditor is of the opinion that the premises is fully compliant with the food safety requirements and that the FSP is adequate.

**Within 14 days of giving the proprietor this certificate the auditor **must** send a copy of this certificate to the registering council.**

### Form 2: Notice to proprietor to correct critical non-conformances (s. 19M(2))

This notice **must** be completed by an approved auditor under the Act when the auditor identifies non-conformances where some, or all, of them may lead to a serious risk of food being sold or prepared at the premises that is unsafe or unsuitable (such as critical non-conformances).

Also use this form if the audit reveals a failure by the food business to declare allergens or have a mandatory warning statement as required by the Code. This applies where the breach is labelling of a packaged product or the breach extends beyond councils boundaries – if in doubt call the department.

This form is given to the proprietor and is also attached to the Form 3 notification to the registering council and the department.

### **Form 3: Notice to council of critical non-conformances (initial audit) (s. 19N(3))**

This notice is linked to Form 2. It is a requirement of the Act that both Form 2 and 3 are completed.

This notice **must** be completed by an approved auditor under the Act when the auditor identifies non-conformances, where some or all of them may lead to a serious risk of food being sold or prepared at the premises that is unsafe or unsuitable (such as critical non-conformances).

A completed copy of this notice must be emailed or faxed to the council that registers the food premises *and* the department as soon as practicable. Aim to do so within 24 hours. When emailing council, include the words 'urgent attention of environmental health officers' in the subject line of the email.

Remember that as an auditor you are also required to attempt to contact the council orally of the critical non-conformance – this is reflected in Form 3.

### **Form 4: Notice to proprietor to correct non-conformances (s. 19M(2.))**

This notice **must** be completed by an approved auditor under the Act in order to require a proprietor of a food business to rectify non-conformance/s **that are not critical non-conformances** (including issues relating to failure by the food business to declare allergens or have a mandatory warning statement as required by the Code).

As per current practice, the auditor negotiates the timeframes for the corrective action with the proprietor and **within 14 days** (this period is a requirement under the Act) of expiry of this time frame (of the longest negotiated period for a non-conformance to be remedied) the auditor **must** re-audit (re-audit does not necessarily mean attending the premises in person).

At this stage of the audit process the auditor is not required to contact the registering council.

### **Form 5: Certificate of Adequacy & Compliance (with non-compliances that have been remedied and/or non-conformances that can no longer be remedied) (s. 19M(8))**

This certificate is to be used by an approved auditor under the Act where the auditor has detected non-conformances in an audit and has:

1. negotiated a timeframe for the corrective action (using Form 4) and these non-conformances have been corrected; and/or
2. agreed that non-conformances identified can no longer be remedied – for example a business did not keep some records – the business cannot go back in time and re-record them! Another example is that the business ceases a process where a non-conformance has been identified (such as making raw egg mayonnaise and after auditor advice the business decides it will now purchase pre-made mayonnaise).

This certificate is also used where the auditor re-audits following a critical non-conformance.

That is, in the situation where the auditor has identified a critical non-conformance and completed Forms 2 and 3 and, depending which regulator has closed out the critical non-conformance, either the registering council or the department has advised the auditor that the non-conformance has been rectified. Following this advice the auditor will re-audit the premises and if satisfied the non-conformance is rectified, may issue this certificate.

Within 14 days of giving the proprietor this certificate the auditor **must** send a copy of this certificate to the registering council.

### **Form 6: Notice to council of critical non-conformances at re-audit (s. 19N (4)(a))**

This notice is used when the auditor has returned to a business after issuing a Form 4 notice to the proprietor and corrective actions have not been taken. **That is, the auditor:**

- has issued a Form 4 notice under the Act specifying non-conformances to be corrected; and
- has conducted a re-audit to see if the corrective action has been taken; and
- finds that one or more of the non-conformances have not been corrected and is of the opinion that one or more of the non-conformances are now critical.

This notice **must** be completed by an approved auditor under the Act.

A completed copy of this notice must be emailed to the council that registers the food premises *and* the department as soon as practicable. (Aim to do so within 24 hours.) When emailing council, include the words 'urgent attention of environmental health officers' in the subject line of the email.

Also use this form if the audit reveals a continued failure by the food business to declare allergens or have a mandatory warning statement as required by the Code.

It is because the 'critical non-conformance at re-audit' comes under a different provision of the Act that Form 6 is used instead of Form 3.

### **Form 7: Notice to council of non-conformances at re-audit (s. 19N (4)(b))**

This notice is used when the auditor has returned to a business after issuing a Form 4 notice to the proprietor and corrective actions have not been taken. **That is the auditor:**

- has issued a Form 4 notice under the Act specifying non-conformances to be corrected; and
- has conducted a re-audit to see if the corrective action has been taken; and
- finds that one or more of the non-conformances have not been corrected but is of the opinion none of them is critical.

This notice **must** be completed by an auditor approved under the Act within 14 days of the auditor becoming aware of the failure of the food business to correct the non-conformance.

# Certificate of

<input type="checkbox"/> <b>Adequacy</b> (Section 19E(3)(a))	or	<input type="checkbox"/> <b>Adequacy &amp; Compliance</b> (Section 19L)
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<b>Food business details:</b>	
Name of proprietor	
Person in charge (if not Proprietor)	
Trading name of business	
Address of food premises	
Description of business	
Council registration no. (if known)	
Class of premises under the Act:	class 1 <input type="checkbox"/> or class 2 <input type="checkbox"/>
<b>Auditor details:</b>	
Name:	DHHS Auditor Approval number:
Email address:	Contact phone:
<b>Auditor statement: This food premises has been audited by me to the requirements of the Food Act 1984 for the period:</b>	
Date of last audit from which a certificate was issued:    /    /	Date of current audit:    /    /
<b>OR</b> is this the first audit for the premises? Date of first audit:	

The following activities are conducted at the premises- *If yes, select the activity:*

- heat treatment
- cook chill
- manufacture ready to eat and uncooked comminuted fermented meat (UCFM) products.

I am of the opinion that the food premises: *(Tick which applies)*

- has a food safety program for the premises that is adequate, as it meets the requirements of section 19D of the Act; and
- has complied with the food safety program during the period covered by this audit (only applies to section 19L certificates); and
- is complying with the applicable Food Safety Standards (only applies to section 19L certificates);
- has taken appropriate action to remedy non-conformances identified in a previous food safety audit. (If applicable include an attachment detailing the action/inaction)

Signature \_\_\_\_\_ Date:    /    /

*Within 14 days of giving the proprietor this certificate the auditor **must** send a copy of this certificate (including any attachments referred to above) to the registering council.*

## Notice to proprietor to correct critical non-conformances

### Section 19M(2)

*This form **must also be used** should the non-conformance/s be a failure by the food business to declare allergens or have a mandatory warning statement as required by the Food Standards Code*

<b>Food business details:</b>	
Name of proprietor	
Person in charge (if not Proprietor)	
Trading name of business	
Address of food premises	
Description of business	
Council registration no. (if known)	
Class of premises under the Act:	class 1 <input type="checkbox"/> or class 2 <input type="checkbox"/>
<b>Auditor details:</b>	
Name:	DHHS Auditor Approval number:
Email address:	Contact phone:
<b>Details of non-conformance:</b>	
<ul style="list-style-type: none"> <li>This food premises has been audited by me to the requirements of the <i>Food Act 1984</i></li> <li>I am of the opinion that some/all of these non-conformances may lead to a serious risk of food being sold or prepared at the premises that is unsafe or unsuitable.</li> </ul>	
Date observed:        /        /	Time observed:

The critical non-conformance/s with timeframe to correct each deficiency: (Advise if non-conformance has been corrected on the spot or no longer can be remedied)

Are there other non-conformances/s? (If yes please list with time frame to correct each deficiency):

Signature: \_\_\_\_\_ Date:    /    /

*The auditor may attach to this form their own formatted reports to describe non-conformances, corrective actions and timeframes, provided all of the information outlined above is clearly specified.*

**This notice and any attachments must be attached to Form 3 Notice to the registering council.**

**Notice to council of critical non-conformances**

Section 19N(3) – Initial audit

**Urgent: Attention council environmental health officer**

Food business details:	
Name of proprietor	
Person in charge (if not Proprietor)	
Trading name of business	
Address of food premises	
Description of business	
Council registration no. (if known)	
Class of premises under the Act:	class 1 <input type="checkbox"/> or class 2 <input type="checkbox"/>
Auditor details:	
Name:	DHHS Auditor Approval number:
Email address:	Contact phone:
Oral notification to local government:	
Has the registering council been notified orally of the critical non-conformance?	
<input type="checkbox"/> <b>Yes</b> (fill table below)	<input type="checkbox"/> <b>No</b> (attach explanation why you were unable to do this)
Name of council officer notified:	
Position of council officer notified:	
Name of registering council:	
Date notified: / /20	Time notified:
<b>This food premises has been audited by me to the requirements of the Food Act 1984 on: / / (specify date)</b>	

I am of the opinion that the food premises: (select each that applies)

- has a food safety program **that is inadequate**, as it does not meet the requirements of section 19D of the Act; and/or
- has not** complied with the food safety program during the period covered by this audit; and/or
- has not** complied with the applicable Food Safety Standards; and/or
- has not** taken appropriate action to remedy non-conformances identified in a previous food safety audit.

**The notice to the proprietor (Form 2) under section 19M(2) specifying the non-conformances to be remedied is attached.**

Were any of these non-conformances corrected immediately in my presence or are any of these non-conformances that can no longer be remedied?

- Yes  No

If yes, specify these non-conformances below:

Signature: \_\_\_\_\_ Date: / /

Cc

Food Safety Unit, Department of Health and Human Services, foodsafety@dhhs.vic.gov.au



## Notice to proprietor to correct non-conformances

Section 19M(2)

<b>Food business details:</b>	
Name of proprietor	
Person in charge (if not Proprietor)	
Trading name of business	
Address of food premises	
Description of business	
Council registration no. (if known)	
Class of premises under the Act:	class 1 <input type="checkbox"/> or class 2 <input type="checkbox"/>
<b>Auditor details:</b>	
Name:	DHHS Auditor Approval number:
Email address:	Contact phone:
<b>Auditor statement: This food premises has been audited by me to the requirements of the <i>Food Act 1984</i> for the period:</b>	
Date of last audit from which a certificate was issued:    /    /	Date of current audit:    /    /
<b>OR</b> is this the first audit for the premises? Date of first audit:	
<b>Details of non-conformances:</b>	
The non-conformances/s and time frame to correct each deficiency are as follows:	

Signature: \_\_\_\_\_ Date:    /    /

*The auditor may use their own formatted reports to describe non-conformances, corrective actions and timeframes, provided all of the information outlined above is clearly specified. In this case attach the report to this form.*

# Certificate of compliance

Section 19M(8)

<input type="checkbox"/> <b>non-conformances that have been remedied</b>	<b>and/or</b>	<input type="checkbox"/> <b>non-conformances that can no longer be remedied</b>
--	---------------	---

<b>Food business details:</b>	
Name of proprietor	
Person in charge (if not Proprietor)	
Trading name of business	
Address of food premises	
Description of business	
Council registration no. (if known)	
Class of premises under the Act:	class 1 <input type="checkbox"/> or class 2 <input type="checkbox"/>
<b>Auditor details:</b>	
Name:	DHHS Auditor Approval number:
Email address:	Contact phone:
<b>Auditor statement: This food premises has been audited by me to the requirements of the <i>Food Act 1984</i> for the period:</b>	
Date of last audit from which a certificate was issued:    /    /	Date of current audit:    /    /
<b>OR</b> is this the first audit for the premises? Date of first audit:	

Were the following activities conducted at the premises? *If yes, select the activity:*

- heat treatment
- cook chill
- manufacture ready to eat and uncooked comminuted fermented meat (UCFM) products.

Non-conformances were detected and I issued a notice to the proprietor under section 19M(2) advising that they must be remedied with date/s specified in that Notice.

I checked on    /    /    and am satisfied that non-conformances that could be remedied have been remedied and/or there are non-conformances that can no longer be remedied.

I attach a report with the above information.

I am of the following opinion that the food premises:

- has a food safety program for the premises that is adequate, as it meets the requirements of section 19D of the Act; and
- now complies with the food safety program; and
- is complying with the applicable Food Safety Standards; and
- If applicable appropriate action has been taken to remedy non-conformances identified in a previous food safety audit.

Signature: \_\_\_\_\_ Date:    /    /

## Notice to council of critical non-conformances at re-audit

Section 19N(4)(a) – corrective action not taken

### Urgent: attention council environmental health officer

<b>Food business details:</b>	
Name of proprietor	
Person in charge (if not Proprietor)	
Trading name of business	
Address of food premises	
Description of business	
Council registration no. (if known)	
Class of premises under the Act:	class 1 <input type="checkbox"/> or class 2 <input type="checkbox"/>
<b>Auditor details:</b>	
Name:	DHHS Auditor Approval number:
Email address:	Contact phone:
<b>Oral notification to local government:</b>	
Has the registering council been notified orally of the critical non-conformance? <input type="checkbox"/> Yes ( <i>fill table below</i> ) <input type="checkbox"/> No ( <i>attach explanation why you were unable to do this</i> )	
Name of council officer notified	
Position of council officer notified	
Name of registering council	
Date notified: / /	Time notified:

**This food premises was originally audited by me to the requirements of the *Food Act 1984***

on \_\_\_\_\_ (specify dates)

Non-conformances were detected, and I issued a notice under section 19M(2) advising that they must be remedied (copy of that notice is attached)

On \_\_\_\_\_ (specify dates)

I checked to see whether these non-conformances had been remedied at the premises. There are non-conformances that have not been remedied. Some or all of them may lead to a serious risk of food being sold or prepared that is unsafe or unsuitable (critical non-conformance).

I am of the opinion that the food premises: *(select each that applies)*

- has a food safety program **that is inadequate**, as it does not meet the requirements of section 19D of the Act; and/or
- has not** complied with the food safety program during the period covered by this audit; and/or
- has not** complied with the applicable Food Safety Standards; and/or
- has not** taken appropriate action to remedy non-conformances identified in a previous food safety audit.
- I advise that there is an ongoing failure to declare allergens or include a mandatory warning statement as required under the Food Standards Code
- Yes (listed below)       No

The critical non-conformance/s that have not been remedied:

Are there other non-conformances/s that have not been remedied? (If yes please list)

Signature: \_\_\_\_\_ Date: / /

Cc: Food Safety Unit, Department of Health and Human Services, [foodsafety@dhhs.vic.gov.au](mailto:foodsafety@dhhs.vic.gov.au)

# Notice to council of non-conformances at re-audit

Section 19N(4)(b) Corrective action not taken

## Attention council environmental health officer

<b>Food business details:</b>	
Name of proprietor	
Person in charge (if not Proprietor)	
Trading name of business	
Address of food premises	
Description of business	
Council registration no. (if known)	
Class of premises under the Act:	class 1 <input type="checkbox"/> or class 2 <input type="checkbox"/>
<b>Auditor details:</b>	
Name:	DHHS Auditor Approval number:
Email address:	Contact phone:
<b>Auditor statement: This food premises has been audited by me to the requirements of the <i>Food Act 1984</i> for the period:</b>	
Date of last audit from which a certificate was issued: / /	Date of current audit: / /
<b>OR</b> is this the first audit for the premises? Date of first audit:	

Non-conformances were detected, and I issued a notice under section 19M(2) advising that they must be remedied date/s specified in that Notice (copy attached)

On \_\_\_\_\_ (specify dates)

I checked to see whether these non-conformances had been remedied at the premises. There are non-conformances that have not been remedied.

The outstanding non-conformances are listed overleaf.

I am of the opinion that the food premises: (select each that applies)

- has a food safety program **that is inadequate**, as it does not meet the requirements of section 19D of the Act
- has not** complied with the food safety program during the period covered by this audit
- has not** complied with the applicable Food Safety Standards
- has not** taken appropriate action to remedy non-conformances identified in a previous food safety audit.

Outstanding non-conformances:

Signature: \_\_\_\_\_ Date: / /

# Appendix 2

## National Regulatory Food Safety Auditor Framework

Adapted to the Victorian *Food Act 1984*

Activities and high risk processes requiring individual endorsements	Audit competency	Education and technical qualifications
<p>Class 1 and 2 food premises that choose to develop their own independent (or non-standard) food safety program (FSP).</p> <p>This applies to businesses that provide potentially hazardous food to vulnerable groups, such as in hospitals and aged care facilities, as well as many other food business types, including restaurants, cafes, take-away stores, pubs, delicatessens, most manufacturers and other food business types.</p>	<p>Auditor competency:</p> <ul style="list-style-type: none"> <li>• FDFAU4002A</li> <li>• FDFAU4003A</li> <li>• FDFAU4004A</li> </ul>	<p>Certificate IV or higher in food science or related field.</p> <p>The above qualifications must include 40 hours of food microbiology. If qualifications do not include 40 hours of food microbiology this requirement can be achieved separately from a Registered Training Organisation.</p>
Cook chill processes	As above plus specialised competency FDFAU4006A	As above
Heat treatment processes	As above plus specialised competency: FDFAU4007A	As above
Producing manufactured and uncooked comminuted fermented meat products	As above plus specialised competency: FDFAU4008A	As above
Raw ready-to-eat seafood. Raw oysters and bivalves production and processing.	Auditor competency as above plus specialised competency: FDFAU4005A	As above
<p>Other requirements</p> <ul style="list-style-type: none"> <li>• Competency examination to be completed during on-site audit (high risk business) by a skills examiner.</li> <li>• Knowledge of jurisdictional legislation and regulator's system.</li> <li>• Applicant will need to agree to other departmental conditions.</li> <li>• If required, suitability checks conducted by the food regulator.</li> </ul>		

Note that the *Audit competency* codes above are regularly updated and can be checked on the Training Government Australia website: <http://training.gov.au/Training>.

# Appendix 3

## Additional information about the Act

### Other types of FSPs

The following information relates to programs that the Act recognises but which are not being used by food premises. At this stage it is only included here as background information. Auditors will be advised by the department if they have any roles in relation to these programs in the future.

### Class 1 food premises and FSP templates

The Act allows for FSP templates to be registered by the department for different types of class 1 premises. These facilities will be able to complete a template approved by the department rather than have a program written specifically for their food handling. The template will also simplify the compliance checking process.

This option has been available under the Act since 1 July 2010. Currently no such templates have been developed or registered with the department. Further information will be provided should any templates be registered.

If such templates are approved and FSPs developed under them by class 1 premises, these premises would be subject to food safety **assessments** under the Act, not food safety audits. This is because the program does not need to be assessed for adequacy, as it is being developed under a registered template. The compliance checking requirements under the Act for any such program are at least two food safety assessments:

- one assessment must be conducted by the registering council, and
- the proprietor may choose to have the second assessment conducted by council or an approved food safety auditor.

### Class 1 or class 2 food premises and quality assurance (QA) systems

The Act allows the department to formally declare QA systems or codes under which a tailored FSP for premises can be developed. A QA system or code must be sufficient to ensure that any programs developed under it adequately assess all food safety risks. It must cover the whole range of activities that fall under the Act.

QA systems tend to include requirements about training. To avoid duplication of training requirements, a food premises will not need to have a food safety supervisor if it has a FSP prepared under a declared QA system, and if the program includes competency based or accredited staff training.

The Act has enabled applications for approval to be made since 1 July 2010. To date no QA systems have been declared.

Information will be provided to approved food safety auditors should any relevant QA system or codes be declared in the future.

### Change of frequency of regulatory audits or food safety assessments

Under the s. 19H, the registering council has the power to change the frequency and intervals of regulatory food safety audits (and also food safety assessments) required for a particular class 1 or class 2 food premises, if:

- there is a demonstrated level of non-compliance at the premises and
- the increased monitoring regime is warranted.

The registering council may increase the audit or assessment frequency to a maximum of four audits or assessments within the registration period. Any extra audits or assessments must be at intervals of at least three months. (This total includes the applicable routine audit or assessment required.)

The following table illustrates the frequency and types of compliance checks a council may impose upon a non-compliant food premises.

If the registering council has increased the audit frequency for a food premises, it is up to the food business to choose which auditor conducts those audits.

### Audit or assessment frequency

Class of food premises	Type of food safety program	Minimum annual assessment frequency	Minimum annual audit frequency	Extra s. 19H annual audits or assessments
1	Non-standard ('independent')	One (by council)	One (by approved food safety auditor)	1 or 2 extra audits <b>OR</b> 1 or 2 extra council assessments <b>OR</b> One extra audit and one extra council assessment
2	Non-standard ('independent')	None	One (by approved food safety auditor)	Three in any of these combinations: • 3 extra audits <b>OR</b> • 3 council assessments <b>OR</b> • 1 extra audit and 2 council assessments <b>OR</b> • 2 extra audits and 1 council assessment
1	Standard (if template registered in future)	Two (one must be by council and one can be by an approved food safety auditor)	None	Two extra assessments (by council, although one per registration year can be by an approved food safety auditor)
2	Standard	One (by council)	None	3 extra assessments by council



# Appendix 4

## Glossary

Term	Description
adequate	<p>For a FSP to be adequate, it must meet the requirements of s. 19D of the Act. This is the criteria which auditors must apply when conducting audits under the Act. The requirements of s. 19D are listed below in the definition of 'food safety program'.</p> <p>The National Food Safety Audit Policy (October 2006), which refers to review of a FSP, ensures that the food safety management system continues to be effective in controlling the identified food safety hazards and ensuring the production of safe and suitable food.</p>
audit	<p>An audit is a systematic, independent and documented process for obtaining evidence and evaluating it objectively to determine the extent to which audit criteria are fulfilled.</p> <p>Under the Act, an audit of a food premises usually involves determining:</p> <ul style="list-style-type: none"> <li>• whether the FSP for the premises is adequate (as described in s.19D), <i>and</i></li> <li>• whether the food safety requirements applying to the premises have been complied with.</li> </ul> <p>It can also refer to a more limited process where the FSP of a food premises is assessed to determine whether it is adequate (as described in s.19D). For example, when a business first commences operation at a premises.</p>
corrective action	<p>An action taken by a food business to rectify a non-conformance or systems deviation to ensure ongoing compliance with its FSP and the Act.</p>
critical non-conformance	<p>A <b>critical non-conformance</b> is an inadequacy in the FSP or a failure to comply with the food safety requirements (including whether any outstanding non-conformances from a previous audit have been remedied) that, in the opinion of the auditor, may lead to a serious risk of food being sold or prepared that is unsafe or unsuitable.</p> <p>In practice it would include any significant inadequacies in the FSP, or hygiene or handling breaches, that constitutes such a serious risk.</p>
enforcement	<p>Legal action taken against a food business, for example, prosecution, cancellation of a business's registration with a food regulator, issuing a statutory order requiring compliance, or issuing an infringement notice.</p>
food business	<p>A food business, under s. 4B of the Act means a business, enterprise or activity (other than a business, enterprise or activity that is primary food production) that involves:</p> <ul style="list-style-type: none"> <li>• the handling of food intended for sale, or</li> <li>• the sale of food</li> </ul> <p>regardless of whether:</p> <ul style="list-style-type: none"> <li>• the business, enterprise or activity concerned is of a commercial, charitable or community nature, or</li> <li>• it involves the handling or sale of food on one occasion only.</li> </ul>
food premises	<p>Means any premises at, on or from which food is sold, or handled with the intention that it be sold, but does not include:</p> <ul style="list-style-type: none"> <li>• any premises used solely for the purposes of a primary food production business, enterprise or activity, or</li> <li>• any premises or other place declared by an Order made under s. 5(3) of the Act not to be a food premises.</li> </ul>

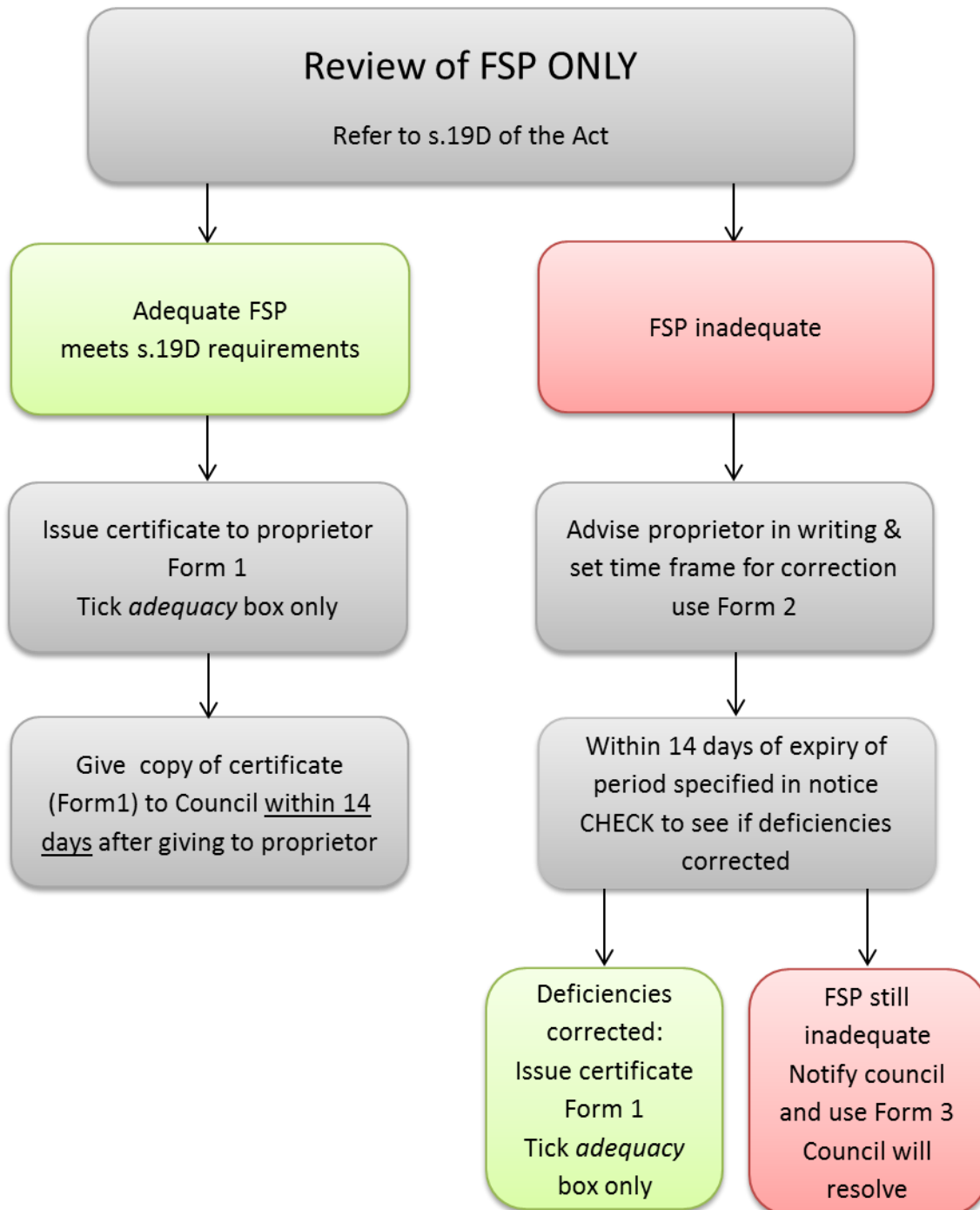
<p>food safety assessment</p>	<p>This is a term specific to Victoria. Under s. 19HA of the Act it means an assessment of a food premises to determine:</p> <ul style="list-style-type: none"> <li>• in the case of a premises using a standard FSP, a program created using a template registered with the department, suitable for the food business being carried out at, on or from the food premises. The program must be created in accordance with the instructions set out in the template, and</li> <li>• whether: <ul style="list-style-type: none"> <li>○ the FSP for the premises has been complied with during the period covered by the applicable food safety assessment or audit, and</li> <li>○ if relevant, appropriate action has been taken to remedy any deficiencies identified in any previous food safety assessment or audit, and</li> <li>○ the applicable provisions of the Food Safety Standards are being complied with.</li> </ul> </li> </ul>
<p>food safety auditor (approved)</p>	<p>This is a natural person (individual) who, under s. 19P of the Act is certified as a food safety auditor for the purposes of the Act by the Secretary to the Department of Health (or delegate).</p>
<p>food safety program (FSP)</p>	<p>Has the meaning given in s. 19D of the Act and is a written document that applies to a food premises that:</p> <ul style="list-style-type: none"> <li>• systematically identifies the potential hazards that may be reasonably expected to occur in each food handling operation that is to be, or that is being, conducted at the premises</li> <li>• specifies where, in a food handling operation, each hazard identified under paragraph (a) can be controlled and the means of control</li> <li>• provides for the systematic monitoring of those controls</li> <li>• provides for appropriate corrective action when each hazard identified under paragraph (a) is found not to be under control</li> <li>• provides for the regular review of the program by the proprietor of the food premises</li> <li>• provides for appropriate records to be made and kept by the proprietor of the food premises demonstrating action taken in relation to, or in compliance with the FSP.</li> </ul> <p>This is the definition used in this handbook, as it applies when conducting an audit under the Act.</p> <p>In the audit sector more generally, it is also a general term referring to any risk-based food safety management system, including FSPs registered under the Act and also any HACCP plans.</p>
<p>food safety program template</p>	<p>Under s. 19DB of the Act, a template is a written document that contains a set of instructions to enable the proprietor of a food business to create a FSP for their type of premises that complies with s. 19D. The template must be registered by the Secretary the Department of Health and Human Services for use by this type of premises.</p>
<p>food safety requirements</p>	<p>Are defined in s. 19HA (3)(a) of the Act as meaning:</p> <ul style="list-style-type: none"> <li>• the FSP for a premises has been complied with during the period covered by the applicable food safety assessment or audit</li> <li>• if relevant, appropriate action has been taken to remedy any deficiencies identified in any previous food safety assessment or audit, and</li> <li>• the applicable provisions of the Food Safety Standards are being complied with.</li> </ul>
<p>food safety standards</p>	<p>The standards are contained in Chapter 3 of the Code. Currently the relevant premises and hygiene standards are 3.2.2 and 3.2.3, together with the definitions in 3.1.1.</p> <p>Standard 3.3.1 requires premises that in Victoria are known as class 1</p>

	premises to have a FSP audited by an auditor. That obligation is met by complying with the audit requirements that apply in the Act as described in this handbook.
food standards code	The Australia New Zealand Food Standards Code
inspection	An inspection of a food premises is carried out by a council or authorised officer to determine compliance with the Act & Food Safety Standards. It includes the examination of food or systems for control of food, raw materials, processing and distribution, including in-process and finished product testing, to verify that they conform to regulatory requirements.
non-conformance	This is a deficiency or a failure to comply with the food safety requirements. It may be a breach of hygiene or handling requirements, or an inadequacy in the FSP.
non-standard (independent) food safety program (FSP)	The elements of a FSP are set out in s. 19D of the Act (refer to the definition of FSP above). A <i>non-standard</i> FSP is a program that has been developed independently by the proprietor of the food business. It must be audited by an approved food safety auditor to determine its adequacy under s. 19D. It does not include a program completed under a 'template' that has not been registered with the department under the Act.
proprietor of food business	Means: <ul style="list-style-type: none"> <li>• the person carrying on the food business, or</li> <li>• if that person cannot be identified, the person in charge of the food business.</li> </ul>
re-audit	A review to check whether corrective action has been taken by a food business as a result of a notice being issued under the Act by an auditor.
registering council (council)	The council that, under the Act, has the role of registering the premises at which a food business operates.
standard	Standard made under the <i>Food Standards Australia New Zealand Act 1991</i> or a standard that is included in the food standards code.
standard food safety program (FSP)	Under s. 19DC of the Act, means a standard FSP that has been created using a FSP template in accordance with the instructions set out in the FSP template. Under the Act, the template must be registered with the department. The registration will specify the classes or categories of food businesses that may use it.
Quality assurance (QA) food safety program (FSP)	Is defined under s. 19DD of the Act. It is a FSP for a food premises that has been issued with a certificate by an approved food safety auditor stating that the program has been developed: <ul style="list-style-type: none"> <li>• under a QA system or code that has been recognised under a declaration of the department under s. 19DD of the Act</li> <li>• in accordance with the purpose and terms of that system or code, and</li> <li>• meets all the requirements under s. 19D of the Act.</li> </ul>
Regulatory audit	This is an audit under the Act to determine: whether the FSP for the premises is adequate; and whether the food safety requirements applying to the premises have been complied with. Also refer to definition of 'food safety requirements' and 'food safety program' in this glossary.

validation	Means to scientifically confirm the effectiveness of measures controlling food safety hazards at each critical control point or at intervals or stages of a treatment or either processes.
verification	The application of methods, procedures, tests and other tools for evaluation, in addition to monitoring, to determine compliance of the food business's FSP with the Act, including the Code.

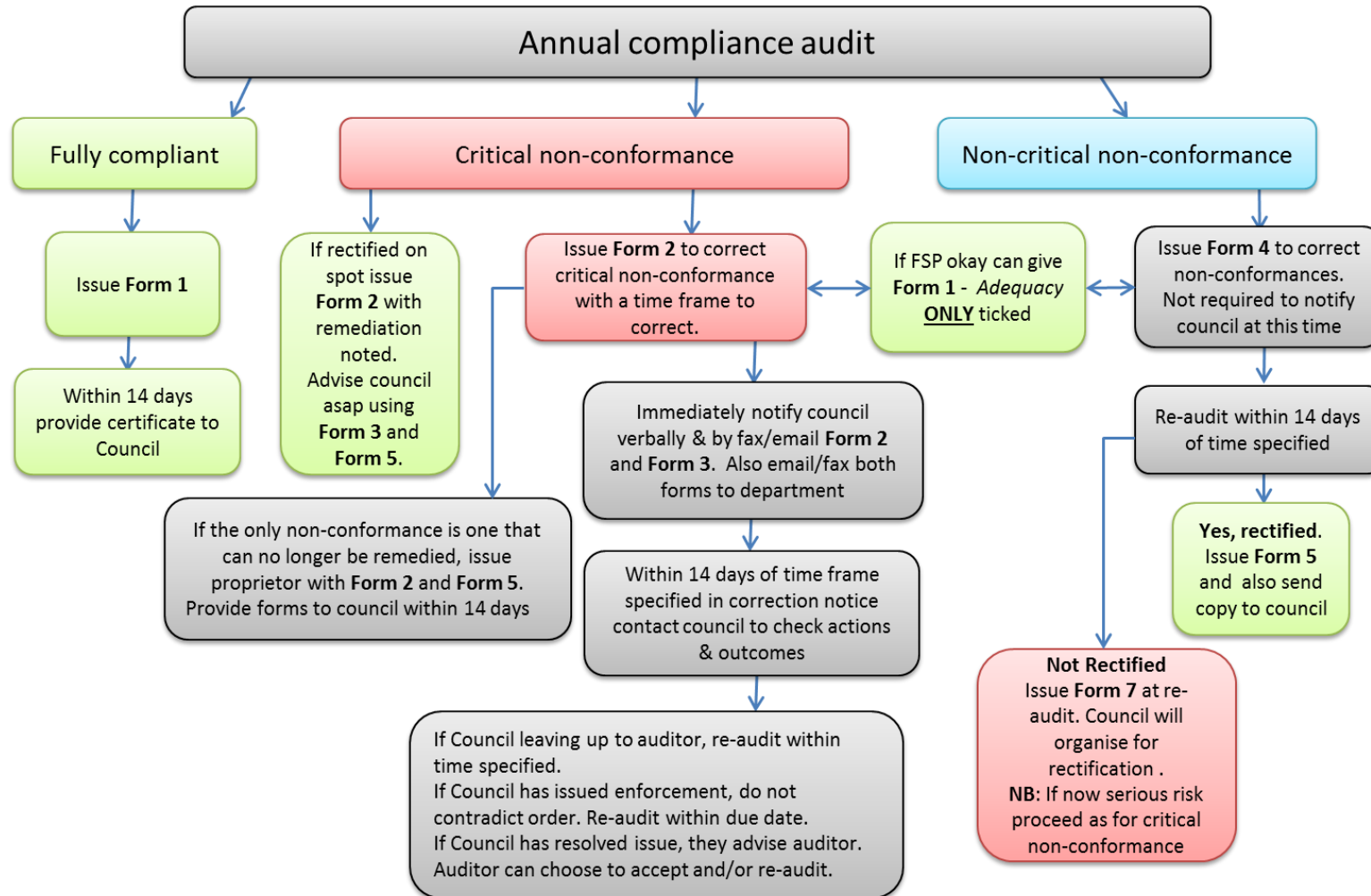
# Appendix 5

## Flow diagram for adequacy audit



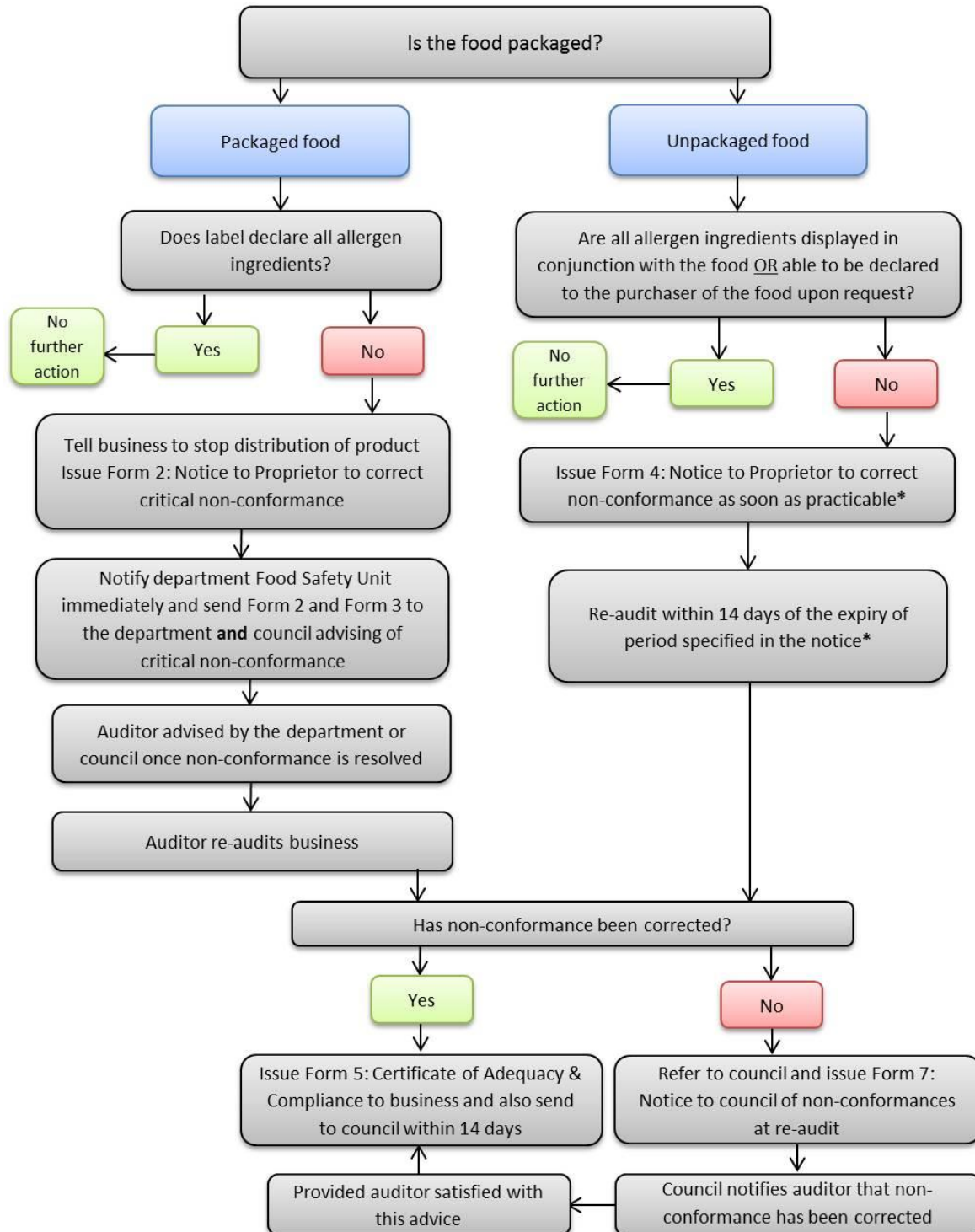
# Appendix 6

## Flow diagram for compliance audit



# Appendix 7

## Flow diagram for allergen auditing



\*The department's Food Safety Unit defines 'as soon as practicable' as within 24 hours. The time frame in this context also refers to compliance. Therefore the re-audit for the correction of non-conformance, must occur in the 'period specified in the notice' which will be 24 hours.

# Appendix 8

## Web glossary

Website	Relates to:
<a href="http://foodregulation.gov.au/internet/fr/publishing.nsf/Content/publication-National-Regulatory-Food-Safety-Auditor-Guideline-and-Policy">http://foodregulation.gov.au/internet/fr/publishing.nsf/Content/publication-National-Regulatory-Food-Safety-Auditor-Guideline-and-Policy</a>	National Regulatory Food Safety Auditor Guideline and National food Safety Audit Policy
<a href="http://www.foodstandards.gov.au">www.foodstandards.gov.au</a>	Food Safety Standards
<a href="http://www.legislation.vic.gov.au/">http://www.legislation.vic.gov.au/</a>	Food Act 1984
<a href="https://www2.health.vic.gov.au/public-health/food-safety/food-businesses/food-business-classification/food-business-classification-tool">https://www2.health.vic.gov.au/public-health/food-safety/food-businesses/food-business-classification/food-business-classification-tool</a>	DHHS Food Safety –food premises classification
<a href="https://www2.health.vic.gov.au/public-health/food-safety/food-businesses/food-business-classification/food-business-classification-tool">https://www2.health.vic.gov.au/public-health/food-safety/food-businesses/food-business-classification/food-business-classification-tool</a>	Auditor application
<a href="https://www2.health.vic.gov.au/public-health/food-safety/food-businesses/food-safety-audits-assessment/food-safety-audits">https://www2.health.vic.gov.au/public-health/food-safety/food-businesses/food-safety-audits-assessment/food-safety-audits</a>	Auditor Register
<a href="http://www.foodstandards.gov.au/consumer/foodallergies/Pages/Allergen-labelling.aspx">http://www.foodstandards.gov.au/consumer/foodallergies/Pages/Allergen-labelling.aspx</a>	Allergens standard
<a href="https://www.myskills.gov.au/">https://www.myskills.gov.au/</a>	Training Government Australia for competency codes
<a href="https://knowyourcouncil.vic.gov.au/councils">https://knowyourcouncil.vic.gov.au/councils</a>	Council contacts
<a href="http://www.exemplarglobal.org/">http://www.exemplarglobal.org/</a>	Training organisation