



# ROTORUA DISTRICT COUNCIL FOOD SAFETY BYLAW 2013



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## THE ROTORUA DISTRICT COUNCIL FOOD SAFETY BYLAW 2013

PURSUANT to the powers contained in the Health Act 1956 and the Local Government Act 2002 and any other authority enabling the Council in that behalf, the Rotorua District Council HEREBY RESOLVES to make the following Bylaw:

### 1. Short Title

This Bylaw shall be known as the Rotorua District Council Food Safety Bylaw 2013.

### 2. Commencement

This Bylaw first came into force on the 1<sup>st</sup> day of April 2006 and was subsequently reviewed and amended on the 12<sup>th</sup> day of June 2013.

This Bylaw shall come into force on the 21<sup>st</sup> day of June 2013.

### 3. Purpose

This Bylaw allows Authorised Officers of the Council to take action against dirty and unhygienic food premises.

Where food premises are operated in such a way that food may be contaminated, dirtied, or tainted, the Bylaw provides for an Authorised Officer to close the premises for cleaning or repair.

The Bylaw further allows the Council to seek an injunction against the food premises operator who continues to operate after the revocation of a Certificate of Registration by the Council.

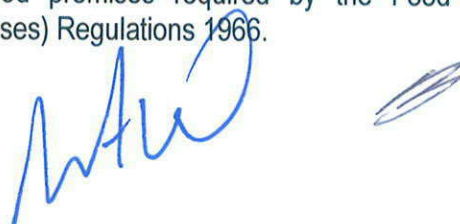
This Bylaw also requires that certain food premises owners and members of the staff of the food premises must have appropriate training and qualifications in food hygiene. The purpose of this is to improve the standard of protection and quality of food in food outlets throughout the District and reduce the incidence of food-related illnesses.

Standards of construction and maintenance of food premises and conduct of workers engaged in food premises are generally prescribed by the Food Hygiene Regulations 1974, but these are silent in regard to food worker training.

### 4. Interpretation

In this Bylaw, unless the context otherwise requires:

**Annual Registration** means the registration of food premises required by the Food Hygiene Regulations 1974 and the Health (Registration of Premises) Regulations 1966.





**Authorised Officer** means an Officer appointed by the Rotorua District Council under the authority of the Health Act 1956 or any other Act.

**Council** means the Rotorua District Council.

**Duty Food Safety Supervisor** means any person working in an Eating House with sufficient authority and with specific responsibility for staff training and supervision and who is actually involved in food manufacture, preparation and handling in or on that specific premise.

**Eating House** shall have the same meaning as it has in Regulation 28 of the Food Hygiene Regulations 1974.

**Food** shall have the same meaning as in Section 2 of the Food Act 1981 or any superseding legislation.

**Food Premises** means any premises on or at which food is manufactured, prepared, packed, stored, or handled, or on or from which food is sold or provided together with accommodation or a service, or any stall or mobile shop or any vehicle used for the carriage or delivery of food for sale, but excluding any part of a private dwelling-house in which food is manufactured, prepared, packed, stored or handled for the purpose of consumption by its residents or their guests and not for the purpose of re-sale to members of the public and includes those premises in Regulation 2 of the Food Hygiene Regulation 1974 or any other relevant legislation appropriate to the premise involved.

**Food Worker** means any person who at any time is involved in the manufacture, preparation or packing of food for sale on food premises. It does not apply to:

- (a) Checkout operators or persons handling already packaged food at the point of sale;
- (b) Persons employed exclusively in the handling of packaged goods in storage or the carriage of, or delivery of, packaged goods to and from premises;
- (c) Persons operating a food stall: for bonafide charitable organisations and fundraising groups;
- (d) Any waiter, waitress, maitre'd, bar staff, front of house/shop staff exclusively employed to serve food and/or beverages to customers;
- (e) Any other person employed in a food premises or works in connection with a food premises who in the opinion of an Authorised Officer should be exempted.
- (f) Any student who is employed on a temporary basis, up to a maximum of four months at any one time.

**High Risk Food Premises** means any food premises involved in the preparation of food for sale excluding premises selling predominantly fruit and vegetables or premises selling predominantly pre-packed food that is not readily perishable.

**Occupier** shall mean the owner of the food premises or stall, or mobile shop, or any persons, occupying the premises and includes any supervisor, food worker, Duty Food Safety Supervisors, manager or agent acting or apparently acting in the general management or control of the food premise.

**Readily Perishable Food** means food that consists wholly or partly of milk, milk products, eggs, meat, poultry, fish or shellfish, or ingredients that are capable of supporting the progressive growth of microbiological organisms that can cause food poisoning or other food-borne illness, but excluding bakery products such as cakes.

**Worker** shall have the same meaning as it has in Regulation 2 of the Food Hygiene Regulations 1974.





**5. Duty Food Safety Supervisors Responsibilities**

- (i) At all times when food is being manufactured, prepared or handled or sold or supplied to the public a Duty Food Safety Supervisor shall be on duty and responsible for compliance with this Bylaw and Food Safety practices and conduct of any worker on or in the premises.
- (ii) At all times while any Duty Food Safety Supervisor is on duty in respect of any Eating House the name of the Duty Food Safety Supervisor shall be prominently displayed inside the premises so as to be easily read by persons using the premises; and the person so named at any time shall be deemed for the purpose of this bylaw to be the Duty Food Safety Supervisor at that time.
- (iii) A Duty Food Safety Supervisor shall ensure that his/her qualification as required by the First Schedule to this Bylaw is current at all times.

**6. Self Service Food Display**

- (i) Every occupier of food premises in which readily perishable food is displayed or available for consumption shall not retain such food provided however foods not so readily subject to spoilage and intended for re-use must be refrigerated immediately upon conclusion of the meal for which it was set out.
- (ii) Readily perishable food must be kept at a temperature of less than 4°C, or alternatively at a temperature of more than 60°C, between preparation and display or sale or consumption. If this is not possible, such food shall not be retained for re-use in any form but shall be discarded at the end of the meal for which it was set out.
- (iii) Readily perishable food shall be covered and/or protected from contamination, taint, or from becoming dirtied to the satisfaction of an Authorised Officer.

**7. Closure of Premises**

In addition to those provisions contained in the Health Act 1956, the Food Act 1981, the Food Hygiene Regulations 1974, and the Health (Registration of Premises) Regulations 1966 the following provisions shall apply with regard to the sale of food in the District:

- (i) Where any food premises or part of any food premises or any appliance, fitting or fixture or other equipment on any food premises by reason of their situation, construction, disrepair or state, are in such a condition that any food in the food premises may be exposed to contamination or taint or become dirty or deteriorated, an Authorised Officer may serve a notice in writing on the occupier of the premises requiring him/her:
  - (a) To cease to use the premises as food premises, or to clean or reconstruct, or to repair the premises, or part of the premises; or
  - (b) To cease to use, or to clean, reconstruct, or repair any appliance, fittings, fixture or other equipment on those premises;in accordance with the requirements and within the time specified in the notice;

- (ii) Where an occupier has been directed to cease to use any food premises the occupier shall not recommence use of those food premises until permission has been given in writing by an Authorised Officer;



- (iii) Where an occupier has been directed to cease to use any food premises an Authorised Officer shall close the main entrance door or doors to the premises and a notice shall be affixed to the closed door or a public area adjacent to the closed door, and the wording of that notice shall read; "temporary closure – premises not open to the public".
- (iv) An occupier shall not continue to operate any food premises if the Council has revoked the Certificate of Registration pursuant to Regulation 9(3) and (4) of the Health (Registration of Premises) Regulations 1966 and until such time as that Certificate is reinstated.

## 8. Staff Training and Qualifications

- (i) All food premises are required to have a percentage of food workers trained to the appropriate level as set out under the First Schedule of this part of the Bylaw.
- (ii) It shall be the duty of the occupier of every food premises to ensure that new, temporary, or replacement food workers are already trained to the appropriate level required by the First Schedule of this part of the Bylaw or will gain the required level within three (3) months of employment.
- (iii) Every food premises shall have at least one person employed in a supervisory capacity and with specific written responsibility for staff training or where the premise is an Eating House a Duty Food Safety Supervisor, who is trained to the level required under the First Schedule of this Bylaw.
- (iv) In the case of food premises which consist of separate departments or sections, each of which functions more or less in isolation from the others; at least one person shall be appointed to act in a supervisory position, or where an Eating House a Duty Food Safety Supervisor within each separate department or section.
- (v) The occupier of every food premises shall ensure that adequate records are kept relating to staff training under the First Schedule of this part of the Bylaw and that copies of all certificates gained by staff are kept on the premises for perusal by an Authorised Officer upon request.
- (vi) All food workers must complete a refresher course approved by an Authorised Officer every 5 years.
- (vii) If an Authorised Officer is satisfied that a food worker or food workers working in any food premises has or have insufficient food safety knowledge, then the Authorised Officer may require that person or persons to complete an approved training course or courses to the appropriate unit levels as set out under the First Schedule of this Bylaw.

## 9. Exemption

An Authorised Officer may grant an exemption in writing from the requirements of any part of the Rotorua Food Safety Bylaw 2013 if satisfied that it would be unreasonable or impractical to insist on compliance, having regard to the type of premises, or types of food being packed, stored, handled or sold.

An exemption shall only apply whilst such aspects considered for exemption continue.

**10. Appeals**

The holder of the food premises Annual Registration Certificate or a duly appointed agent of that Annual Registration Certificate Holder for Premises in respect of which any decision or requirement has been made by an Authorised Officer under this Bylaw may appeal to the Council against that decision or requirements. On hearing the appeal, the Council may confirm, reverse or modify the decision or requirement made by the Authorised Officer.

This right is in addition to any other statutory right available to the occupier.

**11. Offences**

Every person who breaches the terms of this Bylaw commits an offence. And further, every person commits a breach of this Bylaw who:

- (i) Fails, refuses or neglects to comply with any notice duly given to that person under this Bylaw;
- (ii) Obstructs or hinders any Authorised Officer of the Council or other person appointed, employed or authorised by the Council in the execution or performance or attempted execution or performance of any duty to be discharged by such person under or in the exercise of any power conferred by this Bylaw.

**12. Penalties**

Subject to any provision to the contrary any person guilty of an offence against this Bylaw shall be subject to the penalties set out in Section 242 of the Local Government Act 2002.



This Bylaw was duly made by the Rotorua District Council by a resolution passed on the 12<sup>th</sup> day of June 2013 and was confirmed, following consideration of community submissions received during a special consultative procedure, by a resolution passed on the 21<sup>st</sup> day of May 2013.

The Common Seal of the  
ROTORUA DISTRICT COUNCIL  
was hereunto affixed in  
the presence of:



Heaven Waters Mayor

Styger Chief Executive



## FIRST SCHEDULE

### STAFF TRAINING AND QUALIFICATIONS

- A. (i) Food Workers engaged in a supervisory or sole responsibility capacity in or on high risk food premises other than Eating Houses shall have passed unit standards 167, 20666 and 168 or an equivalent or alternative qualification approved in writing by an Authorised Officer.
- (ii) Not less than 75% of any other food workers in or on the premises shall have passed unit standard 20666 or an equivalent or alternative qualification approved in writing by an Authorised Officer.
- B. Food premises which are not high risk premises. Not less than 75% of food workers shall have passed unit standard 20666 or an equivalent or alternative qualification approved in writing by an Authorised Officer.
- C. (i) Duty Food Safety Supervisors in or on Eating Houses shall have passed unit standards 167, 20666 and 168 or an equivalent or alternative qualification approved in writing by an Authorised Officer.
- (ii) Not less than 50% of any other food workers in or on Eating Houses shall have passed unit standard 20666 or an equivalent or alternative qualification approved in writing by an Authorised Officer.

