

INSTRUMENT OF DELEGATION

INSTRUMENT OF DELEGATION UNDER THE FOOD ACT 2001

29 NOVEMBER 2023

Delegation Sources

- Food Act 2001

Positions

Abbreviation	Position	Name
CEO	Chief Executive Officer	Kelly Westell
MDRS	Manager Development & Regulatory Services	Gabby Swearse
MIO	Manager Infrastructure & Operations	
Not Sub Delegated	Not Sub-Delegated	

Positions Groups

Positions Group	Position	Positions
EHO	Environmental Health Officers	EH1, EH2

Instrument of Delegation under the Food Act 2001

Food Act 2001				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 29	Elect to charge a person with a summary offence	CEO, MDRS, MIO, EHO		council
section 42(2)	Approve the removal or interference with a thing to which a seizure order relates	CEO, MDRS, MIO, EHO		enforcement agency
section 42(3)(a)(i)	Authorise the release of a thing seized under a seizure order	CEO, MDRS, MIO, EHO		enforcement agency
section 42(3)(a)(ii)	Order that food or any other perishable thing be forfeited to the enforcement agency	CEO, MDRS, MIO, EHO		enforcement agency

Food Act 2001

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 42(3)(a)(ii)	Receive food or any other perishable thing being forfeited to the enforcement agency by order of the enforcement agency	CEO, MDRS, MIO, EHO		enforcement agency
section 42(3)(b)(i)	Receive food or any other perishable thing being forfeited to the enforcement agency by court order	CEO, MDRS, MIO, EHO		enforcement agency
section 42(3)(d)	Deal with food or any other perishable thing in accordance with a determination of the Minister	CEO, MDRS, MIO, EHO		enforcement agency
section 42(3)(e)	Dispose of a thing forfeited to the enforcement agency under pursuant to section 42	CEO, MDRS, MIO, EHO		enforcement agency
section 52(2)	Pay compensation if there were no grounds for the council's Chief Executive Officer to make a prohibition order under section 46	CEO, MDRS, EHO		enforcement agency

Food Act 2001

Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 52(3)	Send written notification of determination as to the payment of compensation to each applicant for compensation	CEO, MDRS, EHO		enforcement agency
section 79(1)(a)	Determine the priority classification of individual food businesses in its council area for the application of any requirements of the regulations relating to food safety programs	CEO, MDRS, EHO		enforcement agency
section 79(1)(b)	Determine the frequency of auditing of any food safety programs required by the regulations in relation to food businesses in the council area	CEO, MDRS, MIO, EHO		enforcement agency
section 79(3)	Provide written notification to the proprietor of a food business in the council area of the priority classification of its business, the food safety audit frequency and the date by which a food safety program required by the regulations must be implemented	CEO, MDRS, MIO, EHO		enforcement agency
section 79(4)	Change the priority classification of a food business in the council area	CEO, MDRS, MIO, EHO		enforcement agency

Food Act 2001

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section 79(5)	Provide written notification to the proprietor of a change to the priority classification of the proprietor's food business	CEO, MDRS, MIO, EHO		enforcement agency
section 81(1)	Receive a report from a food safety auditor of the results of any audit or assessment carried out by the food auditor for the purposes of the Act	CEO, MDRS, MIO, EHO		enforcement agency
section 81(6)	Receive a report from a food safety auditor recommending that the priority classification of a food business be changed	CEO, MDRS, MIO, EHO		enforcement agency
section 81(7)	Provide a copy of any report received from a food safety auditor of the results of any audit or assessment carried out by the food auditor to the proprietor of the food business audited or assessed	CEO, MDRS, MIO, EHO		enforcement agency
section 86(1)	Receive written notice of information specified in the Food Safety Standards from a food business proposed to be conducted in the council area	CEO, MDRS, MIO, EHO		enforcement agency

Food Act 2001

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section 86(2)	Receive written notice of information specified in the Food Safety Standards from a food business conducted in the council area	CEO, MDRS, MIO, EHO		enforcement agency
section 86(3)	Receive written notice of transferred ownership or a change in name or address of a food business conducted in the council area	CEO, MDRS, MIO, EHO		enforcement agency
section 88(5)	Consent in writing to the delegation of a power of the relevant authority to the enforcement agency	CEO, Not Sub Delegated		enforcement agency
section 89	Undertake the functions in relation to the administration of the Act conferred or imposed upon the enforcement agency by the Act or by delegation	CEO, MDRS, MIO, EHO		enforcement agency
section 90	Participate in consultation with the relevant authority in regard to proposed conditions or limitation on the exercise of functions of the enforcement agency under the Act	CEO, MIO, EHO		enforcement agency

Food Act 2001

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section 94(1)	Appoint persons with appropriate qualification or experience to be authorised officers	CEO, Not Sub Delegated		enforcement agency
section 94(2)	Prepare and maintain a list of authorised officers	CEO, MIO		enforcement agency
section 95(1)	Provide each authorised officer with a certificate of authority	CEO, MIO		enforcement agency
section 95(2)	Limit the authority of an authorised officer	CEO, MIO		enforcement agency
section 104(1)	Send samples retained under the Act to an independent analyst in accordance with a court order	CEO, MDRS, MIO, EHO		enforcement agency