
6 Influencing the culture of compliance

Key points

- Food safety supervisors (FSSs) are required only in Victoria and Queensland. The estimated cost of attending a training course and lost work time is around \$700 per supervisor. These costs can be substantial where there is high staff turnover and where 24-hour food businesses must have an FSS present at all times.
- Food safety programs (FSPs) are mandatory only for certain high risk businesses in Australia. Differences in jurisdictions include:
 - Victoria: in the 2008-09 benchmarking period, most food businesses were required to have an FSP. Many of these businesses could satisfy this regulatory requirement using a standard template. There is some evidence to suggest the FSP requirements have improved the knowledge of safe food handling processes in Victoria, but also that these requirements impose additional costs
 - Queensland: catering businesses are required to implement an FSP. This requirement has been introduced in advance of the development of a national standard. Currently, this represents an additional regulatory burden on this sector. Depending on the national standard, the sector may also face transitional costs once the national standard is introduced.
- Nationally, considerable work has been undertaken in developing the standard for FSPs for Food Service to Vulnerable Persons. Supporting documents outline which businesses are required to have an FSP. As the standard is not fully operational in all jurisdictions, differences in coverage across the jurisdictions are likely to result in differences in burdens on some types of businesses. Current differences include:
 - New South Wales has delayed the introduction of the standard for child care centres, electing to undertake more research and additional community consultation. No start date has been set
 - Western Australia and the Northern Territory had no regulatory authority to audit and thus to enforce safety plans during 2008-09.

Food hygiene standards are designed to improve the safety of food prepared through better practices and greater understanding of factors which may increase food risks. Australian food hygiene standards are contained in chapter 3 of the Australia New Zealand Food Standards Code (ANZFS Code) (box 6.1). These standards cover general safety practices, information and training requirements, safety relating to food premises and equipment and food safety plans (FSPs).

Box 6.1 Food Hygiene Standards – Australia

Standard 3.1.1 Interpretation and Application: defines the main terms used within the Food Safety Standards.

Standard 3.2.1 Food Safety Programs: outlines the general requirements of FSPs.

Standard 3.2.2 Food Safety Practices and General Requirements: sets out specific food handling controls related to the receipt, storage, processing, display, packaging, transportation, disposal and recall of food. Other requirements relate to the skills of food handlers and their supervisors, the health of food handlers, and the cleaning and maintenance of equipment and of the premise.

Standard 3.2.3 Food Premises and Equipment: ensures that food premises, equipment and transport vehicles are designed and constructed to be cleaned and sanitised. Other requirements relate to necessary services of water, waste disposal, light, ventilation, storage space and access to toilets. The aim of this standard is to ensure good design so that, if it is complied with, it will facilitate compliance by food businesses with the Standard 3.2.2.

Standard 3.3.1 Food Safety Programs for Food Service to Vulnerable Persons: requires food businesses that process food for service to vulnerable persons to implement a documented and audited FSP.

Source: The ANZFS Code.

This chapter examines two key requirements intended to raise awareness and increase accountability: the use of food safety supervisors (FSSs) in Victoria and Queensland (an additional requirement to ANZFS Code) and the adoption of FSPs across the Australian jurisdictions — where particular attention is given to the standard for businesses serving vulnerable populations. Both of these requirements aim to influence the food hygiene culture within a food business, ultimately aligning it with the outcomes of the ANZFS Code.

The information presented in this chapter relates to the period between 1 July 2008 and 30 June 2009. Accordingly, it does not consider the changes in the requirements for Victorian food businesses to prepare an FSP or appoint an FSS that come into effect from 1 July 2010 — the relevant legislation having been passed on 28 July 2009.

6.1 Food safety supervisors

Victoria and Queensland are the only jurisdictions that require food businesses to employ an FSS.¹ New South Wales has announced that it will introduce such a requirement for the hospitality industry in 2010.

The requirement for a food business to have an FSS is an additional requirement to that specified in the ANZFS Code (box 6.2). However, it is argued that by having at least one person competent with matters relating to food hygiene and safety, it will help ensure that food produced is safe and suitable.

Box 6.2 Required skills and knowledge of food handlers

In the ANZFS Code, Standard 3.2.2 (Food Safety Practices and General Requirements) requires that people who handle food and the people who supervise food handling have the skills and knowledge relating to food safety and food hygiene matters appropriate to their work activities.

The guidance material for this standard explicitly states that it is not the intent of this clause to require mandatory training, recognising that skills and knowledge may be gained in different ways. Examples of these include:

- in-house training by employees or the proprietor
- distribution of relevant documentation to employees
- having operating procedures in place that clarify the responsibilities of food handlers and supervisors
- attendance at food safety courses run by local councils or other bodies such as industry associations
- hiring a consultant to present a course to employees.

Source: FSANZ (2001).

In Queensland under the *Food Act 2006*, a licensed food business must have an FSS within 30 days of the licence being issued and notify the local council of the name of the supervisor (within 14 days). Food businesses are required to have a supervisor at all times and changes in the details of the FSS (person or contact details) need to be notified to the local council within 14 days.

In Victoria, the requirements for FSSs are outlined in the *Food Act 1984*. Unlike Queensland, food businesses are only required to provide details of FSSs (name and

¹ From mid-2010, the requirement to have a food safety supervisor in Victoria will only apply to 'high' and 'medium' risk food businesses.

qualifications) to the local council within seven days of being requested or at registration or at the annual re-registration process.

In Victoria, one-off or irregular events, run solely to raise funds for charitable causes, are not required to have an FSS. Instead, the organisers of the event are required to ensure that the people who handle the food at the event can do this safely.

In Queensland, if a non-profit organisation is not required to be licensed as a food business,² then they are not required to have a qualified FSS, but must ensure that their food handlers and supervisors have a level of skill and knowledge in food safety and food hygiene appropriate to their food handling activities (Queensland Health 2007a).

Characteristics for food safety supervisors

In guidance material issued by Queensland Health, an FSS is described as a person who has advanced food safety skills and knowledge and has the ability to oversee the food safety operations of the food business (Queensland Health 2008). Specifically, they are required to have:

- obtained the required competencies
- the ability to supervise and give directions about matters relating to food safety in the food premise
- the authority to supervise food handlers
- skills and knowledge relating to food safety, and the identification and prevention of food safety hazards relevant to the food business (Queensland Health 2008).

Victoria has similar requirements to that of Queensland, however, the requirements are detailed in the Food Act rather than guidance material (which is not legally binding). Specifically, FSSs are required to:

- know how to recognise, prevent and alleviate the hazards associated with the handling of food
- meet appropriate food safety competency standards

² Non-profit organisations do not need a licence when: selling pre-prepared meals; selling meals that consist only of fruit, cereal, toast, or similar food; the consumer of the meal helps to prepare it; or, selling meals prepared as part of an education or training program conducted by the organisation (for example a cooking class) (Queensland Health 2007a).

- have the ability and the authority to supervise other people handling food and ensure that that handling is done safely.

Training requirements for food safety supervisors

Unlike the requirements in the ANZFS Code, FSSs are required to undertake some form of formal training. In both Victoria and Queensland, the competency standards for an FSS are dependent on the industry sector in which the FSS is working (table 6.1). Both jurisdictions provide guidelines to help determine which food sector a particular business may fall within.

Within the guidance material for Queensland, there is scope for recognition of prior learning, previous work experience and other training (formal and informal). While this option may appear to offer lower compliance costs for businesses, the guidance material notes that the process to recognise prior learning involves similar time and resources to the cost of conducting the training. Nevertheless, if a person has completed an appropriate food industry trade qualification or a Bachelor degree or higher qualification from a recognised institution that includes food safety and hygiene subjects, then the person may be eligible for automatic accreditation to be an FSS.

Table 6.1 Training requirements for food safety supervisors by sector – Queensland and Victoria

<i>Food sector</i>	<i>Course title</i>
Food processing	Implement food safety program and procedures
Retail and hospitality	Follow workplace hygiene procedures and Implement food safety procedures or Apply retail food safety practices
Health and community services	Follow basic food safety practice Oversee the day-to-day implementation of food safety in the workplace Apply and monitor food safety requirements
Transport and distribution ^a	Follow workplace hygiene procedures Implement food safety procedures

^a In Victoria, businesses in the transport and distribution sectors are advised to use relevant units from other sectors where as Queensland has specified these courses.

Sources: DHS (Victoria) (2008b); Queensland Health (2008).

In Victoria, there are two ways an FSS can obtain a statement of attainment by:

- attending a training course (classroom/workplace based, computer based or a combination)

-
- having previously completed training and/or work experience recognised against the required competency standard by a Registered Training Organisation.

Availability of food safety supervisors

In Queensland, the guidance material states that the FSS is expected to be involved in the day-to-day operations of the food business and must be reasonably available to food handlers and the relevant local government. In the event the FSS is absent, there must be a ‘documented mechanism’ to ensure directions about matters relating to food safety are available to persons who handle food.³ The FSS must be contactable by the local government or food handlers when food handling activities are being undertaken.

The guidance material gives local governments discretion as to what is ‘reasonably available’. For example, this material suggests that an FSS is not required to be reasonably available when the business is operating but no food handling is being undertaken — such as when a sporting club kitchen closes at 9 pm but the club remains open until 11 pm for entertainment activities.

However, this flexibility in interpretation has caused inconsistency in application for one food business in Queensland that operates across a number of local councils. This business claims that some councils require the FSS to be ‘reasonably available’ but other councils require the FSS to be on-site at all times. In 24-hour operations, food businesses must train a number FSSs so that a supervisor is always onsite for those local councils requiring it.

In Victoria, there is no requirement for an FSS to be at the premises at all times. Nevertheless, the Victorian government health website indicates that there must be a way for the FSS to know how food is being handled and to ensure that people handling food are doing so safely when the FSS is not on the premises (Department of Health (Victoria) 2009a). The Commission has not been presented with evidence from food businesses on how this requirement is enforced, in practice, in Victoria. Nevertheless, the Victorian system appears to place a lower regulatory burden on business by not having to train as many supervisors than Queensland food businesses.

³ A documented mechanism is a written set of procedures that enables matters relating to food safety and handling to be efficiently dealt with within a food business.

Costs of requirements and effectiveness

The Victorian Competition and Efficiency Commission (VCEC), in its review of food regulation in Victoria, estimated that the total costs of training an FSS to be between \$600 and \$800. This includes the cost of the training course and the cost of lost work time of one day (VCEC 2007).⁴ Extrapolating this estimate, the VCEC assessed that the annual cost to Victorian businesses of the requirement to have an FSS would be around \$2.7–3.6 million (VCEC 2007). As the Queensland training requirements are the same as Victoria, the training costs per FSS would be of a similar magnitude.

One participant to the VCEC review noted that high mobility and exit rates within the food industry means this training cost is commonly an ongoing cost (Infocus Management Group 2006). This view is also supported by Clubs Australia in their submission to this study:

Although the club may pay for an employee's training, the qualification belongs to the individual and if they leave the venue, it may mean the club has to again cover the cost of training, if the new employee does not possess the requisite competencies. (sub. 5, p. 5)

In their submission, Coles noted that:

Brisbane City Council requires each business to license Food Safety Supervisors for each store and every time they change or a new team member starts this costs \$66.00 and requires us to complete four pages of documents. (sub. 21, p. 3)

One business informed the Commission that it felt that using FSSs is a 'much cheaper option' than using FSPs. However, the Commission has received no evidence on the relative effectiveness of the two options.

6.2 Food safety programs

What are food safety programs and when are they required?

Broadly, an FSP is a process where food businesses identify hazards that might occur and identify how they will be controlled. These components are written up in a document — the food safety plan — that shows how the business will manage the safety of the food it prepares, serves, manufactures or sells. This system is based upon the principle that food safety is best ensured through the identification and

⁴ For some staff, such as chefs, the relevant food safety supervisor training may be included in their broader professional training/education and so, in some instances, the cost of training may not be a cost to business.

control of hazards in the production, manufacturing, and handling of food as described in Hazards Analysis and Critical Control Point (HACCP) system. A food safety plan is, therefore, the written document within an FSP. However, within this report, the terms are used interchangeably as the distinction is not of substance for this report.

The contents of FSPs are based on requirements in the ANZFS Code. The process of writing an FSP aims to educate food handlers about the best practice standards (as contained in the ANZFS Code) so as to use this knowledge when they are preparing food. In addition to documenting the potential hazards and practices to ensure safe food, FSPs also have a range of records to demonstrate that food businesses are following their FSP (for example, a temperature control log). Regulations usually require that FSPs are kept at the business premise and are reviewed to ensure they remain relevant.

The ANZFS Code outlines the general principles required of a business, however, it does not specify the exact list of contents for FSPs. To assist food businesses, a number of tools and templates have been developed by various government organisations — including a number of cross jurisdictional groups to help ensure consistent implementation (box 6.3).

Box 6.3 Example contents of an FSP

The following background details are recommended for inclusion in an FSP:

- business detail: business name, licence/registration information, name of proprietor or company, address and contact details of the business, a general description of the nature of the business, key food personnel
- a description of how the FSP was developed: template, employed external consultants, or developed the program in-house
- auditing of the FSP: the FSP should contain information on how often the program is required to be audited and who will be conducting the audit.

The following records may be included in an FSP, depending on the nature of the business:

- approved food suppliers list and approved food supplier agreement form
- incoming goods
- food recall
- customer complaints
- temperature control log and the 4 hour/2 hour guide
- cleaning and sanitising and equipment maintenance and calibration of thermometers
- pest control
- staff illness/accidents and staff instruction/training off site events.

Sources: FSANZ (2007a); Queensland Health (2007b).

Nationally, there is agreement that FSPs should be introduced only when the costs of complying with such requirements are outweighed by the benefits. In 2003, the ANZFRMC endorsed policy guidelines identifying four high risk food sectors that are required to prepare FSPs:^{5,6}

- the harvesting, processing and distribution of raw oysters and other bivalves
- the production of manufactured and fermented meat
- catering operations serving food to the general public
- where potentially hazardous food is served to vulnerable populations (box 6.4).

Box 6.4 High risk sectors that require FSPs

Raw oysters and other bivalves

The Primary Production and Processing Standard (PPPS) for Seafood (4.2.1) requires primary producers and processors of certain bivalve molluscs (such as oysters, scallops, clams and mussels) to implement a documented food safety management system. This requirement has been mandatory since May 2007. Further discussion of the differences in food safety regulation for seafood is contained in chapter 12.

Manufactured and fermented meat

The PPPS for meat requires producers of manufactured and fermented meat to develop a food safety management system. This has been mandatory since November 2007. Differences in food safety regulation for meat is examined in chapter 9.

Catering operations serving food to the general public

FSANZ is currently working on a standard to require businesses that engage in certain off-site and on-site catering activities to develop and implement FSPs in accordance with Standard 3.2.1.

Vulnerable persons

This standard requires food businesses that process food for service to vulnerable persons to implement a documented and audited FSP (see below). This standard has been mandatory since October 2008.

In the years following, FSANZ developed food standards requiring FSPs for the identified high-risk sectors, except the catering sector. A standard for the catering sector is still under development, with a draft standard issued for comment in 2007.

⁵ Aside from the primary sectors identified as high risk by ANZFRMC, the dairy industry (primary production only) is required to have a documented FSP as outlined in the Primary Production Standard (4.2.4).

⁶ In October 2009, the ANZFRMC agreed to review its policy guidelines for FSPs.

In New Zealand, Food Control Plans (akin to FSPs in Australia) are not yet required under legislation but instead are being trialled on a voluntary basis — pending the introduction of new food laws and regulations in New Zealand. As a result, New Zealand’s regulatory regime has not been benchmarked in this chapter as the costs incurred by New Zealand food businesses are voluntary at the present stage. Nevertheless, a brief overview of the system in New Zealand is provided in box 6.5.

Box 6.5 Food Control Plans in New Zealand

A new system to regulate the food industry in New Zealand has been designed following four years of consultation and policy development. While a new Food Bill is being developed, some parts of it are being trialled under the current New Zealand Food Act — Food Control Plans (FCPs) are one element. It is anticipated that FCPs will be required by those businesses selling food that poses a medium to high risk to consumers (for example restaurants and manufacturers of foods for vulnerable populations). The FCP templates developed by NZFSA give consideration to the risk assessment and categorisation of the food sector, however, food businesses will still be able to develop their own FCP if they choose to do so.

Like FSPs, FCPs consist of a set of procedures which document the controls a business has in place to manage each risk in their particular process. Similar to Australia, New Zealand is proposing two types of plans:

- Off-the-peg FCPs (template): will be designed to be a ready-to-use system for managing food safety. They will be developed by NZFSA.
- Custom-made FCPs: will be written by operators of complex businesses to suit their particular process. They could be developed from scratch or adapted from one or more off-the-peg FCPs.

Before the new Food Bill is passed, NZFSA and most of New Zealand’s local councils are working together in a scheme called the Voluntary Implementation Programme to implement an off-the-peg FCP for the food service and catering sectors.

Under the *Food Act 1981*, most food operators register their premises with their local council. An Environmental Health Officer inspects these registered premises each year to assess compliance with the *Food Hygiene Regulations 1974*. With an FCP in place the food business will be exempt from the Food Hygiene Regulations. A council Environmental Health Officer (or representative) will verify that the business is following its FCP and that it is appropriate for that business.

Source: NZSFA (2009c).

Additional jurisdictional requirements for FSPs

Queensland requirements

Since February 2008, Queensland catering companies are required to have FSPs, including mixed food businesses such as a hotel catering for its functions rooms and as serving restaurant meals (Queensland Health 2007b). As this requirement precedes the finalisation of a national standard, it represents an additional regulatory burden on this sector in Queensland compared with catering businesses in other jurisdictions. However, this does not account for any benefit that the regulatory requirement may bring. While the industry may transition easily to the national standard (when finalised), any changes from the existing Queensland system to the national standard will represent an extra (unnecessary) burden on the industry.

Approach taken by Victoria

In 1997, Victoria was the first jurisdiction to voluntarily adopt the use of FSPs for all Victorian food businesses.⁷ This decision followed a number of outbreaks of foodborne illness and the belief (at the time) that other jurisdictions were not likely to adopt such requirements (DHS (Victoria) 2006).

The Victorian system currently classifies businesses into two categories based on risk. Class 1 businesses (covering hospitals, aged care facilities and child care centres) are required to develop their own FSPs and have it audited by a third-party auditor. This category is similar to the businesses captured by the standard for vulnerable populations. Class 2 premises cover all other types of business such as restaurants and cafes (apart from those specifically exempt).⁸ These businesses have the option of using templates covering fixed and temporary food premises. FSPs from Class 2 food businesses are audited by the local council.

No overall benefit-cost analysis has been undertaken on the requirement for FSPs in Victoria making it difficult to determine cost of the additional regulatory burden associated with the requirement for most food businesses to prepare FSPs and whether it is less than the additional benefits.⁹ Nevertheless, the survey results from

⁷ This does not apply to businesses involved in primary food production. These are regulated through the *Dairy Act 2000*, *Meat Industry Act 1993* and *Seafood Safety Act 2003*.

⁸ The only activities exempt from the FSP requirement are retailers of low risk pre-packaged food.

⁹ The legislation requiring the preparation of an FSP was introduced in 1997 prior to the requirement to prepare a RIS (also known as Business Impact Assessment in Victoria). Subsequent amendments have lessened the regulatory impact and, therefore, also do not require a RIS.

the FSANZ National Food Handling Survey found that the staff of businesses with FSPs had better food handling knowledge and practices (box 6.6 and chapter 3). This provides evidence that FSPs may offer some benefits.

Box 6.6 FSPs and food handling knowledge and practices

Businesses with FSPs were more likely to:

- know the correct temperature that chilled foods should be stored at (88 per cent) than those businesses without an FSP (79 per cent)
- have a probe thermometer (93 per cent) compared to those that did not have an FSP (74 per cent)
- have a system for checking the safety of delivered potentially hazardous food (92 per cent) compared to businesses without an FSP (73 per cent)
- feel '*at least well informed on current food safety regulations*' (91 per cent) compared to those that did not have an FSP (76 per cent)
- have a staff sickness policy (96 per cent) compared to those without an FSP (85 per cent)
- correctly identify that the temperature of delivered frozen food always needed checking (82 per cent) compared to those who did not have an FSP (68 per cent).

Source: FSANZ (2008a).

Effectiveness aside, the compliance costs associated with FSPs will be higher in Victoria than in any other jurisdictions as almost all Victorian retail food businesses are required to prepare FSPs — not just those businesses serving vulnerable persons. The additional coverage in Victoria roughly equates to that of Class 2 businesses. The VCEC estimated that eliminating FSPs for Class 2 businesses would save these businesses \$30.5 million in the first year alone (VCEC 2007). The regulatory changes due to come into force in July 2010 will reduce *some* of this additional burden on Victorian food businesses but not all (box 6.7).

Box 6.7 Victorian food regulatory reforms

In September 2006, the Victorian Government commissioned the VCEC to examine the nature of compliance and administrative burdens of food regulation on businesses, consumers and the not-for-profit sector, whether the objectives of current food regulation were being met, and the opportunities for reducing or reforming regulation whilst still meeting the objectives of current regulation. VCEC released its final report in September 2007.

In January 2008, the Victorian Government issued a response to the VCEC Report, announcing that changes could be made to the law to protect the food supply and that it would implement the majority of VCEC's recommendations. On 7 July 2008, the Victorian Department of Human Services released its Consultation Paper. This consultation paper also contains recommendations to alter the *Food Act 1984*. The Food Amendment (Regulation Reform) Bill 2009 was passed by the Victorian Parliament in July 2009. From 1 July 2010, the *Food Act 1984* will incorporate a new food premises classification system:

- Class 1 — for food premises similar to current Class 1
- Class 2 — for food premises engaged in manufacture or handling of any unpackaged, potentially hazardous foods
- Class 3 — for food premises handling low risk food (for example, baking bread) or wholesale of pre-packaged food, or selling pre-packaged, potentially hazardous food that requires temperature control and also includes some community group food events
- Class 4 — for food premises selling shelf-stable, pre-packaged food or running low risk community food activities.

The new classification system changes the requirements relating to FSPs, audit requirements and council inspections. The new requirement will lower the regulatory burden on businesses, particularly the lower risk food businesses.

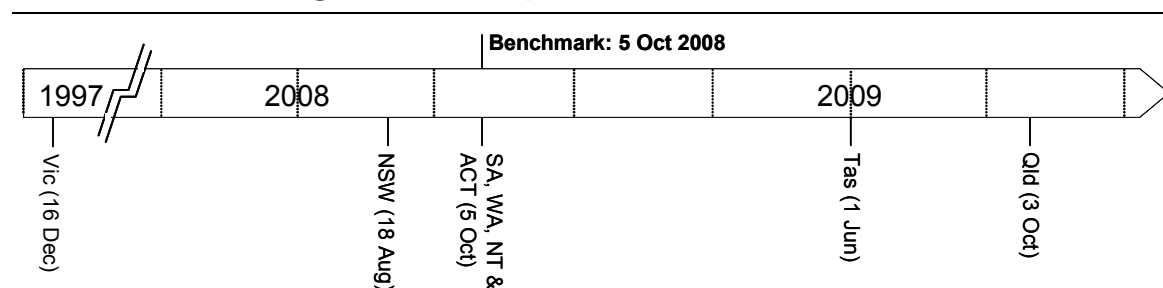
Sources: DHS (Victoria) (2009); Food Legal (2009).

Food safety program for businesses serving vulnerable populations

Standard 3.3.1 requires *food businesses* that process or serve ready-to-eat *potentially hazardous food* to *six or more vulnerable persons* to implement a documented and audited FSP in accordance with Standard 3.2.1. This standard was gazetted on 5 October 2006 with a two-year transition period, taking effect on 5 October 2008. After this date food businesses affected are required to have in place an FSP and an audit report from a qualified and approved auditor subject to the necessary legislation being passed by the respective state and territory governments.

Most jurisdictions at the broad level have implemented the standard or are in the process. Some jurisdictions have opted for a longer transition period to help reduce the compliance costs on food businesses and ensure the regulatory requirements were in place (figure 6.1). For example, the NSW Food Authority (NSWFA) argues that the decision to delay the introduction of the standard for child care businesses was to allow it to assess the most effective way to implement the standard with the children’s services sector (NSWFA 2008g). For the child care sector, a separate industry consultation process and study, including a survey, was undertaken to better understand the likely costs imposed on the industry. These consultations are currently ongoing. No proposed start date has been set for the standard for child care businesses in New South Wales. Until the national standard is introduced into child care centres in New South Wales, these food businesses will have a lower regulatory burden than similar businesses in other states and territories.

Figure 6.1 Commencement date of food safety plans for businesses serving vulnerable persons^{a,b}



^a Almost all Victorian food businesses are required to have an FSP. This requirement was introduced in 1997.

^b NSW has introduced FSPs for all businesses serving vulnerable persons except child care centres.

Sources: ACT Health (2009); ANZFS Code; DHHS (Tasmania) (2008); Department of Health (South Australia) (2009); NSWFA (2009c).

Businesses covered by the standard

For the purpose of the standard, vulnerable persons are defined by whether they are in the care of the identified facilities or are clients of a delivered meal organisation such as Meals on Wheels. Vulnerable persons include those in aged care facilities, hospital patients, children in child care, respite patients and nursing home residents. Under the standard, the key concept is being ‘*in the care of the identified facilities*’ as children under five or pregnant women are not considered ‘vulnerable persons’ when served food at a restaurant.

Considerable work has been undertaken at a national level in developing the standard and supporting documents that clearly outline which businesses are

required to prepare FSPs — reflecting the continuing support from the states and territories for a nationally consistent food safety system (FSANZ 2008m).

Despite this, there are differences between the national standard and the Victorian system. Currently, in Victoria, the definition of vulnerable persons is considerably wider than the national standard because of the inclusion of an age-based criterion.¹⁰ As a result, a greater number of businesses are required to prepare FSPs, representing a greater regulatory burden on these businesses compared with the national standard. Box 6.8 describes two examples of food businesses that need to prepare FSPs under Victorian regulations that are not generally required to do so in other jurisdictions. The intention of the amendments to the Victorian Food Act, due to come into effect from July 2010, is to ensure that the scope of premises that fall with the new class 1 will be consistent with Standard 3.3.1.

Furthermore, while the standard is in effect in Western Australia, this situation would not necessarily be clear to applicable food businesses as information on the Department of Health (Western Australia) website indicates that FSPs apply to hospitals only (Department of Health (Western Australia) 2009).

Assistance to reduce the regulatory burden on business

To help businesses comply with their regulatory obligations to develop FSPs, governments and industry have developed templates for businesses to use or adopt for their own business. New South Wales, Queensland, South Australia, the Northern Territory and the ACT provide FSP templates for businesses serving vulnerable persons. In Western Australia and Tasmania no templates were found on the relevant departmental websites. The use of templates can help reduce the cost of developing FSPs.

In 2008-09, Victorian businesses selling food to ‘at risk’ people (such as the very young, the elderly or the sick) were required to write their own FSP. This requirement is likely to increase the regulatory burden on these Victorian food businesses. However, the amendments to the *Food Act 1984*, due to come into effect from July 2010, provide for the use of templates for food premises selling food to vulnerable persons.

¹⁰ An at ‘risk or vulnerable person’ is defined to include children aged 5 and under, adults aged 65 and over, in house patients of a hospital and the immuno-compromised. Amendments to the *Food Act 1984* (Vic) are intended to bring better alignment with standard 3.3.1 of the ANZFS Code.

Box 6.8 **Victorian food businesses serving at risk/vulnerable persons**

Senior citizens

A Melbourne metropolitan council has 34 seniors groups meeting in a range of council-owned senior citizen centres or rented buildings. These groups provide food to members as part of their activities. The nature and preparation of food varies but includes cooking full meals at the centres, re-heating purchased snacks, preparing sandwiches, bringing in food from home and buying in take-away food and occasionally having caterers bring in prepared food.

Initial enquiries by this council indicate that most groups would appear to be conducting a 'sale of food'. The Food Act places an obligation on the operator of a food business to register the premises where the handling or sale of food takes place. This council also believes each of the seniors groups must apply separately for registration, irrespective of the fact that one or more groups may share the use of council's kitchens. Practically, this means that up to five seniors groups which share a kitchen facility must register with the council, prepare an FSP and engage a third party auditor. The council believes these groups have been captured by regulations designed primarily for hospitals, nursing homes and Meals on Wheels Services.

Following the amendments to the *Food Act 1984* passed in July 2009, these groups may still be required to have an FSP depending upon the food prepared. However, where the FSP requirement applies, a template FSP can be used and the group will be subject to an annual local council inspection rather than a third party audit of their FSP.

Kindergartens

Kindergartens provide educational programs for children aged three to five years in short blocks (two to four hours per day) for two to five days per week. There are a variety of management models but the majority of kindergartens are 'stand-alone' and are managed by volunteer committees, usually parents. These committees change regularly. Kindergarten Parents Victoria claim the Food Act and the accompanying guides are complex and do not provide clear advice in relation to whether kindergartens are considered a 'food business'. This has implications for the provisions of snacks and their cooking program which can provide benefits to the children such as mathematics, social skills (sharing, taking turns, etc), communication and literacy, food awareness and good hygiene. Changes to the Food Act to be introduced in July 2010, will re-classify 'sessional kindergartens' to a lower risk class of food business and they will no longer be required to develop an FSP (among other regulatory requirements).

Sources: DHS (Victoria) (2009); Kindergarten Parents Victoria (2007); Moreland City Council (2007).

Audit requirements

Differing or more frequent auditing requirements (for the same type of food business) have the potential to increase regulatory costs for food businesses.

All states and territories have audit requirements for businesses serving vulnerable persons, except Western Australia and the Northern Territory (table 6.2). The Northern Territory is still in the process of developing regulations to support the audit requirements of the standard. Similarly, the auditing can not be undertaken within Western Australia until the relevant parts of the *Food Act 2008* commence (Department of Health (Western Australia) 2008). Until auditing requirements are introduced in Western Australia and the Northern Territory, the regulatory burden associated with FSPs for businesses serving vulnerable people will be lower than other jurisdictions that have auditing requirements.

Table 6.2 A comparison of audit systems

<i>Jurisdiction</i>	<i>Audit frequency</i>	<i>3rd party auditors</i>
NSW	See table 6.3	✓
Vic	At least annual	must use
Qld	Local council determines	✓
SA	At least annual	x
WA	a	a
Tas	Local council determines	✓
NT	b	b
ACT	Chief Health Officer determines	x

a In Western Australia, there are no legislative provisions for auditing. As such, the auditing requirements of Standard 3.3.1 can not be undertaken within Western Australia until Part 8 (Auditing) of the *Food Act 2008* commences. **b** There are no regulatory provisions for auditing in the Northern Territory.

Sources: NSWFA (2008b); DHS (Victoria) (2008a); Department of Health (South Australia) (2009); Department of Health (Western Australia) (2008).

The frequency of the audit requirements are set out in general terms in most Food Acts. In Victoria and South Australia, food businesses serving vulnerable persons are audited at least once a year. In New South Wales, the frequency of audits varies from monthly to once a year depending a food businesses' audit rating (table 6.3). In Queensland, Tasmania and the ACT, the local council or chief health officer determines the frequency of the audit schedule.

Table 6.3 Audit frequency — New South Wales

<i>Audit rating^a</i>	<i>Frequency of audits</i>
A	12 monthly
B	6 monthly
C	3 monthly
D	Monthly
E	Monthly or more frequently depending on severity of issues raised

a Audit ratings are based on the number and type of corrective actions issued at a food business' initial audit.

Source: NSWFA (2008b).

The NSWFA estimates that audit costs are likely to range from \$500 to \$2500 per annum, depending on firm size (table 6.4). Audits commenced on 1 March 2009 in New South Wales (NSWFA 2009a).

Table 6.4 Compliance costs of a food safety plan for businesses serving vulnerable populations by firm size, New South Wales

<i>Costs / Firm size^a</i>	<i>Very small</i>	<i>Small</i>	<i>Medium</i>	<i>Large</i>	<i>Very large</i>
Establishment ^b	3 200	3 200	4 200	4 200	4 200
Application fee	50	50	50	50	50
Total initial costs	3 250	3 250	4 250	4 250	4 250
Management	1 700	1 700	2 400	2 400	2 400
Audit	500	750	1 250	2 250	2 500
Annual licence fee	239	306	565	820	1 077
Total ongoing costs^c	2 439	2 756	4 215	5 470	5 977

^a Firm size: very small — up to 3 EFT food handlers, small 4–10 EFT food handlers, medium 11–30 EFT food handlers, large 31 to 49 EFT food handlers, very large EFT food handlers. ^b Establishment costs include: engaging a consultant to assess requirements; researching and developing an FSP; training of staff to establish and maintain an FSP, drafting of each FSP, on-going management of FSPs in the establishment year. ^c ongoing management of the document outlining the program; review and update of the document outlining the program; ongoing management of the FSP (eg internal audits); routine checking of records to ensure tasks have been completed; ensuring adequate records are kept; general staff supervision.

Source: NSWFA (2008c).

Third party auditors are used in New South Wales, Victoria, Queensland and Tasmania. In South Australia, auditing of FSPs is undertaken by the Department of Health (for delivered meals organisations and public hospitals) and by the local councils (for private hospitals, child care centres and aged care homes). There are no plans to use third party auditors in South Australia. Similarly, the ACT propose to use ‘second party auditors’ — namely public health officers from the Health Protection Service within ACT Health. No fees are proposed for these ‘second party audits’.

Third party auditors may be more costly to business compared to the audits performed by state governments or local councils — particularly where the latter do not charge fees or only partially recover costs (such as the ACT). However, some larger businesses indicated to the Commission that the third party auditor model was their preferred model as, even though the third party audits may cost more than state government/local council audits, they gain the benefits by using a common auditor for all of their businesses including:

- the budget certainty of a fixed cost per store/outlet

-
- greater consistency in the audit results and comparability of results across stores/outlets.

Some stakeholders also considered that, concurrent with their auditing work, third party auditors may also undertake quality assurance work for businesses, thereby providing greater efficiency and broader outcomes for business from the auditing process.

In addition to FSP audits in Victoria, local councils also carry out inspections before they allow, renew or transfer the registration of food premises. The VCEC found in its review of food regulation in Victoria that these inspections impose unnecessary costs on councils and businesses. Subsequently, the Victorian Government has announced plans to streamline these arrangements which should reduce the costs imposed on businesses (and local councils) by reducing the duplication or overlap in inspections and audits (DHS (Victoria) 2009).

During consultations to this study, ACT Health also indicated that as well as auditing FSPs it will conduct more ‘traditional inspections’ of those same premises — although these measures should only remain in effect during the introduction phase of FSPs. In the longer term, with the phasing out of traditional inspections and no fees for FSP audits, the regulatory burden will be lower in the ACT compared with other jurisdictions.

Overall compliance cost of FSPs

In the New South Wales regulation impact statement for the introduction of FSPs for businesses serving vulnerable populations, it was estimated that the costs to establish an FSP for these businesses ranged from \$3250 for very small businesses to \$4250 for very large businesses. Based on industry consultations, the NSWFA found the likely on-going management costs of food specifically to meet the vulnerable person requirements to range from \$2400 for very small businesses to \$6000 for very large businesses (table 6.4).

Box 6.9 Compliance costs for selected Meals on Wheels providers

New South Wales

Meals on Wheels provided the Commission with estimates for audits of its New South Wales members by the NSWFA in 2008-09. In light of this, audit costs in New South Wales for a Meals on Wheels operation are likely to range from \$600 for a small provider to \$1800 for a large production kitchen. However, these estimates may be conservative as in anecdotal feedback provided to the Commission, an audit of a small NSW Meals on Wheels operation took seven hours to complete.

<i>Service size</i>	<i>Time (hours)</i>	<i>Cost^a</i>
Small (up to 120 meals/day)	4	608
Medium (over 120 meals/day)	8	1 180
Large	more than one day ^b	1 752

^a Costs are based on NSWFA audit fees of \$143 per hour plus a \$35.77 travel charge. ^b 'More than one day' is assumed to be 12 hours.

Most services in New South Wales have incurred the cost of purchasing an FSP (either template or customised) at an estimated cost of between \$600 and \$900. The New South Wales Meals on Wheels Association estimates that documentation of an FSP is a weekly job which costs services about \$60 per week for a smaller service and \$120 for a larger service and up to \$5000 annually. FSPs are reviewed approximately every three months in New South Wales and reviews take around two hours to complete.

Other states

In Tasmania, despite services only delivering meals (and therefore exempted from the regulatory requirements), the Red Cross Delivered Meals Service has implemented FSPs across the state. They estimate that developing the plans took approximately 160 hours (20 working days) and cost around \$5000 on equipment. The ongoing cost in staff hours to complete documentation, review and update and to carry out internal audits was estimated to be around 250 hours per year (an extra five hours per week). In South Australia, the introduction of FSPs resulted in additional staffing costs of \$60 000 p.a. (sub. 11).

In Western Australia, a medium size organisation (delivering around 80 000 meals per annum) estimated FSP set-up costs of \$3000 of chef/manager's time. Another provider in that state estimated that the implementation of an FSP triggered additional expenditure of around \$10 000 over two years, for additional equipment such as thermometers, data loggers, ice bricks and eskies, refrigerator monitoring equipment and software. In contrast, a larger organisation delivering 180 000 meals per annum estimated no set-up costs probably because it already had food safety standards beyond the minimum. The ongoing cost of one medium sized provider was estimated to be around \$3800 per year consisting of kitchen staff time (\$1500) and administration staff time (\$1800), in addition to \$500 additional stationery and printing.

Source: Adapted from Productivity Commission survey of Meals on Wheels.

The NSWFA estimates that approximately 1870 businesses in New South Wales are covered by this standard (excluding child care) with over 90 per cent of businesses are either very small or small businesses.

A separate regulatory impact statement was prepared for the implementation of Standard 3.3.1 for child care centres. In this statement, the NSWFA estimated that establishment costs were likely to be around \$400 with ongoing costs in the vicinity of \$850.¹¹ The NSWFA estimates that around 1850 child care centres would need to comply with the standard if such a requirement was extended to them.

The Commission surveyed Meals on Wheel associations across Australia. Information from that survey provided broad indicative evidence of the types of costs incurred by some providers (box 6.9).

¹¹ It is assumed that all child care centres are very small businesses (employing less than three full-time equivalent employees engaged in kitchen duties).