



Allergy & Anaphylaxis Australia

3rd May 2022

Environmental Health Directorate
Department of Health WA
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reviewfoodact@health.wa.gov.au

Review of the WA Food Act

Background

Allergy & Anaphylaxis Australia (A&AA) is a member-based charity which strives to raise awareness of allergy in the community. It provides evidence-based information, resources and services to support children and adults living with allergic disease. A&AA has members and subscribers across all states and territories of Australia. The organisation also has over 60 000 followers on social media. We have a Medical Advisory Board which consists of several allergy specialists who are members of Australia's peak medical body, ASCIA (the Australasian Society of Clinical Immunology and Allergy). A&AA works in close partnership with ASCIA to progress the National Allergy Strategy – www.nationalallergystrategy.org.au.

Summary

A&AA has no issue with the efficacy of the current provisions in the WA Food Act, noting that they appear in line with the Model Food Provisions.

A&AA strongly urges the addition of provisions in the WA Food Act to address food allergy management throughout the food chain, but with emphasis on food service, food safety supervisors with competency-based training including allergen management.

What is working well with the Act?

A&AA is aware that the WA Food Act 2008 was amended to incorporate the Model Food Provisions in line with the Australian Food Regulation Agreement. Nonetheless, the Agreement does not preclude the inclusion of additional provisions where the State or Territory feels that a need exists to address a specific issue not included in the Model Food Provisions.

Addressing the WA Act as it currently stands, A&AA has no views on the operations of the existing provisions in the Act. A&AA does however strongly urge the addition of provisions in the WA Food Act to address food allergy management throughout the food chain but with particular emphasis on food service, and food safety supervisors with competency-based training including allergen management.

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What, if any, changes should be made to the Act to make it less ambiguous or unclear?

The WA Food Act

In common with the Model Provisions, the WA Food Act does not contain any specific food handling provisions relating to the “safety” of foods containing allergens, which would otherwise afford protection to persons with a food allergy.

The purposes of the WA Food Act are stated to be “An Act providing for the safety and suitability of food for human consumption, and for related purposes”. The Act goes on to define “unsafe” in relation to food (section 12) with the proviso that: -

However, food is not unsafe for the purposes of this Act merely because its inherent nutritional or chemical properties cause, or its inherent nature causes, adverse reactions only in persons with allergies or sensitivities that are not common to the majority of persons.

Thus for persons with food allergies, the definition of “unsafe” does not apply.

In consequence, all the provisions in both the Act and the Food Standards Code directly and specifically addressing the “safety” of food, have no application to protecting the health of persons having a food allergy, or requiring the food industry generally, through to food service to consumers, to take measures to ensure that consumers with a food allergy are afforded the same level of protection as is available with respect to food poisoning.

The Food Standards Code

A&AA is aware that the Food Standards Code contains labelling and declaration requirements for specific allergens in foods and requires food service staff to provide allergen information on request.

A&AA also notes that the Code contains Food Safety Standards (Chapter 3) which, inter alia, state: -

- 3 Food handling – skills and knowledge
 - (1) A food business must ensure that persons undertaking, or supervising food handling operations have –
 - (a) skills in food safety and food hygiene matters; and
 - (b) knowledge of food safety and food hygiene matters,

commensurate with their work activities.

Again, this requirement addresses food safety but provides no additional protection for persons with a food allergy.

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FSANZ Proposal P1053

A&AA has made a submission to FSANZ with respect to P1053, which proposes amendments to Chapter 3 of the Food Standards Code, and in particular establishes a system of Food Safety Supervisors with appropriate training.

The FSANZ proposal notes that the Food Standards Code lags behind existing legislation in some States

In absence of an agreed national approach, Victoria, NSW, Queensland and the ACT introduce requirements to manage high risk in food service sector. All have requirements for food safety supervisors with competency-based training. Victoria and Queensland also have template-based food safety programs.

The FSANZ proposal reiterates, adding to previous requests for submissions to P1053, that: -

Other issues, including allergen management, new technologies and technical issues such as duplication of definitions, will be considered as part of the wider review of Chapter 3 of the Code.

A&AA notes that those jurisdictions which mandate training certification adopt by reference modules such as SIRRFSA001 which is produced by the Australian Government through training.gov.au as a joint initiative with the States and Territories and which includes an allergen component.

A&AA understands that allergen management had been set aside for later consideration, as the direction from the Ministerial Forum leading to P1053 was focussed on safety measures addressing food poisoning microorganisms.

Whilst A&AA has always been a strong advocate for a uniform approach to food regulation, through amendments to the Food Standards Code, it appears that several jurisdictions have chosen to act unilaterally, amending their legislation by one means or another, to “manage high risk in the food service sector” by introducing requirements for “food safety supervisors with competency-based training”.

Allergen Management in Western Australia

A&AA notes the advice from WA Health to the food service sector which includes “Robust allergen management in food businesses is required to ensure susceptible individuals are not placed at risk of an allergic reaction when consuming food” with emphasis on food labelling compliance, and council authorised officer training. See https://ww2.health.wa.gov.au/Articles/F_1/Food-allergen-declarations

A&AA strongly urges the extension of this approach to incorporate allergen management under a broader food safety supervisor mandated scheme with appropriate training certification.

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Recommendations

Accordingly, A&AA is not persuaded to wait until FSANZ conducts its “wider review of Chapter 3 of the Code”. Notwithstanding FSANZ’s assurance that the review will include allergen management, there appears no established timetable for the review, and no certainty that when finalised it will recommend a suitable food allergen management component. A&AA also notes that the recently released FSANZ Food Standards Development Work Plan does not appear to include general review of Chapter 3 including allergen management. A&AA strongly urges the addition of provisions in the WA Food Act to address food allergy management throughout the food chain but with particular emphasis on food service, and food safety supervisors with competency-based training including allergen management. A&AA notes that jurisdictions which have introduced such a scheme have chosen widely differing mechanisms in place to achieve their objectives. A&AA makes no recommendation on the appropriate mechanism, beyond what works best for existing structures within Western Australia.

Justification for allergen management

A&AA has noted the submission from the National Allergy Strategy, and fully endorses their submission with respect to its justification of an allergen management scheme for food service.

Victorian Anaphylaxis Notification Scheme

A&AA recognises the benefits of the Victorian Anaphylaxis Notification Scheme, whilst acknowledging that it may be considered more appropriate for Public Health legislation, but which could possibly be introduced as an amendment alongside amendments to the WA Food Act.

Allergen management in Australia

A&AA has compiled a short review of the status of allergen management in Australia and New Zealand which is attached for your information.

Thank you for the opportunity to provide comment on the review of the WA Food Act. Please reach out to A&AA if you have questions or need clarification on the A&AA submission.

Yours faithfully,

Maria Said
Chief Executive Officer
Allergy & Anaphylaxis Australia

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