



Nelson City Council
te kaunihera o whakatū

STATEMENT OF PROPOSAL

**DRAFT FOOD ACT 2014 FEES AND CHARGES
commencing 1 July 2016**

1. Introduction

- 1.1 The Food Act 2014 (the Act) commences 1 March 2016 and will replace the Food Act 1981 and the Food Hygiene Regulations 1974. The Act introduces a risk based regulatory regime. The purpose of the Act is to-
- a) reform the law relating to how persons trade in food;
 - b) achieve the safety and suitability of food for sale;
 - c) maintain confidence in New Zealand's food safety regime;
 - d) provide for risk-based measures that-
 - i. minimise and manage risks to the public health; and
 - ii. protect and promote public health;
 - e) provide certainty for food businesses in relation to how the requirements of this Act will affect their activities; and
 - f) require persons who trade in food to take responsibility for the safety and suitability of that food.
- 1.2 Under the Act food premises have up to three years to transition to the requirements of the Act. The Council currently has fees set under the Food Act 1981 and the Food Hygiene Regulations 1974 to recover costs of functions undertaken with food premises. It is proposed that these fees remain, without change, for the transition period.
- 1.3 The transition period for food businesses is dependent on the scope of the food business and is set in the Ministry for Primary Industries implementation timetable. Until a food business transitions to the Act it will be subject to Council's current fees. After the transition period all businesses must operate under the Act and fees under the Act will replace the Council's current fees. All new food businesses commencing from the 1 March 2016 must operate under the Act.

Functions of Territorial authorities under the Food Act 2014

- 1.4 The provisions in the Act require Council to perform the following functions under the Act from 1 March 2016:
- **Registration** - Receiving and processing of application for registration of food businesses;
 - **Verification** - Undertake verification activities for those premises operating under a template food control plan; and
 - **Compliance and Monitoring** - Undertake compliance and monitoring activities across the district.

Territorial Authority's ability to set fees

- 1.5 Section 205(1) of the Act enables the Council, by resolution, to fix fees to recover the direct and indirect costs of any registration, verification, compliance and monitoring functions performed under the Act.
- 1.6 Council, in fixing the fees, must take into account:
- a) Equity - funding is sourced from users or beneficiaries at a level commensurate with the use or benefit they gain from the function, power or service being provided;
 - b) Efficiency - costs are allocated and recovered to ensure the maximum benefit delivered at minimum cost;

- c) Justifiability - costs are collected only to meet actual and reasonable costs (including indirect costs); and
- d) Transparency - costs are identified and allocated as closely as practicable to tangible service provision for the recovery period in which the service is provided.

1.7 Section 205 of the Act also requires that fixed fees must comply with any regulations made under section 206 of the Act.

2. The Approach to Charges

2.1 Council's proposed charges (see Appendix One), are based on applicants lodging an initial sum of money based on the expected time to process registrations for food premises. This would be credited to the applicant's account. As the registration is processed the processing costs would be debited against the applicant's account.

2.2 The cost of the registration processing would be based on:

- a) The time spent by Council staff and assessing and reporting on the application;
- b) The staff hourly charge; and
- c) Administrative costs.

2.3 When the registration processing is completed the costs are calculated and an invoice for further payment would be sent if the costs exceed the amount of the initial fixed charge.

2.4 Verification and compliance charges would be invoiced at the staff hourly rate as the time involved for these functions are variable.

3. The Proposal

3.1 The staff hourly charge out rate is proposed to be \$148. This is anticipated to meet the on-going costs of providing the service once the initial transition period is complete. The rate is also comparable to other hourly rates within the Council and with rates for adjoining councils.

3.2 The mix of an initial charge and an hourly rate enables actual costs to be recovered for businesses that have a varying degree of risk and complexity. The overall cost for premises is anticipated to be similar to current charges but this is dependent on the level of staff time required.

4. Reasons

4.1 The costs associated with registration involve maintaining our own register along with that of the Ministry for Primary Industries (MPI), providing registration documentation, the education of food safety practices and implementing the Food Control Plan with operators. The proposed charge is based on the average time taken to process a registration on the new risk-based regime. Initial processing of a registration is more time consuming than subsequent renewal and therefore the proposed charge reflects this.

4.2 The costs associated with verification involves developing a scope and communicating this with the business, time on site to conduct the verification and writing up of the verification report. The benefit of charging an hourly rate for verification is it recovers of direct costs of Council from the

business being verified: those who are performing well will require less time for verification and therefore be charged less than premises that are non-conforming and require more time to ensure compliance.

- 4.3 It is proposed that monitoring and unsubstantiated compliance costs are covered by a general rates component. These are of benefit to the general public.

5. Options

- 5.1 Council has reviewed the options available under the Food Act 2014 as follows:

Registration

<i>Options</i>	<i>Advantages</i>	<i>Disadvantages</i>
Charges are at an hourly rate	Fairly allocates costs according to the complexity of the application	Applicants do not know the full costs at the beginning of the process
Charges are at a fixed rate	Full costs are known in advance for applicants	Straight forward applications may subsidise the actual costs of more complex applications

Verification

<i>Options</i>	<i>Advantages</i>	<i>Disadvantages</i>
Council verifies National Programmes	Council provides a complete service for National Programmes with registration and verification	Additional staff time and resources to develop a documented management system
Council does not provide verification for National Programmes	No set up time and costs	Businesses would need to engage private sector verifiers at potentially a higher cost
Charges are at an hourly rate	Fairly allocates costs according to the complexity of the verification	Applicants do not know the full costs at the beginning of the process
Charges are at a fixed rate	Full costs are known in advance	Straight forward verifications may subsidise the actual costs of more complex verifications

Hourly rate

<i>Options</i>	<i>Advantages</i>	<i>Disadvantages</i>
Hourly rate at \$148	Best estimate to meet all actual costs of the service, consistent with adjoining	

	Councils' hourly rates	
Higher hourly rate	Ensures ratepayers do not subsidise the costs of providing the service	Could over-recover the actual costs and be inconsistent with adjoining Councils' rates
Lower hourly rate	Less cost for applicants	May not recover the actual costs of the service

- 5.2 The level of charges will be reviewed when regulations are made under Section 206 of the Act and will be reviewed annually by staff to ensure the costs of providing the service are met by those using the service.

6. Special Consultative Procedure

In adopting the Statement of Proposal for public consultation, including a draft declaration indicating the proposed option, the Council is required to consider whether the Statement of Proposal meets the requirements of section 83 of the Local Government Act 2002. A statement of proposal must include:

- A statement of the reasons for the proposal; and
- An analysis of the reasonably practicable options, including the proposal; and
- Any other information that the local authority identifies as relevant.

The Council considers the Statement of Proposal meets these requirements.

7. Submissions

- 7.1 Any interested person or body is welcome to make submissions about any aspect of the Council's Draft Food Act 2014 Fees and Charges.
- 7.2 Council in making its decision will be taking account of all submissions made.

Submissions are to be made in writing and forwarded to:

Food Act 2014 Fees and Charges
Nelson City Council
PO Box 645
Nelson 7040

Or emailed to submissions@ncc.govt.nz

Submissions must be received no later than midday on Friday 29 April 2016.

Any person who wishes to speak to the Council in support of their submission will be given the opportunity at a hearing which will occur in May 2016, the specific date to be advised to submitters stating they wish to be heard.

Copies of the Statement of Proposal, including the complete draft Schedule for Food Act 2014 Fees and Charges are available free of charge from Civic House or on request.

All enquiries should be directed to Mandy Bishop on 545 8740 or email mandy.bishop@ncc.govt.nz

APPENDIX ONE



Draft Fees and Charges

under the Food Act 2014

commencing 1 July 2016

Nelson City Council Statement and Summary of Proposal
Food Act 2014 Fees and Charges

Food premises under the Food Act 2014	Charge (includes GST)
<p>New Registration - Food control plan (based on a template issued by MPI)</p>	<p>\$222 initial fee Plus \$148 per hour spent on processing application after the first 1½ hours</p>
<p>New Registration - National programme</p>	<p>\$148 initial fee Plus \$148 per hour spent on processing application after the first hour</p>
<p>Renewal of Registration - Food control plan or national programme</p>	<p>\$74 initial fee Plus \$148 per hour spent on processing application after the first ½ hour</p>
<p>Amendment to Registration - Food control plan or national programme</p>	<p>\$74 initial fee Plus \$148 per hour spent on processing application after the first ½ hour</p>
<p>Suspension – Voluntary suspension of food control plan or national programme</p>	<p>\$74 initial fee Plus \$148 per hour spent on processing the application after the first ½ hour</p>
<p>Verification - Includes site visits, corrective action follow up, correspondence and documentation for food control plans.</p>	<p>\$148 per hour</p>
<p>Compliance - Investigation of complaint resulting in the issue of an improvement notice by food safety officer or Application for review of improvement notice.</p>	<p>\$148 per hour</p>
<p>Monitoring - Monitoring for food safety and suitability.</p>	<p>No charge</p>

Note – Time charged per hour will be measured to the nearest 15 minute interval.



Summary of Statement of Proposal

DRAFT FOOD ACT 2014 FEES AND CHARGES

This statement is made for the purposes of section 83 of the Local Government Act 2002.

The Food Act 2014 (the Act) commences 1 March 2016 and will replace the Food Act 1981 and the Food Hygiene Regulations 1974. Under the Act food premises have up to three years to transition to the requirements of the Act. The Council currently has fees set under the Food Act 1981 and the Food Hygiene Regulations 1974 to recover costs of functions undertaken with food premises. It is proposed that these fees remain, without change, for the transition period.

Until a food business transitions to the Act it will be subject to Council's current fees. After the transition period all businesses must operate under the Act and fees under the Act will replace the Council's current fees. All new food businesses commencing from the 1 March 2016 must operate under the Act.

Council's proposed charges (see the Draft Schedule), includes applicants lodging an initial sum of money based on the expected time to process registrations for food premises. The cost of the registration processing is based on:

- d) The time spent by Council staff and assessing and reporting on the application;
- e) The staff hourly charge; and
- f) Administrative costs.

When the registration processing is completed the costs are calculated and an invoice for further payment is sent if the costs exceed the amount of the initial charge. Verification and compliance charges will be invoiced at the staff hourly rate as the time involved for these functions are variable.

The Council welcomes feedback on the fees and charges. Council, in making its decision, will be taking account of all submissions made.

Copies of the Statement of Proposal which includes a more detailed assessment of the proposal are available free of charge from Civic House or on request.

Submissions

Any interested person or body is welcome to make submissions about any aspect of the Council's Draft Food Act 2014 Fees and Charges.

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Draft Schedule



Draft Fees and Charges

under the Food Act 2014

commencing 1 July 2016

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