

## **RMCA Food Act 2014**

This Act replaces the old 1981 Food Act. Its purpose is to establish a flexible cost-effective and risk based food safety system of management. It is intended to move away from the previous Acts, one size fits all approach, and to manage and minimise risks to food safety and public health and requires the taking of responsibility for the safety of food.

The first part of the Act sets out the purpose and application of it, definitions of various matters and duties. The second part refers to risk-based measures and requires operation of any food handling group or business under certain measures, whichever applies to their particular sector. The fourth part of the Act has provisions for the functions of territorial authorities (in our case Ruapehu District Council), general administration and enforcement provisions, all of which are delegated to Ruapehu District Council in our past. Part five includes an exemptions from the Act.

The Act requires good operating practice to achieve food safety appropriate to the particular supplier. How are clubs caught under this Act? A food business means an undertaking that trades in food. You might think this does not apply to the Ski Clubs BUT there is more. Section 13 of the Act sets out a whole range of what “sale of food” means and it includes supplying food together with any accommodation as part of an inclusive charge and therefore the person or organisation must, as a primary duty, ensure that the food is safe and suitable. Food sectors are then classified for the purpose of a signing risk based measures and the operators are then required to operate under the applicable risk based measure. The Act sets out Schedules which indicate where a provider falls. Most Clubs will likely fit into Schedule 1 of the Act but some being smaller Clubs which do not provide food for more than 10 guests, and those which do not provide food and self cater only will have an exemption. They will not be required to have a Food Control Plan or national programme.

For those Clubs to whom the Act applies, Food plans are required, setting out the nature, content and effect of such a plan and require its registration with the territorial authority. More stringent obligations are imposed on operators who have higher risks, such as Restaurants, and logically lesser obligations are imposed on operators with lower risks, which is where the Clubs will fall. Operators who perform well will be subject to less frequent checks while those who do not operate well will get more scrutiny from the territorial authority.

The new Act strengthens the Government's enforcement powers by introducing new offences. Food safety officers as part of the territorial authority can issue infringement notices. Those types of infringement notices are as follows: Failure to register – \$450 fee; Breach of food code requirements low level – \$300 fee; Breach of food code requirements medium level – \$450 fee; Breach of food code requirements high level – \$650 fee.

There are also greater powers given to food safety officers. They can direct compliance with the Act's measures or take any other actions such as prohibiting trading and there is no right of appeal. Under the new Act penalties have significantly increased. Penalties now are at a maximum available fine up to \$100,000 for individuals and up to \$500,000 for companies, which indicate that the Act and the regimes it sets out are clearly to be taken seriously by Parliament.

The Act sets out the functions of territorial authorities (RDC). They are required to manage verification of food plans and inter alia, investigate non-compliance and complaints, instigate corrective action and provide advice. They can also recover costs of carrying out their functions by way of fees levied or (otherwise), but they should be tangible, actual and reasonable fees. Fees are set for registration, verification, compliance and monitoring and penalties applied for unpaid fees. These fees are set by the territorial authority. Our local RDC fees are referred to later. The offence provisions under the Act involve reckless endangerment or harm or creating risk and/or negligently doing the same things. It is also an offence to defeat the purpose of the Act or to deceive a food officer or obstruct them, plus many more – 23 offences in all. Some of the offences are what is called strict liability offences, that is, they are offences where there is only total absence of fault where the burden of proving that defence is on the defendant. The fact that one doesn't know about the type of offence that one can be prosecuted for is never a legal defence.

Food safety officers have a number of powers which are quite wide ranging. They are able to enter any place which has a food kitchen which comes under the Act. They can bring in any equipment to test or monitor compliance, they can require the production of documents, take copies, photographs, videos and sound recordings. They can seize, condemn or order disposal of foods or restrict the use of a place or even close it. They can detain you if you are there for the duration of any search AND search you if they have reasonable grounds to believe that you have any evidential material that is the object of their search on your person.

In the use of a food diary, the designation of ‘keeper of records’ is a requirement of the food control plan, and those records help to show that you have been meeting the requirements of your plan. The diary under the food plan, will be checked by your verifier, to see if the procedures in your food control plan have been followed. The day to day manager or person responsible for checking that the plan has been followed must sign the diary. You need to review it four-weekly to ensure the food control plan is up to date. It can be used to identify any recurring problems that need fixing, identify any changes that have occurred and make sure any appropriate action has been taken to meet the requirements of the food plan. At the end of each four-week period the diary entries must be reviewed. You should list any equipment used for storing hot, cold and readily perishable food and regular temperature checks should be undertaken. Frozen food temperatures do not need to be recorded.

There should be daily checks done for cleanliness of anyone who deals with the food and food preparation areas. Close up of the Club, and checks would involve checking the food is protected from contamination, readily perishable food is stored at the correct temperature, and ‘past use by date’ food has been thrown away and any cleaning completed. Temperature checks of chillers and cold cabinets should be done. Weekly checks should also include signs of pest activity. Weekly cleaning tasks should be set out and maintenance tasks. Should anything go wrong it needs to be noted. Thermometers need to be checked at least every 12 weeks to make sure that they are providing accurate temperature readings. Infra-red thermometers need to be calibrated according to the instructions that come with them. When a four-weekly review is undertaken it should include matters like – has anything gone wrong more than three or four times, were there any complaints and what action has been taken, are there any changes to the types of food being prepared, any new supplies or different equipment, any other significant changes, and if so have the food control plan been updated. Any changes should be documented. Do any of these changes require council approval and if so that should be obtained.

For Clubs with custodians this will have to form part of their duties, otherwise in the absence of custodians, Lodge leaders would be the most likely persons to fulfil this task. If a Club does not have a Lodge leader type officer then a person would need to be designated to undertake this task. The careful setting out of plans would be essential to having as the saying goes “clean hands”.

Currently there are some Clubs registered with RDC and they have used the original Food Control Plan from 2015. If you look at it , its long and involved and there is quite a bit which does not pertain to our situation. There is however a new template and RDC strongly recommends that this one is used as it is a lot easier to read and understand. It is called ‘Simply safe and Suitable’ there is also a ‘Simply Safe and Suitable Starter Toolkit’ for staff training. The link to access this is <http://www.mpi.govt.nz/food-safety/food-act-2014/food-control-plans/steps-to-a-template-food-control-plan/>

Click on the link,click the+ on step 1: Create.

Once the Food Plan is done, it must be registered with RDC who are providing copies of the form today. It needs to be accompanied by another form known as the ‘Scope of Operations’. Copies will also be provided by RDC.

RDC needs to be notified of what the Act describes as ‘significant changes in circumstance’ which would include adding a process to the menu/food preparations that was previously not in the Food Control Plan. This would require the club to contact RDC to see if the change will require a check of the processes being used and that the records are sufficient.

Food Control Plans must be renewed and verified annually, National Programmes are 2 yearly.

RDC’s fees are \$521.00 for registration of a new FCP and then \$387.00 annually. This covers the registration and a two hour verification of the FCP where Council go through the FCP bookwork and records with the person in charge of it and then do a reality check, i.e. watch when what is in the plan is being undertaken.