

## Franklin District Council Food Hygiene Bylaw 2010

### 1. Title

This Bylaw may be cited as the Franklin District Council Food Hygiene Bylaw and shall come into force on 1 March 2010.

### 2. Food Hygiene Bylaw Validation

The Franklin District Council Food Hygiene Bylaw was duly made at a meeting of the Franklin District Council held on 18 February 2010 after completion of the special consultative procedure and will come into force on 1 March 2010.

The Common Seal of the Franklin District Council was affixed hereto, pursuant to a resolution of Council, on 23 February 2010 in the presence of:



.....  
Sally Davis  
**Chief Executive Officer**



.....  
Mark Ball  
**Mayor**



.....  
23/02/10

**Date**

### 3. Scope and Purpose

This Bylaw ensures compliance by Food Premises with the Food Hygiene Regulations 1974. The Bylaw includes measures that will result in closure of premises that repeatedly fail to comply with the Food Hygiene Regulations 1974. The measures contained in this Bylaw are designed to manage the negative impacts of dirty and unhygienic Food Premises in terms of the physical well-being of the Franklin community.

The purpose of this Bylaw is to address concerns relating to the negative effects associated with poor food hygiene in food premises that could result in food borne illness in the community.

### 4. Definitions

This Bylaw is promulgated pursuant to section 145 of the Local Government Act 2002.

In this Bylaw, if not inconsistent with the context:-

**Act** means the Local Government Act 2002.

**Council** means the Franklin District Council.

**Critical Fault** means a condition or set of conditions that would expose food to contamination or taint, or that would allow food to become dirtied or deteriorated.

**Environmental Health Officer** means any person Franklin District Council has appointed as Environmental Health Officer or any person authorised by Franklin District Council.

**Fault** means a condition or set of conditions which do not comply with the Food Hygiene Regulations but are not critical faults.

**Food Premises** are premises which must be registered under the Health (Registration of Premises) Regulations 1966 and the Food Hygiene Regulations 1974.

**Grade and Grading** means the allocated grade as reflected on the Grading Certificate, resulting from an inspection of Food Premises by an Environment Health Officer as follows:

Category A: fewer than 5 faults, no critical or repeat faults;

Category B: fewer than 10 faults, 5 or more faults, no critical or repeat faults;

Category D: 10 or more faults, no critical faults, and/or one or more repeat faults;

Category E: one or more critical faults.

**Grading Certificate** means a certificate issued to each Food Premises reflecting the Grade allocated by the Environmental Health Officer following an inspection of the Food Premises concerned.

**Owner or Occupier** shall mean the owner of the Food Premises or persons occupying the premises and shall include the supervisor, food handler, manager or agent acting in the general management or control of the Food Premises.

### 5. Requisitions- Food Premises Closure

(a) Where any Food Premises which, by reason of their state, situation, construction or disrepair, are in a condition whereby food may be exposed to contamination or taint or may become dirtied or deteriorated, the Environmental Health Officer may serve notice on the Owner or Occupier of the Food Premises:

(i) to carry out, within a time to be stated in the notice, such remedial action as may be specified in the notice;

(ii) to cease to use, or to clean, reconstruct, or repair an appliance, fittings, fixture or other equipment on those Food Premises in accordance with the requirements and within the time specified in the notice.

- (b) During this period so specified, the conditions that render the food liable to contamination or taint, or that would allow food to become dirtied or deteriorated, shall be removed.
- (c) Any such notice may require that the Owner or Occupier cease using those Food Premises or cause the use of those Food Premises to cease for a period specified in the notice.
- (d) Failure to comply with the requisitions issued by the Environmental Health Officer is an offence under this Bylaw.

## **6. Grading**

- (a) Prior to an annual registration of any Food Premises, an Environmental Health Officer shall, following an inspection, grade the Food Premises according to the Grades outlined in this Bylaw.
- (b) The Grading shall be notified to the Owner or Occupier of the Food Premises to which it pertains following the inspection and a Grading Certificate issued to the Food Premises.
- (c) The current Grading Certificate shall be conspicuously displayed in a public part of the Food Premises to which it relates, and must be visible to members of the public visiting the Food Premises.
- (d) The Grading Certificate shall be valid for a period of 12 months from the date of issue, and will remain the property of Franklin District Council. In the event of further food hygiene inspections during any such 12 month period, the Grading Certificate may be cancelled, withdrawn or amended by an Environmental Health Officer if the hygiene of the Food Premises has either improved or worsened when compared to the current Grading Certificate.
- (e) It is an offence under this bylaw to not display a current Grading Certificate in a prominent public place which is visible to the public.
- (f) An application for regrading of premises may be made in writing to the Council, provided that no such application shall be considered until the expiry of two months following receipt of the notification referred to in section 6(b). This inspection will be at an additional fee as reflected in the Franklin District Council Fees and Charges Schedule.

## **7. Appeals**

- (a) An Owner or Occupier of Food Premises of which a Grading or requirement has been made, may appeal in writing to the Council against that Grading or requirement within 14 days after receiving notice thereof.
- (b) On hearing the appeal, Council may confirm, reverse or modify that Grading or requirement.

## **8. Offences and Penalty**

Every person who commits a breach of this Bylaw is liable on summary conviction to the penalty set out in section 242 (4) of the Local Government Act 2002.

