



FOOD BUSINESS INSPECTION FEE POLICY

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Applicable legislation	Memorandum of Understanding between The Minister for Health and Local Government Association (February 2009) Guidelines prepared by LGA for Councils - Inspection Fees, <i>Food Act 2001</i>

1. Purpose

The Food Business Inspection Fee Policy (Policy) outlines the circumstances that fees are applied for the inspection of food businesses as provided by Regulation 11 of the *Food Regulations 2017*.

To specify the rate at which inspection fees are charged.

2. Scope

This Policy applies to food businesses that are subject to inspection by authorised officers appointed by the Eastern Health Authority (EHA), an enforcement agency under the *Food Act 2001*.

3. Definitions

‘Community or charitable organisation’ - any group, club or organisation that provides a community benefit and not for the personal financial gain of an individual person or group of people. Examples include Rotary, Lions, church groups, community sporting clubs and scouting groups.

(To determine if an organisation fit this category, an Australian Taxation Office certificate of 'Endorsement as a Tax Concession Charity' may be requested.)

'Mobile Food Van / Vehicle' - means a business involving the sale of food or beverages from a vehicle (within the meaning of the Road Traffic Act 1961). *This definition as per Part 2, Local Government (Mobile Food Vendors) Amendment Act, 2017.*

South Australian Food Business Risk Classification (FBRC)

- **'Priority 1 (P1)' and 'Priority 2 (P2)'** – businesses that characteristically handle foods that support the growth of pathogenic micro-organisms and where such pathogens are present or could be present. The handling of food will involve at least one step at which control actions must be implemented to ensure safety of the food. P1 businesses are further characterised by known risk-increasing factors, such as potential for inadequate / incorrect temperature control. Due to the high risk nature of the foods and their practices regular and lengthy inspections are required.
- **'Priority 3 (P3)'** – Businesses that will characteristically handle only 'low risk' or 'medium risk' foods and will warrant an inspection.
- **'Priority 4 (P4)'** - Businesses that will normally handle only 'low risk' foods, because they handle pre-packaged low risk food, and hence will not warrant regular or lengthy inspections. Examples include pharmacies, video stores and newsagents.

'Routine Inspection' - an inspection conducted at a scheduled frequency determined by the business' priority classification and performance history utilising Environmental Health Australia's Food Safety Standard of Practice and Australian Food Safety Assessment tool.

'Re-inspection' – an inspection carried out as a result of non-compliance that has been identified with the *Food Act 2001* or Food Safety Standards.

'Small Business' - a food business employing not more than 20 full-time equivalent food handling staff.

'Large Business' - a food business employing more than 20 full-time equivalent food handling staff.

4. Principles

Regulation 11 of the *Food Regulations 2017* provides for EHA as an enforcement agency to charge an inspection fee for the carrying out of any inspection that is required in connection with the operation or administration of the *Food Act 2001*.

Under the Regulations, the maximum fee for inspection is prescribed:

- for a **small business** - \$144.00 per inspection excl GST
- in any other case - \$361.00 per inspection excl GST

Food safety inspection fees are listed under division 81 of the GST Act for exemption, and as a result GST will not apply to inspection fees set by EHA.

The Minister for Health, Department of Health (DH) and Local Government administer and enforce the *Food Act 2001*, with some functions exercised jointly and others exclusively performed by one authority or the other. The Memorandum of Understanding between the Minister for Health and Local Government Association of SA, adopted in February 2009, clarifies the allocation of responsibility for enforcement of specific areas of the Act.

EHA is responsible for ensuring compliance with Chapter 3 of the Food Standards Code (Food Safety Standards) and the safety and suitability of food sold. This is achieved by performing inspections of food businesses based on a priority classification system developed by Food Standards Australia New Zealand (FSANZ).

The priority categories of high, medium and low risk are determined by the type of food, activity of the business, method of processing and customer base. SA Health has developed the South Australian Food Business Risk Classification (FBRC) using the national food safety risk profiling framework that allocates food businesses into risk classifications, based on their likelihood of contributing to foodborne disease and the potential magnitude of that contribution.

The FBRC took effect from 1 July 2014. From this date EHA utilises SA FBRC system to determine the priority classifications and inspection frequencies for food businesses in accordance with the table below:

Classification	Frequencies (every x months)		
	Starting point (new business owners)	Maximum	Minimum
Priority 1 (P1) – Highest risk	6	3	12
Priority 2 (P2)	12	6	18
Priority 3 (P3)	18	12	24
Priority 4 (P4) – Lowest risk	Inspect on complaint or change to risk profile only	Inspect on complaint or change to risk profile only	

With regard to the maximum and minimum frequencies outlined in the table above, the frequency of inspection will change based on the safety performance of the individual business using in the following way:

- Will increase to the maximum frequency when two consecutive inspection scores for compliance is a 0 star rating (poor compliance) or equivalent for non-eligible star rating premises.
- Will decrease to the Starting Point from the Maximum frequency when two consecutive inspection scores for compliance is a 4 or 5 star rating (excellent compliance) or equivalent for non-eligible star rating premises.
- Will decrease to the Minimum frequency from the Starting Point when two consecutive inspection scores for compliance is a 4 or 5 star rating (excellent compliance) or equivalent for non-eligible star rating premises.

The frequency of inspection will revert to the 'Starting Point' for new food businesses.

4.0 Fee Schedule

The following inspection and re-inspection fees are based on the 'priority risk rating' of a food business to recognise the inherent risk and time taken to undertake an inspection. The following fee schedule is outlined in the table below:

4.1. Routine Inspections

Classification	Small Business	Large Business
Priority 1 & 2 (P1 & P2) – Highest risk*	\$144.00	\$361.00
Priority 3 (P3)	\$101.00	\$253.00
Priority 4 (P4) – Lowest risk	No fee	No fee

*A six month inspection frequency is applied to new P1 businesses within their first year of operation. Fees apply to these routine inspections.

4.1.1 Multiple Businesses within a food premises

A fee shall be imposed for each routine inspection undertaken, for every premise, except in the circumstance when:

- Multiple businesses are owned by one proprietor; and
- They are registered under one ABN; and
- The businesses are located next to each other; and
- The inspection for each site is carried out at the same time.

4.2 Re-inspections

Priority 1 and 2 – High risk food businesses

Re-inspection Type	Small Business	Large Business
When more than one re-inspection is required in relation to a non-conformance which has not been adequately rectified within the agreed timeframe.	\$144.00	\$361.00
Re-inspections to determine compliance with Improvement Notices and Prohibition Orders issued for offences and breaches of the <i>Food Act 2001</i> .	\$144.00	\$361.00

Priority 3 – Low risk food businesses including Community Groups, Charitable and Not for Profit Organisations

Re-inspection Type	Small Business	Large Business
When more than one re-inspection is required in relation to a non-conformance which has not been adequately rectified within the agreed timeframe.	\$101.00	\$253.00
Re-inspections to determine compliance with Improvement Notices and Prohibition Orders issued for offences and breaches of the <i>Food Act 2001</i> .	\$101.00	\$253.00

4.3 Complaint Inspection

An inspection fee will not be imposed for an inspection carried out in response to food safety related complaints received from the public.

If a routine inspection is conducted in conjunction with the investigation of a complaint, an 'inspection fee' will be issued to the food business. This fee applies to P1, P2 and P3 food businesses.

4.4 Inspection of Festivals, Fetes and Markets

4.4.1 Constituent Council temporary events

Temporary events inspections will not incur a charge for festivals, fetes and markets that are organised by EHA's Constituent Councils.

4.4.2 Non- Constituent Council temporary events

A food safety inspection fee to the organising body / event coordinator of food market, festivals, fetes, shows and other events to cover the assessment involved in ensuring food vendors are meeting their requirements under the *Food Act 2001* and Food Safety Standards.

At the discretion of the Authorised Officer, with consideration of the SA food risk classification system an appropriate inspection fee will be considered in the application of fees to the organising body/ event coordinator with aim to balance reasonable cost recovery with supporting community event.

Food markets, festivals, fetes, shows and other events with mobile food vendors and mobile food vending businesses will be charged a standard rate depending on the number of temporary food stalls at an event as follows:

Number of Stall Holders	Type of Standard Inspection Fee	Non -Council Event Inspection Fee
1-10	Small Business Inspection Fee (P1&2)	\$ 144.00
more than 10	Large Business Inspection Fee (P1&2)	\$361.00

Where markets occur on a frequent basis more than one inspection will be required throughout the year. The frequency of the inspection is dependent on the type and transient nature of the food vendors and foods being sold. A charge will apply to these inspections.

4.4.3 Exclusion of inspection fees at non-Constituent Council temporary events

The following temporary food stall/vendor and mobile food vehicles will be excluded when determining an inspection fee charge.

- community or charitable organisations
- sale of 'low risk foods' that are pre-packaged, shelf stable and appropriately labelled and do not require specific storage requirements such as temperature control
- a mobile food vehicle notified within EHA and are inspected as part of a routine premises inspection and subject to an inspection fee during that inspection.

If all food vendors at a temporary event are within one of these above-mentioned categories food inspection fees will not apply.

4.5 Inspection of Businesses with Food Safety Programs

An inspection fee will apply for food businesses that have formal audited food safety programs in place. Please refer to the Food Business Audit Fee Policy.

4.6 Exemptions

4.6.1 Community and Charitable Organisations

Routine inspection fees will not be imposed upon community and charitable organisations.

Fees associated to re-inspections do apply. Refer to 4.2 of the Policy.

4.6.2 Schools and Educational Institutions

Inspection fees will not be imposed for inspections of the canteen or out of school hours care service (OSHC) in schools and educational institutions unless the operator of the canteen / OSHC operates the service as a commercial concern for profit.

Fees associated to re-inspections do apply. Refer to 4.2 of the Policy.

4.6.3 Nominal Risk Businesses

Inspection fees will not be imposed upon nominal P4 risk businesses.

4.6.4 Mobile Food Vans

Inspection fees will not be imposed upon mobile food vans that can display evidence of having notified with an alternate local council.

A standard inspection fee of \$101.00 will apply to each mobile food vans/vehicle(s) that are garaged at food premises within EHA's Constituent Council area. The inspection does not replace the requirement for inspections during events and additional fees that may apply.

If an inspection is conducted whilst mobile food vendors are trading, a standard inspection fee of \$101.00 will be applied if they have not otherwise been inspected and charged within their required inspection frequency.

If a food business has more than one mobile food van and they are garaged in multiple locations within EHA's Constituent Council areas, separate inspections are required and associated fees will apply.

5. Review of the Food Inspection Fee Policy

Every 24 months or as needed.

6. Statement of Adoption

D11/2059[v13]

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This Policy was adopted by the Board of the Eastern Health Authority on 12 February 2003.