

Role and powers of authorised officers

The NSW Food Authority is responsible for regulating and monitoring food safety across the entire food industry supply chain in NSW - from paddock to plate.

Authorised officers from the Food Authority and local councils enforce the safe production and sale of food under the NSW *Food Act 2003* and NSW Food Regulation (legislation).

Role of an authorised officer

Food Authority officers are appointed by the Food Authority's Chief Executive Officer and are based across NSW.

Their role is to ensure that all people working in the food industry meet their obligations under the legislation, including that products are properly labelled, safe and suitable for human consumption.

Authorised officers may visit a food business to investigate a particular incident, such as a foodborne illness, or as part of a specific program. They may investigate complaints about labelling and food production or conduct an audit or inspection unannounced. Officers may:

- provide information, education and advice on food safety legislation and industry standards
- provide advice on developing and improving systems to aid compliance with requirements
- monitor compliance with or investigate breaches of legislation, including conducting interviews with management and staff
- investigate reports of unsafe, unhygienic, and/or unclean conditions, and
- initiate enforcement action, such as issue improvement notices, prohibition orders, penalty notices or commence a prosecution if they believe an offence has been committed.

The officer may be accompanied by a NSW Police officer, scientific expert or anyone considered necessary. They will talk to a range of people to gather information, provide advice or take appropriate action to ensure food safety requirements are met.

All officers carry proof of their appointment, generally photographic identification, and will produce that appointment upon request.

Powers of an authorised officer

An authorised officer may:

- enter and inspect any premises or food transport vehicle which they suspect is being used in connection with the handling of any food intended for sale
- verify a person's identity by requesting their name and residential address
- require a person to provide information or conduct interviews, either in person or using audio- or audio-visual technologies

- take photographs, films or audio or visual recordings
- take measurements, and make sketches, drawings or any other type of record
- gather information, examine and take or copy any records or documents and retain them for any reasonably necessary time
- examine food intended for sale, or labelling or advertising material
- open and examine any package or equipment
- take samples of any food or thing. When obtaining a sample of food an officer must pay or offer to pay for it. The maximum amount payable is \$10.00.
- take samples of water, soil or anything that is part of the environment to determine whether it poses a food safety risk
- open, or require to be opened, any container used for food storage, or any package or equipment
- stop and detain any vehicle used for storage and transport of food
- generally, investigate and make inquiries to determine if an offence is being, or has been, committed.

An officer may seize food, vehicles, equipment, package, or labelling or advertising material that is evidence of an offence.

An officer can issue:

- notices requiring owners and all employees and operators to correct defects identified through audits, inspections or investigations, and
- an order prohibiting food production and sale, until all defects are corrected.

Some notices may attract a fee.

Entering a property or premises

When officers attend a food business the operator should ensure all staff/persons are:

- briefed about the role and function of officers
- aware that they must follow a reasonable requirement of an officer, including providing access to any part of the food business.

If, during an audit, inspection or investigation, an officer identifies a defect, that officer will collect evidence of the:

- nature and seriousness of the defect, and
- steps taken by the food business to ensure that they meet their obligations, including that the food they produce or sell is safe to consume, suitable and properly labelled.

Any enforcement action taken by authorised officers will be actioned following the relevant compliance and enforcement policy.

Offences for not complying with authorised officers

A person must not, without a reasonable excuse:

- fail to comply with a requirement of an officer, and

- resist, obstruct, or attempt to obstruct, impersonate, threaten, intimidate or assault an officer in the course of their duties

A person must not:

- detain, remove or tamper with any food, vehicle, equipment, package or labelling or advertising material or other thing that has been seized, unless permitted by an officer, and
- provide any information or produce any document that the person knows is false or misleading.

Offences against officers undertaking their duties under the Legislation can incur a maximum penalty of 500 penalty units (\$55,000) for an individual and 2,500 penalty units for a corporation (\$275,000).

Qualifications of authorised officers

Officers must undergo intensive training once employed as an authorised officer under the Act and may be required to undertake additional specialist courses and briefings to ensure their skills and knowledge are current and aligned with food industry best practice. Many officers also hold tertiary qualifications in science, health and food safety related disciplines.

Complaints about authorised officers

Complaints about an officer can be sent to:

Director Compliance
PO Box 6682
Silverwater NSW 1811

More information

- Visit [foodauthority.nsw.gov.au](https://www.foodauthority.nsw.gov.au)
 - Email food.contact@dpird.nsw.gov.au
 - Phone 1300 552 406
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