

Victoria's Food Act

Food vending machines

State-wide registration or notification

Do you sell food from vending machines in Victoria?

You need to know ...

A state-wide registration and notification scheme covering food vending machines applies under the *Food Act 1984*. Depending on the type of food that you sell from your vending machines, you will need to either register with, or notify, your "principal council".

A "start up" process is required to enable your machines to continue to operate anywhere in Victoria under the state-wide system.

This information will help you understand what you need to do and where to get further advice.

What is a food vending machine?

A "food vending machine" is a machine from which there is an automated sale of food without any attention or intervention by the seller at the time of sale.

Usually money is paid into the machine. These machines are often located in public places.

A "self serve" machine (such as for making coffee) located in a food business such as a convenience store where the customer pays an attendant of the business is **not** a food vending machine.

(In that case, the sale is made when the money is paid to the attendant. The sale is by the business operating the convenience store. The whole store – rather than the machine – will be registered or notified under the Food Act).

The Food Act has applied to food vending machines for many years. However, there has been uncertainty as to *who* must register or notify these machines. The Act has been changed to make it clear who has this responsibility from 1 July 2011.

Who must register or notify food vending machines under the Food Act?

The proprietor of the food business selling the food from the machines must register or notify them.¹

If you hire out machines to someone else, and they sell the food, that seller must register or notify the machines as they are operating their food business through the machine. You do not have this responsibility.

If you supply food under contract that will be used to stock a vending machine, but the food is sold to the public from the machine by another business – not you – then you do not need to register or notify the machine. The business who sells the food from that machine must do so.

If you allow a machine to be located on your premises or in your building, but you do not sell food from the machine, you do not need to register or notify the machine – this responsibility lies with the business that sells the food from the machine.

Why are food vending machines covered by the Food Act?

The main purpose of the Food Act is to control the sale of food in Victoria to protect people from food borne illness. All food businesses must ensure the food they sell is safe to eat.

Most businesses that sell food must either register with council each year, or notify council of their food handling activities on a once-off basis.

All food businesses, including food vending machines, are grouped under the Act into separate "classes", with higher risk activities falling within class 2, down to the lowest risk in class 4.

Different food safety requirements apply to each class based on the food safety risks. When you

¹ This is the case whether the business selling the food owns the machines or leases the machines.

apply for the first time, your council will advise you of the class of the food vending machines.

Three easy steps

- **Find out which is your principal council** under the state-wide system (*see below*).
Your principal council can advise you about what to do and the forms you need to complete.
- **Answer questions about your food handling activities** – Based on food safety risk, council will advise whether you need to:
 - register and pay any fee that may apply that is set by the principal council (class 2 and 3), or
 - notify on a once-off basis the number of class 4 machines you operate which sell only pre-packaged low risk food.
- **Lodge your registration or notification form** with your principal council by 1 October 2011 at the latest, to ensure that you meet your obligations under the Food Act.

Your principal council will consider your application – regardless of where your machines are located. As your vending machines are portable, and can therefore be moved, there must be one council who has the primary role of applying the Act to your machines.

If you also operate a warehouse in which you store food that is sold from the machines, you can combine the registration of your warehouse and the machines. Your principal council can explain how this is done.

One registration or notification, one council

Regardless of how many vending machines you operate at different locations, your principal council will issue a single registration that allows your class 2 or class 3 machines to operate anywhere in Victoria for 12 months. If your machines are class 4, council will acknowledge your once-off notification of the number of machines that you can operate anywhere in Victoria.

When your registration is approved, or your notification acknowledged, you must lodge Food Act statements of trade with all councils in whose districts you will operate class 2 or class 3 machines. This tells councils where and when you will be trading. This is outlined further below. You only need to consider this after you have registered with your principal council.

Which is your principal council?

Under the state-wide system, one council must be primarily responsible for approving your food handling operations. This is the Victorian council that most of your up-front dealings will be with in the future. It is known as your “principal council”.

You must register with, or notify, this council. It is the council in Victoria in whose district:

- you **prepare or store food** that is to be sold from the vending machines; or
- if your business does not usually prepare or store the food beforehand² – the district in which your **business address** is located; or
- if none of the above are in Victoria – the district in which the machines will **first operate** when registered or notified. (If you are an interstate operator and are unsure which council to contact, refer to the additional information at the end of this flyer.)

If you already have a Food Act registration for a warehouse at which you store food that is sold from your food vending machines, you can ask your council to combine these registrations. In future, this will mean that you will only have one registration renewal process and one registration certificate.

What Food Act class are my vending machines?

Councils are responsible for classifying every food premises, including vending machines. There are four classes – from highest risk (class 1) to lowest risk (class 4). Vending machines fall into either:

- class 2 – **unpackaged** high risk food;
- class 3 – **pre-packaged** high risk foods such as sandwiches, or **unpackaged** low risk food (such as tea and coffee), or
- class 4 – **pre-packaged** low risk foods such as chips, confectionery, milk in sealed cartons, and bottled water or soft drinks.

Pre-packaged food is food that has been sealed within a package. It is packaged before it is placed in the vending machine, and remains in that package whilst in the machine. After the food is sold and is received by the customer, the food has to be removed from the packaging to be consumed.

² For example, if another food business does this for you, and you pay them to stock the machines.

Pre-packaged food has a lower classification under the Food Act because the packaging protects food from contamination from physical, chemical and biological hazards.

Your principal council will advise you of the classification of the machines.

Based on their higher food safety risks, the Food Act requires class 2 and 3 food vending machines to have a current registration with council.

Class 2 or class 3 food vending machine operators pay a single annual registration fee which is set by their principal council. Council can also advise you about what records you may need to keep.

Given the lower food safety risks involved, **class 4** vending machine operators need only inform their principal council of the number of vending machines by completing a simple notification form.

This is required once only, not annually. **Class 4 vending machine operators do not need to register annually or pay a fee.**

If some of your machines are class 2 or 3, whilst others are class 4 because they only sell pre-packaged low risk food, you can provide the required information about **all** your machines in one form to your principal council.

Lodging statements of trade – class 2 and 3

Given that unpackaged food can be sold from class 2 or class 3 vending machines, operators must lodge Food Act statements of trade (SOTs) with each council in whose district these vending machines will be operating.

A copy of your SOTs must also be given to your principal council so that it understands the extent of your operations, and can answer any questions asked by other councils about your class 2 or class 3 registered machines.

Your SOTs **do not** need to be approved. However, councils may ask you to produce your Food Act registration certificate (class 2 or 3).

Due to the lower food safety risks involved, **you do not need to lodge a SOT for class 4 vending machines.**

What information is included in a statement of trade?

Your SOTs tell councils where you will be operating class 2 or 3 vending machines in their localities so that the safety of food sold from those machines can be checked, should the need arise.

If you know your planned trading schedule for a period of time, you can list it in the one statement of trade form. The schedule may cover a month, 3 months, or a year, as you choose. The same statement must then be lodged with all districts in which you intend to operate in that period. You do not need to complete separate forms for different councils.

When do you have to start lodging statements of trade?

You should commence lodging SOTs for your class 2 or class 3 machines **after** your principal council issues your registration certificate.

Please note that once registered, you risk a fine if you fail to lodge a SOT in the required time.

For those businesses that are obtaining registration during the initial changeover phase to the new state-wide system, this is within 5 days of receiving your registration certificate. If you relocate your machines after this is done, or register more machines, you must lodge any subsequent SOTs with a council at least 5 days before you commence operating the machines in that district.

When the class 2 or 3 machines are registered, your principal council can give you a copy of the Food Act statement of trade form for vending machines, or you can download it at www.health.vic.gov.au/foodsafety.

What information do I need to provide to register or notify?

The first time you complete the state-wide registration or notification form, you need to answer questions about the food handling activities you plan to carry out.

This is so your principal council has enough information to determine your food premises classification and what food safety requirements apply to your vending machines.

Unless you plan to alter the type of food you sell to include higher-risk activities, you will not need to give council this information again. For class 2s and 3s, this means that renewing your registration in future years will be much quicker as the information you have already provided will be on file.

What about council inspections?

Councils can inspect your food vending machines at any time – for a spot check to make sure that food is safe, or if any complaints are received.

Results of all inspections can be made known to other councils in whose districts you operate machines, including your principal council. This is so that any compliance issues can be followed up.

Planning to change the type of food you sell?

Your vending machine classification depends on the food safety risks involved in the type of foods sold.

High-risk food means food that is potentially hazardous – that is food that has to be kept at certain temperatures to minimise the growth of any harmful bacteria that may be present in the food.

For example, selling pre-packaged foods such as bottled water (class 4), is less risky than selling packaged sandwiches which need refrigeration (class 3).

For more details refer to the *Food business classification tool* on the Department of Health website at <http://www.health.vic.gov.au/foodsafety>.

If you plan to alter the type of food you sell to include higher risk activities (such as sandwiches), you must inform your principal council as this may change your food vending machine classification and the other requirements that apply to your activities under the Act.

Online will save time

In future, you will be able to register or notify council, renew your registration, and lodge your statements of trade online.

What happens if class 2 or 3 machines are not registered after the phase in period?

Proprietors of food businesses operating food vending machines have until 1 October 2011 to apply for registration. The aim is to have all such machines registered under the Act as soon as possible after that date.

If an application is not made to the principal council by 1 October, councils will be able to take action under the Food Act. It is therefore important that you contact your principal council, and – if unusual circumstances apply and you need more time to provide any of the information in the application form – that this is discussed with the principal council.

Any class 2 or class 3 machines which continue to operate if they have applied for registration and been formally advised by a council that their

registration is refused will be operating unlawfully. Councils will be able to take action under the Food Act in such cases, which may include a warning, issuing an infringement notice, or in serious cases, commencing a prosecution.

The Act also requires class 4 machines to be notified, and action can be taken by council if this is not undertaken by 1 October 2011. Contact your principal council if – due to special circumstances – you need more time to provide the required information.

For more help contact...

Local council health units

Your council environmental health officer of your principal council is your best source of advice.

Check the Yellow Pages for council contact details or go to www.dpcd.vic.gov.au.

Interstate businesses selling food from vending machines in Victoria

If your business:

- does not itself store the food in Victoria that is sold in the machines in Victoria (perhaps because you pay someone else who warehouses food to stock the machines), and

• does not have a Victorian business address – the Act provides that your principal council will be the first council district in which you operate your machines.

If you currently operate machines that are not registered or notified under the Act, during the changeover period you will need to nominate a council in whose district you expect to have machines operating at the time when you apply for registration or lodge your notification form. This council is the principal council that you should apply to.

If you need to discuss this further, please contact the Department of Health.

Department of Health

www.health.vic.gov.au/foodsafety
email foodsafety@health.vic.gov.au
phone 1300 364 352

dofoodsafely is a free online food handler learning program – <http://dofoodsafely.health.vic.gov.au>

July 2011

Authorised by the State Government of Victoria, 50 Lonsdale Street, Melbourne.