

Food safety in non-profit organisations

Food Act 2006

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For more information contact:

Food Safety Standards and Regulation, Department of Health, GPO Box 48, Brisbane QLD 4001, email foodsafety@health.qld.gov.au, phone 3328 9310.

An electronic version of this document is available at www.health.qld.gov.au

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Summary

Non-profit organisations have exemptions from licencing under the *Food Act 2006* (the Act) for certain activities. However, non-profit organisations have an obligation to comply with all other provisions of the Act so that food provided is safe and suitable for human consumption.

This document provides non-profit organisations supplying food as a fundraising activity with guidance on the requirements under the Act. Information contained in this document includes an overview of exemptions under the Act, food safety requirements, activities that have an exemption from licensing and activities that are licensable by local government.

1. Food safety legislation

The Act is the primary food safety legislation in Queensland and applies to all Queensland food businesses. The objectives of the Act are to ensure food for sale is safe and suitable for human consumption, to prevent misleading conduct in relation to the sale of food and to apply the *Australia New Zealand Food Standards Code* (the Code). The Act manages food safety according to the level of risk that the food business presents to the community. Enforcement of the Act is a joint responsibility of Queensland Health and local government.

The Code includes requirements for the labelling and composition of food. The Code also includes the *Food Safety Standards*, which have requirements for food safety practices and structural requirements for food premises.

2. Defining a non-profit organisation

A non-profit organisation distributes all of the money raised to a charitable, cultural, educational, political, social welfare, sporting or recreational purpose and does not provide a benefit for any individual member or person.

A person may work for a non-profit organisation and recover any personal costs or costs of fundraising. No individual person undertaking the activity should receive any personal benefit, gain or profit.

Any organisation that wishes to publicly raise funds for a charitable or a community purpose in Queensland is also governed by the *Collections Act 1966*.

3. Handling food in the home and donating it to a non-profit organisation

Where the food is intended to be given away to a non-profit organisation, the handling of food at a person's home is exempt from the Act. This includes an exemption from structural requirements, licensing, inspection, enforcement, penalty and compliance provisions under the Act. The person preparing food in the home however does have a duty of care under the common law system to exercise due diligence to ensure that only safe and suitable food is provided.

It is recommended that the non-profit organisation ensures that the person preparing the food in the home has suitable skills and knowledge of the safe handling of food. It is further recommended that if the person is preparing potentially hazardous food in the home that consideration is given to the quantity of food that can be safely produced and transported to the non-profit organisation.

Examples

Baking a cake at home to give to a junior football club committee for sale by the committee at a fundraising event.

Preparing a meat dish in the home to give to the cultural festival to raise funds for the community hall, such as NAIDOC Day, Panayiri or the Maltese Festival.

4. Non-profit organisations' food safety requirements

Most non-profit fundraising activities involving the sale of food are exempt from licensing under the Act. However, all on-profit organisations are still required to ensure that all food is safe and suitable for human consumption.

Example

To comply with the *Food Safety Standards*, a non-profit organisation must check that food supplied from a person's home is received under temperature control, if required, and the food is protected from contamination. Note: while a non-profit organisation may be exempt from obtaining a food business licence non-profit organisations are not exempt from other requirements under the Act.

The non-profit organisation has an obligation to ensure that all persons undertaking food handling operations have appropriate skills and knowledge required to produce safe and suitable food. This means that the food handler has the ability to perform those tasks that are necessary to ensure the safety of the food being handled. The non-profit organisation is exempt from this requirement if the food sold is not potentially hazardous (e.g. biscuits, cakes without cream, jams) or the food is consumed immediately after thorough cooking (e.g. sausage on bread).

Example

A person handling a meat dish at a multicultural festival must know the correct storage temperature to ensure the microbiological safety of the food and have knowledge of potential sources of contamination for the cooked product.

There are a variety of options that a non-profit organisation may take to ensure that the food handlers have adequate skills and knowledge which may include:

- in-house and external training organisations offering food safety training
- online food safety training
- attendance at food safety courses run by local governments or other bodies such as industry associations
- developing operating procedures that clearly outline the responsibilities of food handlers
- distribution of relevant documentation to food handlers, such as fact sheets.

It is recommended that local governments implement a system of administration for non-profit organisations that are not required to obtain a food business licence. This will allow the local government to:

- develop and maintain a register of non-profit organisations providing food

- contact the non-profit organisation in a case of an incident regarding food, for example, a food recall or foodborne illness outbreak
- communicate updates and changes to legislation and compliance requirements
- determine the risk classification of each food business
- undertake inspections to monitor for compliance under the Act.

5. Non-profit activities not required to hold a food business licence

5.1 The sale of unpackaged food

A non-profit organisation selling unpackaged food does not require a food business licence. A food business licence is required however if the non-profit organisation sells meals on at least 12 days every financial year.

Example

A sausage sizzle (sausage on bread) or a cake stall.
Example events: Community fundraisers, school fetes, fairs and other activities to raise funds.

5.2 The sale of pre-prepared meals

The non-profit organisation is exempt from having to obtain a food business licence if the meals are pre-prepared by another entity and are stored and heated or otherwise prepared by the non-profit organisation in accordance with directions of the meals manufacturer.

Examples

Serving a frozen meal, after the meal is microwaved in accordance with the instructions on the meal's packaging.
A van serving soup prepared using packet soup mix.

5.3 The sale of low-risk food

If the non-profit organisation sells food such as fruit, toast, cereal or food that is not potentially hazardous such as tea, coffee, soft drinks, biscuits, cakes, confectionary or nuts the organisation is exempt from having to obtain a food business licence.

Example

A non-profit organisation that provides outside school hours care provides children with breakfast that includes toast and cereal.

5.4 The sale of food where the consumer helps prepare it

The non-profit organisation is exempt from having to obtain a food business licence if the consumer assists in the preparation of the food.

Example

Care providers in relief accommodation assist clients accessing the service to prepare food and drink.

5.5 The sale of food as part of a training activity

A non-profit organisation that sells food as part of an educational activity or training activity conducted by the organisation involving food preparation, hospitality or catering is exempt from having to obtain a food business licence.

Example

A non-profit organisation runs a cooking course for disadvantaged youth. At the end of the course the cooking students cater for 60 guests to raise money for the organisation.

6. Non-profit activities required to hold a licence from local government

Non-profit organisations that sell meals on at least 12 days each financial year will be required to hold a food business licence from the local government. A meal is defined as food that is intended to be consumed sitting down with cutlery at a table or other fixed structure and is of adequate substance as to be ordinarily accepted as a meal.

Example

A sporting club operates a licensed restaurant to raise revenue for the club.

Example

The following examples are considered to be a meal:

- roast meat with vegetables
- spaghetti bolognaise
- soup served in a bowl
- bacon and eggs

The following examples are not considered to be a meal:

- hamburger and hot chips
- hot dog
- pie and peas
- soup served in a cup
- bacon and egg muffin

A non-profit organisation that holds a food business licence is required to have a trained food safety supervisor. Name and contact details of the food safety supervisor must be given to the local government that issued the licence.

6.1 The sale of food from a licensed non-profit organisation that conducts catering

Non-profit organisations with a food business licence must have a food safety program accredited by their local government if:

- the food business involves off-site catering
- the primary activity of the food business is on-site catering at the premises stated in the licence
- the primary activity of the food business is on-site catering at part of the premises stated in the licence.

Example

A sporting club operates a licensed restaurant to raise revenue for the club but also has a dedicated function room to cater for wedding receptions.

6.2 Licencing fees

Local governments are able to set their own fees and charges for licencing. For circumstances where a non-profit organisation is required to obtain a licence, the local government may choose to either waive the licencing fee or charge a reduced licencing fee.

For further information on licencing fees, refer to the guideline 'Fees charged by local government'.

7. Frequently asked questions

Question - A major retail store (not involved in the sale of food) permits various non-profit organisations to operate a food stall on their premises on weekends. Each weekend, a different non-profit organisation uses the site. The food is sold to the public and is a sausage sizzle, consisting of sausages cooked and served directly off the BBQ - bread, onions, sauces and cans of drink. Is this a licensable activity and if so, who should be licensed- the non-profit organisation/s or the major retail store?

Answer – This is not a licensable activity. Explanations are provided in the following scenarios:

1. In some cases, the retail store maintains and provides the equipment used for the storage and preparation of the food e.g. eskies, BBQ, cooking utensils. The retail store is not considered to be a food business as their activities do not include handling or sale of food.

2. If the retail store buys the food to be sold and provides it to the non-profit organisation, either for a fee or not, the retail store is considered to be a food business. However the food business is not licensable under section 48(1) of the Act.
3. If the non-profit organisation prepares and sells the food, it is considered to be a food business. However, the business is not considered to be licensable under section 48(1) of the Act as a sausage sizzle does not meet the definition of 'meal' as defined in schedule 3 of the Act.

Question – The definition of a licensable food business includes a business carried on by a non-profit organisation and involves the sale of meals on at least 12 days each financial year. Does this definition include those non-profit organisations that might provide meals at various locations in a local government area? For example, a service club that provides sit down meals at 12 or more various community events at different locations; operating from a different community hall/ kitchen/ temporary facility each time?

Answer – This is not a licensable activity. Given that the non-profit organisation is preparing the meals at different locations, it does not meet the requirements of section 48(1)(c) of the Act. As such, this operation would not be licensable.

Materials to support this guideline

Queensland Health has developed several resources to assist individuals and non-profit organisations understand the requirements under the Code including the *Food Safety Standards*. These resources are located at www.health.qld.gov.au.

Appendix 1

A guide to licensing a non-profit organisation

Circumstances	Requirement	Action required
Food is handled in a private home and intended to be given to a non-profit organisation	→ Exempt from the <i>Food Act 2006</i>	→ Awareness of the <i>Food Safety Standards</i> is recommended
The food is: <ul style="list-style-type: none"> • unpackaged food • a pre-prepared meal • a low risk food • partly prepared by the consumer as part of a training activity • a sit down meal conducted less than 12 times/year. 	→ Non-profit organisation does not require a licence	→ <ul style="list-style-type: none"> • Must comply with certain provisions of the <i>Food Act 2006</i>
The food is a sit down meal conducted at least 12 times/year	→ Non-profit organisation requires a licence and a food safety supervisor	→ <ul style="list-style-type: none"> • Must comply with the <i>Food Act 2006</i> • Obtain a licence from the local government • Have a food safety supervisor
The food is a sit down meal conducted at least 12 times/year and the organisation conducts catering	→ Non-profit organisation requires a licence, food safety supervisor and food safety program	→ <ul style="list-style-type: none"> • Must comply with the <i>Food Act 2006</i> • Obtain a licence from the local government • Have a food safety supervisor • Have a food safety program accredited by the local government

Glossary

Australia New Zealand Food Standards Code (the Code)	<p>The Code is a national standard that is adopted by all Australian States and Territories (and New Zealand) into their own food legislation and covers standards for food safety and hygiene, fit-out of food premises and the labelling, composition and advertising of food.</p> <p>Available from Food Standards Australia New Zealand – www.foodstandards.gov.au/code</p>
Food Act 2006 (Queensland) (the Act)	<p>Primary food safety legislation in Queensland and applies to all Queensland food businesses.</p> <p>Available from the Office of the Queensland Parliamentary Counsel - www.legislation.qld.gov.au</p>
Food business	<p>Means a business, enterprise or activity that involves the handling of food intended for sale or the sale of food regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature and whether it involves the handling or sale of food on one occasion only.</p>
Food safety program	<p>Means a documented program that identifies and controls food safety hazards in the handling of food in a food business.</p>
Food safety supervisor	<p>For a food business, means a person who–</p> <ul style="list-style-type: none"> • knows how to recognise, prevent and alleviate food safety hazards of the food business; and • has the skills and knowledge in matters relating to food safety to persons who handle food in the food business.
Food Safety Standards	<p>Means the standards contained in chapter 3 of the <i>Australia New Zealand Food Standards Code</i>.</p>
Low risk food	<p>Means food that is unlikely to contain pathogenic micro-organisms and will not normally support their growth due to food characteristics. For example, grains, cereals, carbonated beverages, jams, dried fruits, and whole fruit or vegetables (which are not subject to any further processing).</p>
Meal	<p>Means food that–</p> <ul style="list-style-type: none"> • is, or is intended to be, eaten by a person sitting at a table, or a fixed structure used as a table, with cutlery; and • is of adequate substance as to be ordinarily accepted as a meal.
On-site catering	<p>In relation to food a food business, means preparing and serving potentially hazardous food, to all consumers of the food at a premises from which the business is carried on, under an agreement under which the food is–</p> <ul style="list-style-type: none"> • of a predetermined type; and • for a predetermined number of persons; and • served at a predetermined time; and • for a predetermined cost.
Off-site catering	<p>In relation to a food business, means serving potentially hazardous food at a place other than the principal place of business for the food business.</p>
Pathogenic micro-organisms	<p>Means any bacteria, viruses, yeast or moulds that are capable of causing disease.</p>

<p>Potentially hazardous food</p>	<p>Means food that has to be kept at certain temperatures to minimise the growth of any pathogenic micro-organisms that may be present in the food or to prevent the formation of toxins in the food.</p> <p>This includes:</p> <ul style="list-style-type: none"> • raw and cooked meat (including poultry and game) or foods containing raw or cooked meat such as casseroles, curries and lasagne • smallgoods such as Strasbourg, ham and chicken loaf • dairy products • seafood (excluding live seafood) including seafood salad, patties, fish balls, stews containing seafood and fish stock; • processed fruits and vegetables such as fruit salads, fruit juices • cooked rice and pasta • foods containing eggs, beans, or other protein-rich foods such as quiche, fresh pasta and soy bean products • foods such as sandwiches, rolls and cooked and uncooked pizza that contain the foods listed above.
<p>Unpackaged food</p>	<p>Means all food, other than food that is sealed in a package at a place other than the food business that sells it by retail in that package.</p>

