

5.3 Food Act (2006) Compliance Policy

Under the Food Act (2006), certain food businesses must be licensed by the local government where the food business is located. Outside school hours care (OSHC) providers that supply food (regardless of whether the food is included in an overall fee or charged separately) are considered to be a food business and may be required to hold a licence.



Relevant Laws and other Provisions

The laws and other provisions affecting this policy include:

- Education and Care Services National Law Act, 2010 and Regulations 2011
- Food Act 2006
- Food Regulation 2016
- Local Government Authority
- Australian and New Zealand Food Standards – chapter 3 Food Safety Standards (Australia only)
- National Quality Standard, Quality Area 2 – Children's health and safety; Quality Area 7 – Governance and leadership
- Policies: 4.3 – Hygiene, 5.1 – Food Handling and Storage, 5.2 – Food and Nutrition



Procedures

These procedures have been developed to reflect Qld Health **Error! No text of specified style in document.** – August 2015 (https://www.health.qld.gov.au/_data/assets/pdf_file/0028/1156465/non-profit-guideline.pdf)

OSHC operated by the State or a government owned corporation

The Act does not bind the State or a government owned corporation, which means that these OSHC providers do not require a licence under the Act. However, requirements consistent with the Act still apply.

OSHC operated by non-profit organisations

Under the Act, a non-profit organisation is defined as an organisation that is not carried on for the profit or gain of its individual members, and is engaged in activities for a charitable, cultural, educational, political, social welfare, sporting or recreational purpose.

Licensable

A non-profit organisation that involves the sale, on at least 12 days each financial year, of meals prepared by the organisation at a particular place is a licensable food business.

A meal means food that 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. It is important to note that even if the food business does not provide tables and chairs, the food served may still be considered a meal. Food that is *ordinarily* accepted to be eaten with cutlery at a table constitutes a meal.

Not licensable

A non-profit organisation is not a licensable food business if:

- The meals consist only of fruit, cereal, toast, or similar food;
- The meals are prepared as part of an educational or training activity conducted by the organisation involving food preparation, hospitality or catering;
- The meals are pre-prepared by an entity other than the non-profit organisation and are stored and heated or otherwise prepared by the organisation in accordance with directions of the meal's manufacturer; and/or
- It provides only:
 - whole fruit or vegetables;
 - drinks such as cordial, milk or juice;
 - chips, nuts or dried fruit; or
 - biscuits, slices or cakes that are not potentially hazardous (i.e. they do not contain fresh custard or cream and are shelf stable e.g. carrot cake, Anzac biscuits, blueberry muffins).

OSHC operated by a private business

Under the Act, an entity other than a non-profit organisation that sells unpackaged food by retail is a licensable food business. Retail means selling directly to the consumer (the parents/students). This means that OSHC operated by a private business that supplies unpackaged food requires a licence (regardless of whether the food is included in an overall fee or charged separately).

However, a private business providing food as part of OSHC is not a licensable food business if it provides only: whole fruit or vegetables; drinks such as cordial, milk, Milo or juice; chips, nuts or dried fruit; or biscuits, slices or cakes that are not potentially hazardous (i.e. they do not contain fresh custard or cream and are shelf stable e.g. carrot cake, Anzac biscuits, blueberry muffins).

The remaining three exemptions that apply to non-profit organisations (listed in the previous section) do not apply to privately run food businesses.

When finalising a menu, OSHC providers should also consider any healthy eating or similar requirements that may apply to their operations.

The Coordinator (or other appropriately delegated senior educator) shall develop and implement a food safety program to comply with the Act as per policy 5.4 Food Safety Program.

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August 2015	24 August 2018	19 November 2018	
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