This fact sheet provides general information on licensing requirements for outside school hours care (OSHC) providers under the Food Act 2006 (the Act).

Do I need a licence?

Under the Act, certain food businesses must be licensed by the local government where the food business is located. 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.

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 and you should contact your relevant state department for further information.

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. Non-profit organisations may include parents and citizens associations, church groups or aid organisations.

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
- 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).

When finalising a menu, OSHC providers should also consider any healthy eating or similar requirements that may apply to their operations.
Examples:
A non-profit OSHC provider regularly offers eggs on toast as a breakfast option.

A licence is required as this is considered a meal served on more than 12 occasions per year.

A non-profit OSHC provider offers only cereal and fruit for breakfast, and sandwiches, fruit muffins, cheese and crackers for afternoon tea.

No licence is required as sandwiches are not considered a meal and the other foods meet the exemptions.

A non-profit OSHC provider offers stir fried noodles or fried rice for afternoon tea during the cooler months of the year (around 20 occasions). The food is served in a bowl with a fork and the children eat with the bowl on their lap.

A licence is required as they are serving a meal on more than 12 occasions per year at a particular place.

A non-profit OSHC provider purchases ready made frozen meals such as lasagne from a commercial supplier and reheats the meals in accordance with the manufacturer’s instructions. The meals are offered for afternoon tea and no breakfast is provided.

No licence is required as this activity meets the exemption.

A non-profit OSHC provider prepares and serves meat and salads (a meal) at a barbecue held at the end of each term (four times per year). No other meals are provided throughout the year.

No licence is required as they are not providing meals 12 times or more a year.

A non-profit OSHC provider runs an extra-curricular home economics educational program once a week where older students prepare a meal (e.g. risotto) for consumption by the students. No other meals are provided throughout the year.

No licence is required as this activity meets the exemption.

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.

Examples:
A private OSHC provider offers eggs on toast, cereal and fruit for breakfast and fruit, cheese and crackers for afternoon tea.

A licence is required.

A private OSHC provider offers only whole fruit, fruit muffins, milk and Milo for afternoon tea and no breakfast is provided.

No licence is required.

A private OSHC provider offers cut fruit and vegetables, cereal, toast and muffins for breakfast.

A licence is required.
What do I need to do if I don’t require a licence?

It is important to note that even though some OSHC providers do not require a food business licence, they are still required to comply with the Act and the food safety standards in chapter 3 of the Australia New Zealand Food Standards Code. Non-licensable OSHC providers may still be inspected by their local government, and are subject to the same offences and enforcement actions as licensable food businesses.

A State or government owned corporation providing OSHC should contact their relevant state department for advice on their food safety obligations.

Do I need a food safety supervisor?

Under the Act, all licensable food businesses are required to have at least one food safety supervisor. For further information on food safety supervisors, see Food Safety Fact Sheet 18 – Food safety supervisors located at www.health.qld.gov.au/foodsafety.

Do I need a food safety program?

Under the Act, certain licensable food businesses must have a food safety program accredited by their local government. There are significant penalties for not having an accredited food safety program.

Generally, OSHC providers are not required to have an accredited food safety program. The Food Regulation 2006 excludes a school aged care service under the Child Care Act 2002, or an education and care service under the Education and Care Services National Law (Queensland) providing education and care primarily to children who attend school in the preparatory year or a higher year from food safety program requirements.

For further information on food safety programs and food businesses required to have accredited programs, see Food Safety Fact Sheet 23 – Food safety programs for vulnerable persons located at www.health.qld.gov.au/foodsafety.

For further information

A State or government owned corporation providing OSHC should contact their relevant state department for advice on their food safety obligations.

The Department of Health has a variety of fact sheets with detailed information on food safety. Fact sheets can be accessed at www.health.qld.gov.au/foodsafety.

If you have any further questions relating to whether an OSHC provider is a licensable food business or if the food safety program provisions apply, contact the local government for the area where the OSHC provider is located. Contact details can be found in the White Pages or at www.dlgp.qld.gov.au/local-government-directory.