Licensing requirements for child care

This fact sheet provides general information on licensing requirements for child care 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. Child care 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.

**Child care 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 child care 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.

**Parents providing food**

The Act does not apply to food that is provided by the parents of children in a child care centre. If all of the food is provided by the parents of children in care, a licence is not required, even if the child care provider heats or portions the food. However, child care providers should ensure that they store and handle food safely. If any food is provided by the child care provider itself, the requirements outlined below will apply.

**Family day care**

The definition of ‘sell’ in the Act does not include preparing food at a private residence and supplying it at the residence for a fee (including if it is part of an overall fee). This means that food handling in a private residence, such as in association with a home based service under the *Child Care Act 2002* or a family day care service under the *Education and Care Services National Law (Queensland)*, does not meet the definition of ‘sell’ and is exempt from the requirements of the Act.

Food prepared at a location different from the private residence where care is provided, by persons other than the parents of the children in care, may not be exempt and further clarification should be sought from the local government.

**Child care centres 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.
Food Safety

Fact Sheet

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, 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).

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

Examples:
A non-profit child care provider regularly offers tuna bake for lunch.

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

A non-profit child care provider offers only cereal and fruit for breakfast, sandwiches for lunch, and, 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 child care provider offers stir fried noodles or fried rice for lunch 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

A non-profit child care 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 lunch and only fruit, cheese and crackers are provided for morning and afternoon teas.

No licence is required as this activity meets the exemption

A non-profit child care 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 child care 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

Child care 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/children). This means that child care 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 child care 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.

Page 2
Examples:
A private child care provider offers eggs on toast, cereal and fruit for breakfast, sandwiches for lunch, and fruit, cheese and crackers for afternoon tea.
   A licence is required
A private child care provider purchases ready made frozen meals such as lasagne from a commercial supplier or caterer and reheats the meals in accordance with the manufacturer’s instructions prior to serving the food.
   A licence is required
A private child care provider offers cut fruit and vegetables, cereal, toast and muffins for breakfast.
   A licence is required
A private child care provider offers only whole fruit, fruit muffins, milk and juice for morning and afternoon tea and the children bring their own lunch.
   No 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 child care 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 child care 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 child care 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?
A child care provider that processes or serves potentially hazardous food for at least six persons in its care at a time must have an accredited food safety program.

Exemptions apply for school age care services under the Child Care Act 2002, family day care services and education and care services 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.

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
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 a child care provider is a licensable food business or if the food safety program provisions apply, contact the local government for the area where the child care provider is located. Contact details can be found in the White Pages or at www.dlgp.qld.gov.au/local-government-directory.