



**Food Safety in**

**Queensland**

An application package and  
guide for the licensing of  
Mobile Food Premises under  
the *Food Act 2006*

1st Edition July 2006

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## Introduction

This package assists food businesses with making application for a licence under the *Food Act 2006*. It has been specifically tailored to meet the needs of mobile food premises. Similar packages have been developed to assist food businesses operating from fixed or temporary premises.

This package relates to both applications for new mobile food premises and for existing mobile premises undertaking alterations, re-fit or refurbishment.

## Queensland's food legislation

Queensland's food legislation aims to ensure consumers are provided with safe food whilst allowing for a flexible approach for food businesses to meet food safety requirements.

Food legislation in Queensland includes:

- ▶ *Food Act 2006* (the 'Act')
- ▶ *Food Standards Code* (the 'Code'), which includes the following Food Safety Standards:
  - Standard 3.1.1 Interpretation and Application
  - Standard 3.2.2 Food Safety Practices and General Requirements
  - Standard 3.2.3 Food Premises and Equipment.

Safe Food Australia, A Guide to the Food Safety Standards (interpretation of the Food Safety Standards) may also provide guidance in the interpretation of the legislation.

Details of where to obtain copies of these documents, and others relevant to food safety, are provided in the *Further information and assistance* section of this package.

### ***Who enforces the food legislation?***

Queensland Health and Local Government both have responsibilities under the *Food Act 2006* for the administration, monitoring and enforcement of food safety legislation.

Environmental health officers from both Queensland Health and Local Government are generally appointed as authorised persons and undertake the administration monitoring and enforcement of food safety legislation.

Local governments are responsible for licensing and inspecting food businesses operating within their area.

Queensland Health is responsible for ensuring compliance with the labelling and composition requirements under the Food Standards Code and coordinating the investigation of food-borne illness outbreaks.

### ***Food labelling***

For information on the labelling requirements for food, follow the link to *Label Buster Guide* under *Further information and assistance* section of this package. *Label Buster* was written as an easy to follow guide to food labelling as required under the Food Standards Code.

### ***Powers of authorised persons***

Queensland Health and Local Government authorised persons have the power to:

- ▶ enter a food business for an inspection
- ▶ search any part of a food business
- ▶ inspect, measure, test, photograph or film any part of the place
- ▶ take samples

- ▶ copy a document
- ▶ bring any equipment and materials that are required with them
- ▶ require a person to help them
- ▶ question staff
- ▶ stop motor vehicles used as food businesses
- ▶ seize evidence
- ▶ destroy seized items
- ▶ require name and address
- ▶ require production of documents
- ▶ require information.

All authorised persons are required to carry photographic identification which includes the legislation under which they are authorised. You are entitled to ask an authorised officer to show you their identification.

Authorised persons work in a collaborative manner with the food industry to educate and assist food handlers in how to comply with food safety legislation and produce safe and suitable food. However, it is important to understand the *Food Act 2006* does allow for enforcement action to be taken, with significant penalties of up to \$102 500 or two years imprisonment for the most serious of breaches.

## What is a licensable food business?

A *licensable food business* is a food business that:

- ▶ involves the manufacture of food; or
- ▶ is carried on by an entity other than a non-profit organisation and involves the sale of unpackaged food by retail; or
- ▶ is carried on by a non-profit organisation and involves the sale of meals on at least 12 days each financial year.

### *Examples of licensable food businesses*

The following industry sectors are examples of licensable food businesses.

#### **Food manufacturers:**

- ▶ manufactures of food products.

#### **Sale of unpackaged food by retail, including but not limited to:**

- ▶ a restaurant or delicatessen
- ▶ a catering business
- ▶ a takeaway food shop, such as a pizza shop
- ▶ a motel providing meals with accommodation
- ▶ a food business that involves selling food, such as hamburgers, from a motor vehicle or unpackaged food from a vending machine
- ▶ private hospital
- ▶ private school tuckshop
- ▶ temporary food stalls.

#### **Non-profit organisations that sell meals on at least 12 days each financial year, including but not limited to:**

- ▶ a restaurant, open daily to the public, operated by a sporting club to raise revenue for the club
- ▶ the provision of meals for a fee to homeless persons at a homeless persons' hostel
- ▶ the preparation of meals by Meals on Wheels.

The following food businesses may also be a licensable food business:

- ▶ child care centres/services
- ▶ private residential facilities
- ▶ food vans, itinerant vendors
- ▶ bed and breakfasts.

### Mobile food premises

A mobile food premises is a vehicle from which unpackaged food is sold. This includes:

- ▶ vehicles located in a set place to undertake roadside vending, such as pie vans
- ▶ transient vehicles hailed down, such as ice-cream trucks
- ▶ vehicles, including caravans, located at shows, markets or similar events and used for the preparation and/or sale of unpackaged food.

## Activities exempt from the application of the Act

The following food activities are exempt from the application of the *Food Act 2006*:

- ▶ State or government owned corporations
- ▶ the handling or sale of food at a tuckshop operated by a parents and citizens association<sup>1</sup> at a state school<sup>2</sup>
- ▶ the handling of food, at a person's home, intended to be given away to a non-profit organisation for sale by the organisation.

### Example

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

These activities do not require a licence and are exempt from all requirements under the Act and are not subject to enforcement provisions or inspections. However, Queensland Government facilities operating as a food business will be required to comply with administrative arrangements equivalent to the provisions of the *Food Act 2006*. This will be monitored by Queensland Health. If the food business in a Queensland Government facility is sub-leased by a private commercial entity, then a licence under the Act is required.

### Example

A food business sub-leased by a commercial entity at a railway station would require a licence and should consult with the relevant Local Government for the area regarding the suitability of the premises.

If that food business was run by the State or a government owned corporation, then a licence would not be required, but the obligations imposed on other food businesses would still have to be met. The food business should consult with the relevant population health unit regarding the suitability of the premises.

## Which food businesses do not require a licence?

Certain food businesses are exempt from licensing requirements. These include:

- ▶ the production of primary produce under an accreditation granted under the *Food Production (Safety) Act 2000* – including meat, dairy, seafood and egg schemes

<sup>1</sup> A parents and citizens association formed under the *Education (General Provisions) Act 1989*

<sup>2</sup> *Education (General Provisions) Act 1989*, section 2 – State school means a school at which primary, secondary or special education is provided by the State.

- ▶ the handling or sale of fisheries resources under a buyer licence issued under the *Fisheries Regulation 1995*, except where the seafood is cooked or sold by retail
- ▶ the sale of unpackaged snack food, such as biscuits, cakes, confectionary, nuts and potato chips that are not potentially hazardous food
- ▶ the sale of whole fruit or vegetables
- ▶ the sale of seeds, spices, dried or glazed fruit, dried herbs, tea leaves, coffee beans or ground coffee
- ▶ the grinding of coffee beans
- ▶ the sale of drinks (other than fruit or vegetable juice processed at the place of sale) including, for example, tea, coffee, soft drinks and alcohol
- ▶ the sale of ice, including flavoured ice, such as slurpees and snow cones or bags of party ice
- ▶ the provision of meals by a non-profit organisation that are prepared by someone other than the organisation and are stored and heated or otherwise prepared by the organisation in accordance with the directions of the meal's manufacturer

## Example

The sale of a frozen meal that has been reheated at a canteen of a private school.

- ▶ the sale of food, by a non-profit organisation, that is prepared as part of an educational or training activity conducted by the organisation involving food preparation, hospitality or catering.

While these food businesses are exempt from the licensing requirements and associated provisions, such as food safety supervisors and food safety programs, they are still required to comply with all other aspects of the *Food Act 2006* and the Food Standards Code, including the Food Safety Standards. These food businesses may be inspected, if needed, and are subject to the same offences and enforcement methods as licensed food businesses.

If you are unsure if your food business is required to be licensed, contact your Local Government to discuss any requirements that may apply to you.

### *Food safety supervisors*

From 1 July 2007, a licensee must ensure they have a food safety supervisor for the food business under the licence. The licensee may be the food safety supervisor and may have more than one food safety supervisor for the food business. The licensee must ensure the food safety supervisor is reasonably available to be contacted by the Local Government while the food business is open for business.

The licensee must advise the Local Government of the contact details of each food safety supervisor for the food business within 30 days after the licence is issued.

If the food safety supervisor for the food business changes the licensee must advise the Local Government of the contact details of the new food safety supervisor within 14 days of the change. The licensee must also advise Local Government of a person ceasing to be a food safety supervisor within 14 days. Any changes to the food safety supervisor's contact details must also be provided within 14 days of the change.

### *Food safety programs*

Food safety programs are not currently required under the *Food Act 2006*. However, certain businesses will be required to develop and implement food safety programs from July 2007. Information will be distributed to food businesses prior to commencement of this requirement.

## What do I submit with my licence application?

In addition to the completed application form, you will need to provide plans and drawings of your mobile food business. For guidance on the appropriate design, construction, fit-out, fixtures and finishings used in your mobile food premises, refer to Safe Food Australia.

### *Plans and drawings*

Two copies of the following plans will be required for each application. Plans must be drawn to scale and provide an accurate representation of the layout of the food premises. One copy of the plans will be kept by Local Government on file and the other copy will be returned to you if your application is approved.

Hand drawn plans are acceptable as long as they meet the requirements outlined below, are legible and drawn to scale.

#### **Floor plan**

The floor plan should contain details of the layout of all the equipment, fixtures and fittings in a bird's eye view (looking down on the premises) drawn to scale of not less than 1:50 (1cm on the plan = 0.5m)

Sink details should be provided, including the type of sink (single bowl, double bowl, triple bowl, wash hand basin, or cleaner's sink), and the dimensions (or the size and depth of the sink). The floor plan should also indicate the type of materials and finishes used on equipment, fixtures, fittings, and floors, walls and ceiling (such as stainless steel or laminated work benches, walls and ceilings finished in a high gloss paint and ceramic tiled floor with epoxy grouting).

#### **Sectional elevations - (drawn to scale of not less than 1:50)**

Sectional elevations are a side-on view of the walls of the premises and should indicate the height of structures, benches, equipment and fixtures, including fixtures, fittings and equipment within cool rooms/freezer rooms (if applicable).

#### **Hydraulic plans - (drawn to scale of not less than 1:50)**

Hydraulic plans are plumbing and drainage plans that show how fresh and waste water are stored, along with details of connections used for filling and emptying storage areas.

#### **Mechanical exhaust ventilation plans - (drawn to scale of not less than 1:50)**

If a mechanical ventilation system is required, it must effectively remove all fumes, vapours, steam or smoke. A system installed in accordance with the Australian Standard AS 1668 part 2 would be deemed to comply with the requirements for mechanical ventilation.

### *Documented food recall system (if applicable)*

If your food business is a wholesaler or supplier, manufacturer or importer of food, you will need to attach a written food recall plan with the licence application. The *'Food Industry Recall Protocol: A guide to writing a food recall plan and conducting a food recall'* may assist you in preparing a food recall plan. See *Further information and assistance* section of this package for details.

### *Prescribed fees*

Fees and charges are set by Local Government. Contact them to determine the fees for your application.

## Application process

A mobile food premises is defined in the *Food Act 2006* as “premises that are a vehicle from which a person sells unpackaged food by retail.”

Mobile food premises are required to hold only one food licence to operate anywhere in Queensland. This licence must be issued by a Queensland Local Government in which you intend to operate your mobile food business. Ideally this should be the Local Government area where most of your business will be conducted as you will be required to make your vehicle available for inspection.

Mobile food businesses which hold a food licence issued by another State or Territory are required to also hold a food licence issued in Queensland under the *Food Act 2006*. This licence application must be made to the Local Government in the first locality where you operate.

Local government contact details can be found in the government section of your phone directory.

### *Step 1 – Pre-lodgement meeting*

Some Local Governments provide a pre-lodgement meeting to assist you in understanding the requirements of the legislation and the application process. Pre-lodgement meetings are valuable in making the application process run smoothly and you are encouraged to make use of this service if provided by your Local Government.

### *Step 2 – Complete the licence application form*

All sections of the *Food business licence application form* must be completed. The completed application form is then submitted to the Local Government along with all the relevant documentation (such as plans etc).

### *Step 3 – Assessment of the application*

#### **What will Local Government assess?**

Local government will assess the following in determining if a licence should be issued:

#### **Suitability of person to hold a licence**

The following criteria will be used to determine whether a person is a suitable person to hold a licence:

- ▶ experience to provide safe and suitable food under the licence and obtain the services of other persons with appropriate expertise or experience to provide safe and suitable food
- ▶ whether the applicant has a conviction for a relevant offence, other than a spent conviction
- ▶ whether the applicant has held a licence under the *Food Act 2006*, the *Food Act 1981* (or the previous Food Act) or a corresponding law
- ▶ anything else relevant to the applicant’s ability to sell safe and suitable food.

#### **Note**

If an applicant is a corporation or an incorporated association, the applicant must be an executive officer of the corporation or a member of the association’s management committee.

#### ▶ Suitability of premises

Food premises must comply with the Food Standards Code, Standard 3.2.3 – Food premises and equipment. For guidance on the appropriate design, construction, fit-out, fixtures and finishings used in your mobile food premises, refer to Safe Food Australia.

#### **How long does the assessment take?**

Generally, a decision will be made on your application within 30 days. However, if you have forgotten to include some required documentation or if the Local Government needs additional information, they may request this and this will extend the time taken to decide on your application.

For complex applications, the Local Government may notify you that additional time is required to make a decision. This notice will include the date when a decision will be made.

### ***Step 4 – Decision on application***

Local government can make one of three decisions on your application for a licence:

#### **Approval of application**

If your application is approved, Local Government will provide written notification along with your licence. The licence may also include some conditions. If conditions are added to your licence, you will receive written notification of what they are and the reasons for the conditions.

The term of your licence will be no longer than three years.

#### **Note**

Construction or fit out of your mobile food premises should not commence until an approval is granted. This is important as any changes required by the Local Government to ensure your mobile premises complies with the Food Safety Standards will cost you less to make in the planning stage rather than after construction or fit out.

#### **Provisional approval of application**

In some cases, the Local Government may not be fully satisfied that your application meets all of the criteria for granting a licence. However, they believe a licence will be issued in the future when the criteria are met, and will issue a provisional licence.

A provisional licence is issued for a maximum of three months and cannot be renewed or extended.

The provisional licence allows you to operate your food business. However you will need to address the issues identified by the Local Government in order to be issued with a full licence after the provisional licence period.

#### **Refusal of licence**

If you have failed to meet the criteria for granting a licence, the Local Government will refuse to grant a licence and will issue you with written notice explaining their decision. If you believe you are able to address the deficiencies in your application, you can resubmit your application with updated information.

Another reason for refusal of an application is failure of the applicant to provide additional information within the time requested. If you are asked for additional information, you will have a minimum of 30 days to provide it. If you do not provide the information in that time, your application will be refused.

## **Additional assistance with your application**

### ***On-site assessment during construction***

While an on-site assessment during construction is not a legislative requirement, it may be in your interests to request one.

When the food business is substantially fitted out, you can contact your Local Government to assess whether the premises have been designed and fitted-out in accordance with the approved plans. During the on-site assessment an environmental health officer may provide feedback on items that still need to be attended to or where the standard of work needs to be improved. A timeframe will be provided for the work to be carried out.

### ***On-site assessment prior to opening***

Local government will conduct a final inspection on your request to determine if a licence may be issued for the premises. You must be issued with your licence prior to operating as a food business.

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## ***Ongoing inspections and assistance***

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After you have commenced operating, Local Government environmental health officers will conduct inspections of the food business at regular intervals to ensure the food business is operating in accordance with their licence conditions and the Food Safety Standards. The environmental health officer will also provide advice and other information to assist your food business in meeting these standards.

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## **Other approvals required by food businesses**

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### ***Approvals issued by Local Government***

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In addition to applying for a food business licence, you may need to obtain the following approvals from Local Government:

#### **Trade waste approval**

Please contact your Local Government.

#### **Search applications**

A search application will provide a formal report on the conduct of the business prior to sale, but does not provide information on the quality of the fixtures and fittings. The report will provide the applicant with an indication of the current standard of the premises (including outstanding orders or notices).

Please contact your Local Government.

#### **Advertising signs or devices**

You may be required to apply for a permit for any advertising signs or devices. A permit may be obtained by making an application to the Local Government.

Please contact your Local Government.

#### **Footpath dining**

If you would like to include alfresco or outside footpath dining as a part of your food business you must first apply for a Footpath Dining Permit. A permit may be obtained by making an application for approval to the Local Government. A permit application must be accompanied by the application fee and plans of the proposed footpath dining area.

Please contact your Local Government.

#### **Roadside vending/use of public land permits**

If you intend to conduct your mobile business from public land, such as the roadside, footpaths or foreshores, you will need to apply for a permit to do so.

Please contact your Local Government.

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## ***Issues managed by other government departments***

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### **Liquor licensing**

Contact the Liquor Licensing Division of the Department of Tourism, Racing and Fair Trading on phone (07) 3224 7024 or [www.liquor.qld.gov.au](http://www.liquor.qld.gov.au)

**Tobacco laws** Queensland Health is implementing new legislation restricting smoking in certain places. For more information on how these restrictions affect your food business, contact the Tobacco Hotline on 1800 005 998.

### **Workplace health and safety**

Contact the Division of Workplace Health and Safety for further information on phone 1300 369 915 or [www.dir.qld.gov.au](http://www.dir.qld.gov.au)

## Definitions

### *Definitions from the Food Act 2006*

**Food business** – means a business, enterprise or activity (other than primary food production) that involves:

- (a) the handling of food intended for sale
- (b) the sale of food

regardless of whether the business enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.

**Mobile Premises** – for a food business, means premises that are a vehicle from which a person sells unpackaged food by retail.

**Off-site catering** – 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. Off-site catering does **not** include:

- a) merely delivering food under an arrangement with, or on the order of, a consumer (eg. delivering pizzas from a takeaway pizza shop) or
- b) the sale of food from mobile premises or temporary premises (eg. the sale of ice-creams from a mobile ice-cream van).

**On-site catering** – in relation to a food business, means preparing and serving potentially hazardous food, to all consumers of the food at the premises from which the business is carried on, under an agreement under which the food is:

- a) of a predetermined type; and
- b) for a predetermined number of persons; and
- c) served at a predetermined time; and
- d) for a predetermined cost.

On-site catering does **not** include:

- a) preparing and serving food at an eating establishment; or
- b) merely preparing and displaying food for self-service by consumers (eg. preparing food for consumption from a buffet at a restaurant).

**Eating establishment** – means a restaurant, cafe or similar food business that involves the preparation and service of food on the order of a person for immediate consumption by the person.

### *Definitions from the Food Safety Standards*

**Equipment** - means a machine, instrument, apparatus, utensil or appliance, other than a single use item, used or intended to be used in or in connection with food handling and includes any equipment used or intended to be used to clean the food premises or equipment.

**Food handler** - means any person who directly engages in the handling of food, or who handles surfaces likely to come into contact with food, for a food business.

**Food premises** - means any premises including land, vehicles, parts of structures, tents, stalls and other temporary structures, boats, pontoons, including premises used principally as a private dwelling, but does not mean food vending machines or vehicles used only to transport food.

**Handling of food** - includes the making, manufacturing, producing, collecting, extracting, processing, storing, transporting, delivering, preparing, treating, preserving, packing, cooking, thawing, serving or displaying of food.

**Potentially hazardous food** – means food that has to be kept at certain temperatures to minimise the growth of any pathogenic microorganisms that may be present in the food or to prevent the formation of toxins (eg. meats, seafood, dairy products).

**Sinks** – includes sinks for food preparation, cleaner’s sink, utensil and equipment washing, and personal hand washing basins.

**Temperature control** - means maintaining food at a temperature of:

- (a) 5°C, or below if this is necessary to minimise the growth of infectious or toxigenic micro-organisms in the food so that the microbiological safety of the food will not be adversely affected for the time the food is at that temperature
- (b) 60°C or above
- (c) another temperature- if the food business demonstrates that maintenance of the food at this temperature for the period of time for which it is so maintained, will not adversely affect the microbiological safety of the food.

**Sanitising** – is a process that significantly reduces the number of microorganisms present on a surface. This is usually achieved by the use of both heat and water or by chemical sanitisers.

#### Further information and assistance

The tables below provide further information on how to obtain copies of the legislation and guidelines, and other useful websites and contacts.

Legislation and guidelines	Web address	Available from:
Food Act 2006	<a href="http://www.legislation.qld.gov.au">www.legislation.qld.gov.au</a>	Government Printing Office (Go Print) Phone: (07) 3246 3399
Food Standards Code	<a href="http://www.foodstandards.gov.au">www.foodstandards.gov.au</a>	Food Standards Australia New Zealand Phone: (02) 6271 2222
Food Safety Standards	<a href="http://www.foodstandards.gov.au">www.foodstandards.gov.au</a>	
'Safe Food Australia - A Guide to the Food Safety Standards'	<a href="http://www.foodstandards.gov.au">www.foodstandards.gov.au</a>	
'Food Industry Recall Protocol – A guide to writing a food recall plan and conducting a food recall'	<a href="http://www.foodstandards.gov.au">www.foodstandards.gov.au</a>	
Label Buster Guide	<a href="http://www.health.qld.gov.au">www.health.qld.gov.au</a>	Queensland Health Population Health Unit

Additional Websites / Contacts		
Department of State Development - Business licences and registration	<a href="http://www.sd.qld.gov.au">www.sd.qld.gov.au</a>	Phone: 1300 363711
Department of Tourism, Racing and Fair Trading Liquor Licensing Division	<a href="http://www.liquor.qld.gov.au">www.liquor.qld.gov.au</a>	Phone (07) 3224 7024
Department of State Development - Smart licence	<a href="http://www.sd.qld.gov.au">www.sd.qld.gov.au</a>	Phone (07) 13 26 50
Division of Workplace Health and Safety	<a href="http://www.dir.qld.gov.au">www.dir.qld.gov.au</a>	Phone: 1300 369 915
Safe Food Queensland 12 Helen Street Newstead Q 4006 PO Box 440 Spring Hill Q 4004	<a href="http://www.safefood.qld.gov.au">www.safefood.qld.gov.au</a> Email <a href="mailto:info@safefood.qld.gov.au">info@safefood.qld.gov.au</a>	Phone: 1800 300 815