

Food Safety Application Package

Food Licensing for Temporary Premises (Market Stalls)

For Submission of Plans and Licensing

Under the Food Act 2006

Version 4: April 2008
EH/FG3

- Whitsunday Regional Council in partnership with:
- Queensland Government – Queensland Health
 - Australian Institute of Environmental Health
 - Local Government Association of Queensland Inc

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Introduction

A temporary food premises is defined in the **Food Act 2006** as a “premises other than fixed premises or mobile premises and includes, for example, a stall or a tent”.

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 temporary food premises, such as stalls, tents or similar arrangements. Temporary food premises are usually associated with markets, festivals or fetes.

Similar packages have been developed to assist food businesses operating from both mobile and fixed premises.

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.

The following documents may also provide guidance in the interpretation of the legislation:

- Safe Food Australia, A Guide to the Food Safety Standards (interpretation of the Food Safety Standards)
- Australian Standard 4674 (AS 4674- 004) – Design, construction and fit-out of food premises.

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 Whitsunday Regional Council 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 Whitsunday Regional Council are appointed as authorised persons and undertake the administration, monitoring and enforcement of food safety legislation.

Local governments are responsible for licensing and inspecting food premises.

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

Food labelling

For information on the labelling requirements for packaged foods, 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 for packaged foods under the Food Standards Code.

Powers of authorised persons

Queensland Health and Whitsunday Regional Council 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
- to 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 Environmental Health Officer to show you their identification.

Environmental Health Officers 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 that 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 at least 12 days each financial year.

Examples of licensable food businesses

The following industry sectors are examples of licensable food businesses.

Food manufacturers:

- manufacturer 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.

Temporary food premises

A temporary food premises is a premises used for the handling of food other than a mobile or fixed premises. This includes stalls, tents or other temporary structures at events such as markets, festivals, fetes or other short-term events.

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 ¹ at a state school ²
- 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 Whitsunday Regional Council 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
- the handling or sale of fisheries resources under a buyer licence issued under the Fisheries Regulation 1995, except where the seafood is cooked
- 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 non-profit 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.

¹ A parents and citizens association formed under the Education (General Provisions) Act 1989

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

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

Food Safety

Food safety supervisors

From 1 July 2008, a licensee must ensure that 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 Whitsunday Regional Council while the food business is open for business.

The licensee must advise the Whitsunday Regional Council 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 Whitsunday Regional Council of the contact details of the new food safety supervisor within 14 days. The licensee must also advise Whitsunday Regional Council of a person ceasing to be a food safety supervisor within 14 days. Any changes to the food safety supervisors 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 1 July 2008. Information will be distributed to food businesses prior to commencement of this requirement.

Prescribed fees

Please contact your Whitsunday Regional Council for a schedule of fees.

Application process

All applications for a licence must be directed to the Whitsunday Regional Council in whose area you intend to operate. Local government contact details can be found in the government sections of your phone directory.

Step 1 – Pre-lodgement meeting

Whitsunday Regional Council provides 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.

Step 2 – Complete the Food Premises Plan Approval Application form

All sections of the Food Premises Plan Approval application form must be completed. The completed application form is then submitted to the Whitsunday Regional Council along with all the relevant documentation, including floor plans of your stall/premises, photos of the stall/premises set-up and a proposal as to where food will be processed / prepared and how it will be transported, for assessment and the required payment. For payment requirements please contact Council's Environmental Health Unit on (07) 4945-0249.

What will Whitsunday Regional Council assess?

Whitsunday Regional Council will assess the submitted food premises plans based on the following, to determine if an approval to operate the stall / premises should be issued:

Town planning suitability

On submission of your plans and proposals they shall be provided to the Development Control Unit to be assessed to ensure that where the food business plans to store stock and conduct food preparation, fits within the zoning requirements of the parcel of land being considered for use. The DCU will assess requirements regarding suitability of location for business, includes home based businesses, car parking, traffic control, footpath dining and referrals to other government bodies for their advice.

Please contact Council's Land Use and Social Planning Services on (07) 4945 0249 for advice on applications required.

Suitability of premises

Food premises must comply with the Food Standards Code, Standard 3.2.3 – Food premises and equipment.

The Australian Standard for the Design, construction and fit-out of food premises (AS 4674 – 2004) provides design, construction and fit-out criteria for new food premises and for the renovation or alteration of existing premises. The scope of the Standard is limited to permanent buildings used by the food service industry, by food retailers and by small-scale food manufacturers. ***The Standard does not provide criteria for the design, construction and fit-out of temporary and mobile food premises.***

The Standard provides an option for meeting the requirements of Standard 3.2.3 – Food premises and equipment. However, compliance with the standard may not be possible for temporary premises; so in the back of this guide you will find easy to follow diagrams that will meet the minimum requirements of the Food Standards Code. **See Pages 14 and 15.**

How long does the assessment take?

Generally, a decision will be made on your Food Premises Plan Approval application **within 30 days**. However, if you have forgotten to include some required documentation or if the Whitsunday Regional Council needs additional information, they may request this of you and this will extend the time taken to decide on your application.

For complex applications, the Whitsunday Regional Council 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 3 – Complete the licence application form

On Approval of your Food Premises Plan, Council will provide an application for a Food Licence. All sections of the food business licence application form must be completed. The completed application form is then submitted to the Whitsunday Regional Council along with all the relevant documentation and required payment.

Step 4 – Assessment of the application

What will Whitsunday Regional Council 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:

- whether the applicant has appropriate expertise or experience to provide safe and suitable food under the licence and be able to 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 is 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.

The Australian Standard for the Design, construction and fit-out of food premises (AS 4674 – 2004) provides design, construction and fit-out criteria for new food premises and for the renovation or alteration of existing premises. The scope of the Standard is limited to permanent buildings used by the food service industry, by food retailers and by small-scale food manufacturers. The Standard does not provide criteria for the design, construction and fit-out of temporary and mobile food premises.

The Standard provides an option for meeting the requirements of Standard 3.2.3 – Food premises and equipment. However, compliance with the standard is not mandatory.

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 Whitsunday Regional Council needs additional information, they may request this of you and this will extend the time taken to decide on your application.

For complex applications, the Whitsunday Regional Council 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 5 – 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, Whitsunday Regional Council 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.

There is no provision for the issuing of a temporary licence under the **Food Act 2006**. Instead a licence will be issued for a period suitable for the event you intend to operate in.

Example:

If you are operating at a one day multi-cultural fair, the term of the licence will be for one day. If you are operating at a three-day show or exhibition, the term of the licence will be for three days.

Provisional approval of application

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

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 Whitsunday Regional Council in order to be issued with a licence after the provisional licence period.

Refusal of licence

If you have failed to meet the criteria for granting a licence, the Whitsunday Regional Council will refuse to grant a licence and will issue you with written notice explaining their decision. If you believe that you are able to address the deficiencies in your application, you are able to 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 be given a minimum of 30 days to provide it. If you do not provide the information in that time, your application will be refused.

Other approvals required by food businesses

Approvals issued by Whitsunday Regional Council

In addition to applying for a food business licence, you may need to obtain the following approvals from Whitsunday Regional Council:

Development permits and approval (For erection of marquees at Expos or festivals)

- Please contact Council's Land Use and Social Planning Services

Building approval (For erection of marquees at Expos or festivals)

- Please contact your Council's Land Use and Social Planning Services

Plumbing and drainage approval

- Please contact Council's Land Use and Social Planning Services.

Trade waste approval

- Please contact Council's Transport and Infrastructure Services.

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 Whitsunday Regional Council.

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 Council.

- Please contact Council's Environment and Compliance Services.

Roadside vending / use of public land

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

- Please contact Council's Environment and Compliance Services.

Issues managed by other government departments

Contact details for the relevant departments are listed in the "***Further information and assistance***" section.

Liquor licensing

A liquor licence may be required. Contact the Liquor Licensing Division of the Department of Tourism, Racing and Fair Trading.

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

Workplaces are subject to provisions of the Workplace Health and Safety Act 1995. Contact the Division of Workplace Health and Safety for further information.

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.

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 (e.g. delivering pizzas from a takeaway pizza shop), or
- b) the sale of food from mobile premises or temporary premises. (e.g. 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. (e.g. 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 micro-organisms that may be present in the food or to prevent the formation of toxins (e.g. meats, seafood, dairy products).

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.

Definitions relevant to this document

FSS (Food Safety Standards) – these are part of the Food Standards Code and define requirements for food premises on food handling practices and the structural requirements of food premises.

NHMRC – is the National Health and Medical Research Council which funds health and medical research in Australia.

Potable water – means water suitable for drinking.

Primary food production - is the growing, cultivation, picking, harvesting, collection or catching of food, and includes:

- (a) transport or delivery of food on, from or between the premises on which it was grown, cultivated, picked, harvested, collected or caught.
- (b) packing, treating (for example washing) or storing of food on the premises on which it was grown, cultivated, picked, harvested, collected or caught, and
- (c) any other food production activity prescribed by another Act.

Safe and suitable food – Food is considered unsafe if it is likely to cause physical harm to a person who might later consume it, assuming they treated the food correctly after purchase. Food is considered unsuitable if it is damaged, deteriorated or perished to an extent that affects its intended use e.g. out of date, contains a substance that is foreign to the nature of the food i.e. foreign matter or chemicals which may have fallen into the food, poor maintenance or poor storage of chemicals.

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	www.legislation.qld.gov.au	Government Printing Office (Go Print) Phone: (07) 3246 3399
Food Standards Code	www.foodstandards.gov.au	
Food Safety Standards	www.foodstandards.gov.au	Food Standards Australia New Zealand
"Safe Food Australia - A guide to the Food Safety Standards"	www.foodstandards.gov.au	Phone:" (02) 6271 2222
"Food Industry Recall Protocol - A guide to writing a food recall plan and conducting a food recall"	www.foodstandards.gov.au	
Label Buster Guide	www.health.qld.gov.au	Queensland Health Tropical Population Health Unit (07) 4968-6611 Mackay
Food Licensing	www.whitsundayrc.qld.gov.au	Whitsunday Regional Council Environment & Compliance Phone: (07) 4945 0200
Additional Websites / Contacts		
Department of Tourism, Fair Trading and Wine Industry Development – Liquor Licensing Division	www.liquor.qld.gov.au	Phone: (07) 4969-3005 Mackay
Department of State Development – Business Licences and registration	www.sd.qld.gov.au	Phone:1300 363 711
Division of Workplace Health and Safety	www.dir.qld.gov.au	Phone: 1300 369 915
Safe Food Queensland 12 Helen Street Newstead Qld 4006 PO Box 440 Spring Hill Qld 4004	www.safefood.qld.gov.au	Phone: 1800 300 815 Email: info@foodsafety.qld.gov.au

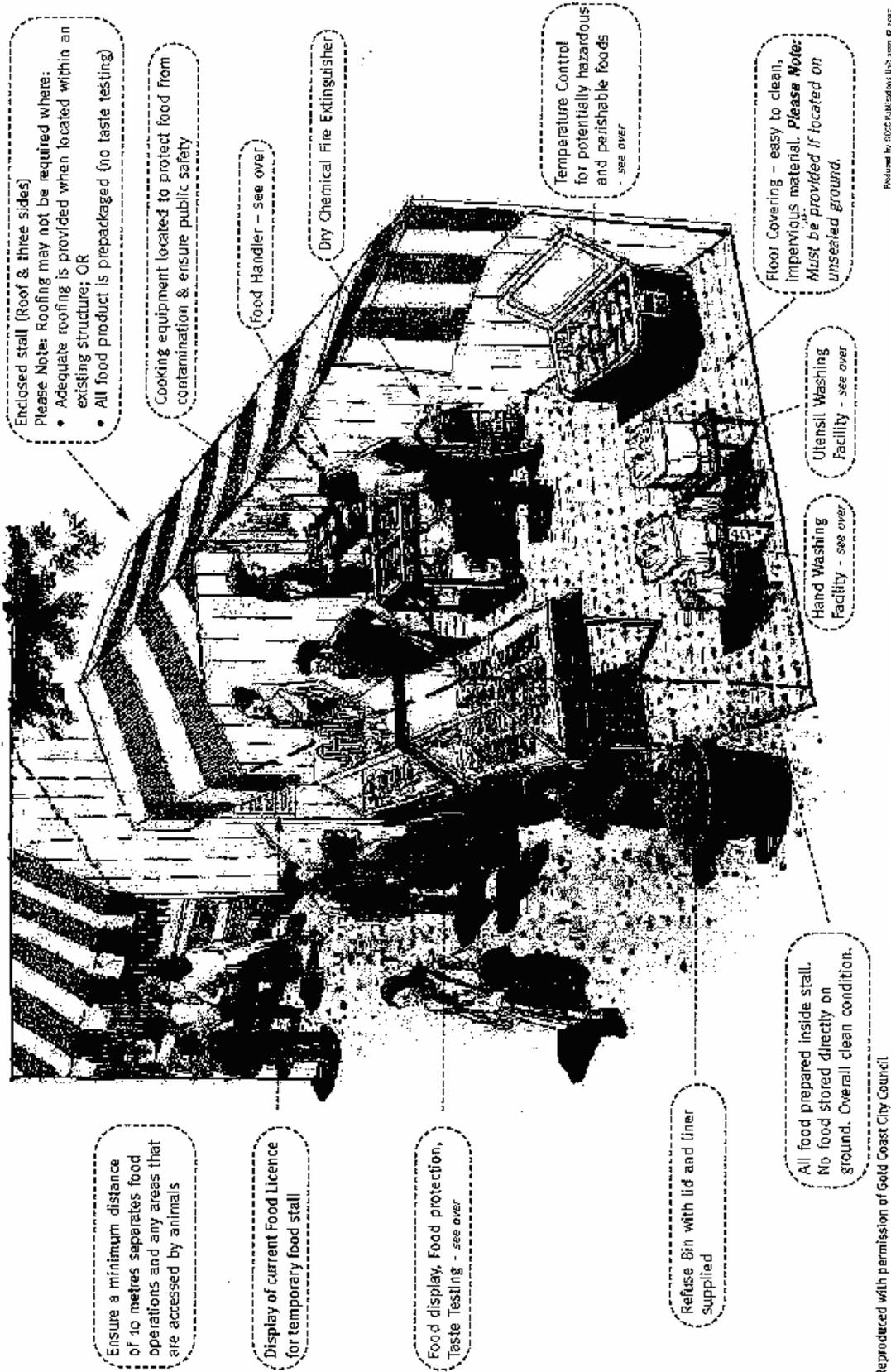
Checklist – Temporary Food Premises

Operators checklist

This checklist will help you to understand what is required to operate a temporary food premises. It should be used each time a temporary food premises is set up.

Structure	✓	Serving	✓
Enclosed tent if required (e.g.: full preparation of food onsite)		Money and food handled separately	
Barrier between stall and public		Tongs, spoons, spatulas and gloves used to handle food	
Floor covering easy to clean		Disposable eating and drinking utensils used	
Cooking equipment located to protect food from contamination		Sauces and condiments in squeeze dispenser or sealed packs	
Dry chemical fire extinguisher		Taste testing / Displaying	
Temperature control		Single serve utensils	
Temperature control for potentially hazardous and perishable foods		Sign stating "No double dipping, single serve only"	
Thermometer in use		Personal hygiene	
Temperature records kept		Clean food handlers, attire and habits	
Temperature control during transport		No smoking in temporary premises	
Storage		No cuts, illnesses or sores on food handlers	
Separate raw and cooked foods		Water container with tap labelled "Hand washing only" and bucket to catch waste water	
Food covered		Liquid soap and paper towels supplied for hand washing	
No food stored directly on ground		General cleaning	
Preparation		Walls, floors and ceiling clean	
Time taken to prepare food at the temporary premises kept to a minimum i.e.: less than 2 hours		Utensils and equipment cleaned and sanitised daily	
All food prepared inside the temporary premises		Hot water and sanitiser available for emergency cleaning	
Raw and cooked food prepared separately		Water container with tap labelled "Utensil washing only" and bucket to catch water	
Food protected by a physical barrier		Waste management	
All food prepared on tables		Bins with lid and liner	
		Provision for storage of waste water and oil	

ARTISTS IMPRESSION – MINIMUM STANDARDS FOR THE OPERATION OF A TEMPORARY FOOD STALL



Ensure a minimum distance of 10 metres separates food operations and any areas that are accessed by animals

Display of current Food Licence for temporary food stall

Food display, Food protection, Taste Testing - see over

Refuse Bin with lid and liner supplied

All food prepared inside stall. No food stored directly on ground. Overall clean condition.

Enclosed stall (Roof & three sides)
Please Note: Roofing may not be required where:
• Adequate roofing is provided when located within an existing structure; OR
• All food product is prepackaged (no taste testing)

Cooking equipment located to protect food from contamination & ensure public safety

Food Handler - See over

Dry Chemical Fire Extinguisher

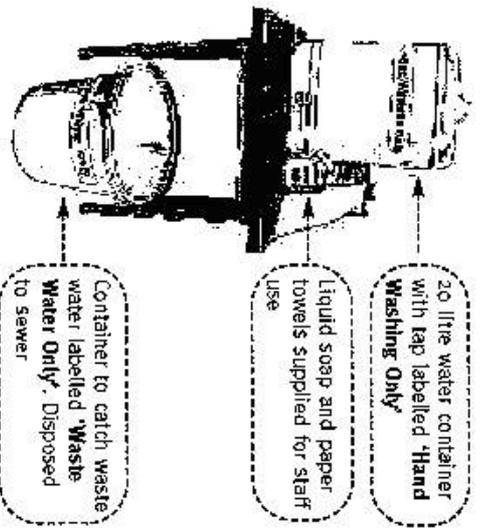
Temperature Control for potentially hazardous and perishable foods - see over

Floor Covering - easy to clean, impervious material. Please Note: Must be provided if located on unsealed ground.

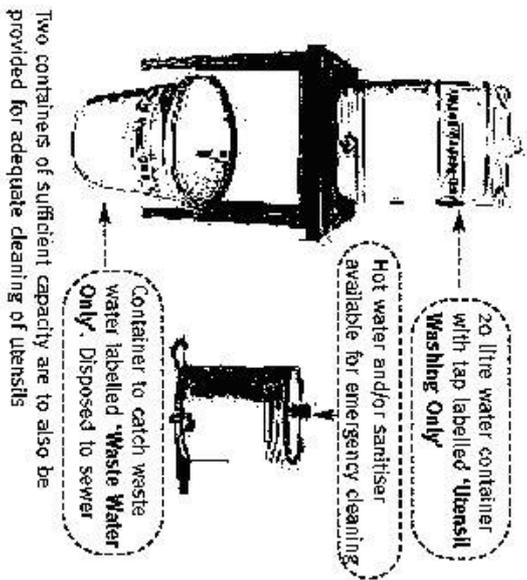
Utensil Washing Facility - see over

Hand Washing Facility - see over

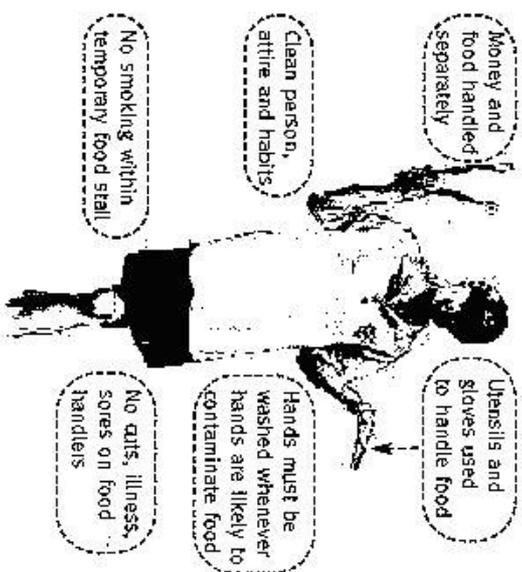
Minimum hand washing facilities



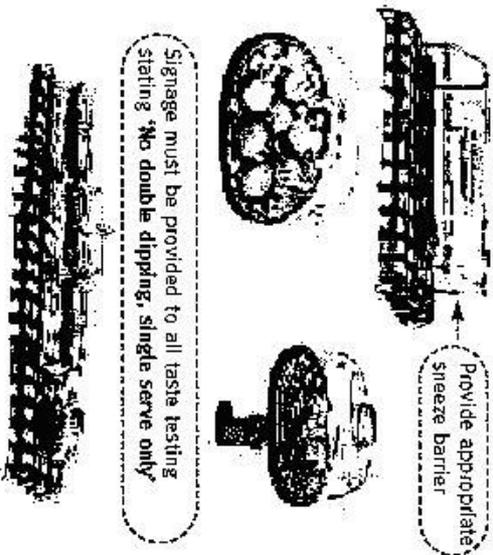
Minimum utensil washing facilities



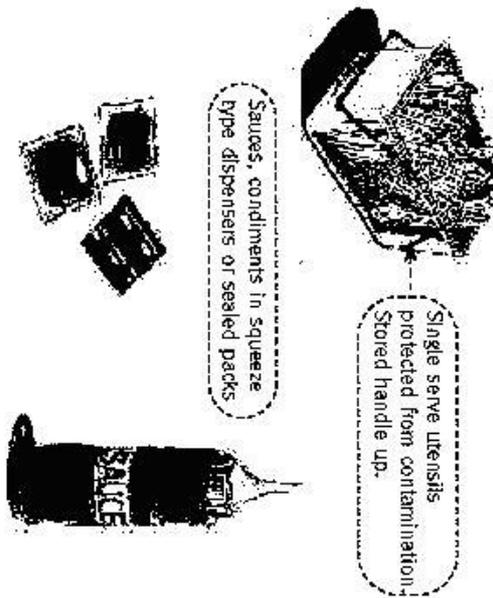
Food Handlers



Food display, food protection, taste testing



Sauces, condiments and single serve utensils



Temperature control of potentially hazardous food

