

Food safety laws that affect community organisations

How does food law affect non-profit community organisations?

Eligible non-profit community organisations that sell food for fundraising purposes were removed from the operation of the *Food Act 2001* in 2015, regardless of the types of food they sell. These organisations are:

- able to sell foods that require temperature control to keep them safe (this includes healthier options such as salads, sandwiches and soups); and
- not required to register under the Food Act or have a Food Safety Supervisor.

Which community organisations does this apply to?

The community organisations that are not subject to the Food Act are those that operate non-commercial food stalls, using **volunteer** staff, to raise funds for one or more of the following purposes:

- a religious, educational, charitable or benevolent purpose
- promoting literature, science or the arts
- looking after people with a physical or mental disability or condition
- sport, recreation or amusement
- conserving resources or protecting the natural environment
- preserving historical or cultural heritage
- a political purpose
- protecting or promoting the common interests of the community.

A club that holds a licence under the *Gaming Machine Act 2004* is not considered to be a community organisation in this instance and will continue to be covered by the provisions of the Food Act.

Who is considered to be a ‘volunteer’?

Under the *Food Act 2001*, a volunteer is a person who operates a fundraising food stall on behalf of a non-profit community organisation and is either:

- not paid;
- paid to manage unpaid volunteers; or

***Example:** A local hockey club appoints and pays an employee to manage its Saturday morning fundraising barbecues, which are held at juniors’ matches during the hockey season. The paid employee’s duties include the rostering and supervision of unpaid volunteers who prepare and serve food at the barbecues. The paid employee is, in this instance, considered to be a **volunteer** under the Food Act given their role in supervising unpaid staff to undertake food-related fundraising activities on behalf of a non-profit community organisation.*

- paid an amount that is not assessable income under the *Income Tax Assessment Act 1997*.

***Example:** An individual is paid an allowance by a community soccer club to open the grounds, put up nets, referee matches and assist with the operation of the club’s canteen. The individual undertakes these duties as a private recreational activity and the allowance they receive is not assessable income for taxation purposes. The individual is, in this instance, considered to be a **volunteer** under the Food Act.*

Please note that these examples are not exhaustive and do not cover all circumstances. For further advice please contact the Health Protection Service on 5124 9700 or hps@act.gov.au.

Do these rules apply to all community organisations?

No, community organisations that operate on a commercial scale or sell food primarily as a service, rather than to raise funds, must still be registered under the Food Act and have a Food Safety Supervisor.

For example:

School canteens that are run primarily to provide a food service to students and staff are covered by the Food Act and are required to be registered and have a Food Safety Supervisor.

A hospital or nursing home that provides food as a service to patients or residents must comply with the Food Act, including registration and appointing a Food Safety Supervisor.

If you are unsure whether your activity is regulated under the *Food Act 2001*, please contact the Health Protection Service on 5124 9700 or hps@act.gov.au.

Are there restrictions on the types of food that community organisations can sell for fundraising purposes?

No, eligible non-profit community organisations have been removed from the operation of the Food Act, meaning there are no restrictions on the types of food they can sell as part of their fundraising activities. The changes are designed to reduce red tape and encourage the sale of more nutritious foods, such as salads, sandwiches and fruit, at community fundraising stalls.

What happens if a community organisation sells unsafe food?

All organisations that prepare and serve food for the public have a responsibility to ensure safe food handling, even if they are not covered by the Food Act. Organisations that sell unsafe food may be responsible for serious illness or death and charged under criminal law. They may also be liable for negligence under civil law.

The Health Protection Service has a range of food safety resources to assist organisations in providing safe food to the community. Organisations are also strongly encouraged to have members involved in food handling complete free online [DoFoodSafely](#) or [I'M ALERT](#) food safety training. The training and food safety resources can be accessed through the [Food Safety Training and Resources](#) webpage.

The Food Stall Guidelines are useful for food businesses and individuals who operate temporary food stalls at markets, fetes and festivals. The guidelines are available in a range of languages on the [webpage](#). We also recommend not-for-profit organisations follow the requirements set out in this guide.

What is a 'declared event'?

The Minister for Health can declare an event to be regulated under the Food Act. Such events are termed 'declared events'. It is not intended that smaller-scale events, such as local school fetes or weekend sports carnivals at which food is sold, will be regulated as 'declared events'.

A risk-based approach will be used to determine whether to regulate an event. The aim is to ensure that large public events that pose a heightened food safety risk are regulated appropriately. A list of declared events will be made available on the [ACT Health website](#).

All stalls at declared events must be registered with the Health Protection Service. To register your business for a declared event, please submit your application at least 14 days before the event.

A food stall at a declared event is subject to the requirements of the Food Act.

Are community organisations allowed to sell food at declared events?

Yes, non-profit community organisations that are not otherwise covered by the Food Act are able to sell food at a declared event, if they have:

- registered with the Health Protection Service; and
- appointed a [Food Safety Supervisor](#) who has completed free [DoFoodSafely](#) or [I'M ALERT](#) online food safety training.

A food business at a declared event is subject to the requirements of the Food Act.

A declared event registration process is available on the ACT Health website for organisations that wish to sell food at a 'declared event'. For more information see [Selling food at events](#) on the ACT Health website.

Accessibility

If you have difficulty reading a standard printed document and would like an alternative format, please phone 13 22 81.



If English is not your first language and you need the Translating and Interpreting Service (TIS), please call 13 14 50.

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www.health.act.gov.au | Phone: 132281 | Publication No HPS-00-1117

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