

Licensing Act 2003 Provision of Late Night Refreshment

Introduction

This leaflet gives advice on when a licence is needed for the provision of late night refreshment under the Licensing Act 2003

The Law has changed!

The Licensing Act 2003 has changed the law relating to the sale of alcohol, the provision of public entertainment and the provision of late night refreshment. All of these are now licensable activities under the Licensing Act and all licenses for these activities are dealt with by local Councils.

The Magistrates Courts are no longer involved in granting full or occasional permissions for the sale of alcohol.



The New Law

Under the Licensing Act 2003, any person who provides late night refreshment must hold a premises licence from the Council to do so. It will often be the case that the premises also serves alcohol (which is also a licensable activity) and one Premises Licence would cover both activities. Anyone selling alcohol will need a Personal Licence as well.

What is Late Night Refreshment?

A person provides late night refreshment if:

- * hot food or hot drink is supplied
- * to members of the public
- * between 11.00 pm and 5.00 am

- * on or from any premises.

“Hot” means it has been heated and is supplied heated or after being sold can be heated on the premises.

Exemptions

The following exemptions apply:

If the person being supplied with hot food or drink is:

- * a member of a recognised club;
- * staying at a hotel, guest house, hostel, caravan site, etc for the night;
- * an employee supplied by his employer;
- * engaged in a special trade or profession;
- or
- * a guest of any of the above.

The following are also exempt:

- * hot drinks containing alcohol;
- * hot drinks from vending machines;
- * hot food or drink provided free;
- * the supply of hot food or drink by a registered charity ;or
- * the supply of hot food or drink on a vehicle which is not parked.

Other exemptions exist within the Greater London area, but that does not include any part of the Elmbridge area.

This means that any takeaway or restaurant supplying hot food or drink after 11.00 pm must be licensed.

Premises supplying alcohol

The sale or supply of alcohol will also require a premises licence under the Act and this together with a premises licence to supply hot food or drink would form one licence.

Will I need a licence?

As described above any restaurant supplying hot food after 11.00 pm will need to ensure that their premises licence includes the provision of late night refreshment on the same licence which will allow the supply or sale of alcohol.

All hot food takeaways open after 11.00 will have to become licensed even if they weren't licensed under the old laws. This includes Chinese takeaways, kebab shops, pizza shops, fish and chip shops, curry shops etc. regardless of whether they are takeaway only or have tables and chairs. Filling stations or other outlets which sell food that may be heated in a microwave oven after being sold now come within this legislation.



Temporary events

A Temporary Event Notice (TEN) can cover the provision of late night refreshment. So the supply of burgers, sausages or hot chestnuts, at temporary events such as public firework displays etc., after 11.00 pm can be covered by the TEN. We have a separate leaflet on Temporary Events.

Other Controls

Having a premises licence which authorises the provision of Late Night Refreshment does not mean that the premises are exempt from other controls such as Food Safety, Health and Safety at Work etc., fire safety or noise pollution controls and an organiser must make sure that any other legal controls are complied with.

Further Information

If you would like further advice about

c licensable activities please contact us.

This leaflet provides advice based on information available at the time of writing and this may change. It is intended for guidance only and does not provide authoritative legal advice.

Licensing Act 2003

Late Night Refreshment

We would welcome your comments on this or any other of our leaflets, so as to ensure that they meet the needs of the users of our services. We can make this leaflet available as a large print version or on audio cassette. Please contact us to ask for either of these versions.

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