

# Licensing Act 2003

## Late Night Refreshment



Licensing Unit  
Environmental Services

### Provision of Late Night Refreshment

#### Introduction

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

#### The Law is Changing!

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 become licensable activities under the Licensing Act.

This new system of licensing will be phased in from February 2005. The Council, as Licensing Authority, will issue new style licences incorporating six current licensing regimes. By about November 2005 the Licensing Magistrates will no longer be involved in granting liquor licences.

#### The Old Law

Until the new Licensing Act 2003 came about, premises which provided food to customers:

- between 10.00 pm and 5.00 am,
- where the customers could eat it at tables and chairs within the premises and
- who did not have a liquor licence

had to be licensed under the provisions of the Late Night refreshment Houses Act 1969. The legislation was slightly different in London.

Most restaurants have a liquor licence and so didn't need a late night refreshment house licence.

Most takeaways didn't need a licence because they don't provide facilities for the food to be eaten.

We have issued very few late night refreshment house licences.

#### 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 could be issued, covering both. 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.

**This means that any takeaway or restaurant supplying hot food or drink after 11.00 pm will need to be licensed.**

### **Will I need a licence?**

As described above, application has to be made to incorporate provision of late night refreshment into new style premises licences.

Although they've not needed one before, all hot food takeaways open after 11pm will have to become licensed.

This includes “mobile” burger bars, Chinese takeaways, kebab shops, pizza shops, fish and chip shops, curry shops and so on -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 are also included.

### **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 11pm 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 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.

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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