

Information Sheet Licensing Act 2003 Provision of Late Night Refreshment



Environmental Health Services

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 or supply of alcohol,
- the provision of public entertainment
- the provision of late night refreshment.

All of these become licensable activities under the Licensing Act.

A new system of licensing will start to be phased in from February 2005 with, eventually, one licence being granted by Borough or District Councils (Licensing Authorities) for premises involved in these activities. By about November 2005 the Licensing Magistrates will no longer be involved in granting liquor licences.

The Old Law

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

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

had to be licensed under the provisions of the Late Night Refreshment Houses Act 1969. Most restaurants had a liquor licence and so didn't fall within this Act, whilst most hot food shops open after 10.00 pm which didn't have a liquor licence, didn't have tables and chairs and so avoided the need for a licence.

Therefore, very few premises in Reigate and Banstead Borough Council's area were licensed under this legislation.

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 serve alcohol (which is also a licensable activity) and one Premises Licence would 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;
- a guest of any of the above.

The following are also exempt:

- hot drinks containing alcohol (but a Premises licence for the sale of alcohol may be needed);

- hot drinks from vending machines;
- hot food or drink provided free;
- the supply of hot food or drink by a registered charity
- 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 Reigate and Banstead Borough Council's area.

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

Premises supplying alcohol

The sale or supply of alcohol will also require to be licensed; this and the supply hot food or drink after 11.00pm would be combined in 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 that 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.

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.

Further information

There are a number of information leaflets available from the Licensing Team at the Town Hall (tel: 01737 276428) Email: licensing@reigate-banstead.gov.uk or via the Council's website which include: -

- § Temporary Events
- § Converting Existing Licences
- § Children and Alcohol
- § Representations and Objections
- § Licensee's Responsibilities
- § Licensable Activities
- § The New Law