

Q&A

Will restaurants with a special hours certificate need to include late night refreshment in their premises licences as a separate licensable activity?

Are there any instances where the provision of hot food and hot drink would not require an authorisation under the Act for the provision of late night refreshment?

Are clubs in the possession of a club premises certificate covered by the provisions for late night refreshment?

Is a staff canteen covered by the provision for late night refreshment?

I am the owner of a late night take away shop outside London. I've never needed a licence before, will I need one now?

Will a supermarket be covered by the provision for late night refreshment?

Will a vending machine be covered by the provision for late night refreshment?

Will restaurants with a special hours certificate need to include late night refreshment in their premises licences as a separate licensable activity?

Yes. There will be no equivalent of special hours certificates under the new licensing regime. A restaurant owner will need to apply for a premises licence to replace the existing permission from the magistrates. This will allow a premise to provide, or continue to provide, alcohol with meals, and, depending on their preferred hours of opening, to provide hot food or hot drink between 11pm and 5am. It will cost no more to include in an application for a premises licence to authorise the supply of alcohol an application for the premises licence to authorise also the provision of late night refreshment. Existing licence holders may be in a position to apply to convert the authorisations under their existing licences to a new premises licence during the transitional period.

Are there any instances where the provision of hot food and hot drink would not require an authorisation under the Act for the provision of late night refreshment?

The following miscellaneous supplies of hot food or hot drink are exempt:

- (a) hot drink consisting of, or containing alcohol (although an authorisation under the Act will be required for the supply of alcohol);
- (b) hot drink distributed by means of a vending machine where the payment for the hot drink is inserted into the machine by a member of the public, and the hot drink is supplied directly by the machine to the member of the public;
- (c) hot food or hot drink supplied free of charge, where there is also no charge for admission to any premises, or for some other item to obtain the hot food or hot drink;
- (d) hot food or hot drink supplied by a registered charity or by a person authorised by a registered charity (i.e. a charity which is registered under section 3 of the Charities Act 1993 or a charity which, by virtue of subsection (5) of that section is not required to be registered);

(e) hot food or hot drink supplied on a vehicle, which is not permanently or temporarily parked at the time.

Supplies of hot food or hot drink are also exempt where the supply is on or from premises to which, at the time of the supply, only persons of the following descriptions will be admitted and supplied with hot food or hot drink:

- (a) guests (and their guests) of hotels or similar premises – that is guest houses, lodging houses, hostels, caravan or camping sites or other premises supplying accommodation as their main purpose;
- (b) members of recognised clubs and their guests (see below);
- (c) employees of a particular employer and their guests – for example, where refreshment is made available to employees whose shift patterns require them to be present at the workplace between 11pm and 5am;
- (d) persons engaged in a particular trade or who are members of a particular profession or follow a particular vocation, and their guests.

Supplies of hot food or hot drink on or from premises already licensed under certain other Acts – for example, those used as "near beer" premises in London, where certain descriptions of non-alcoholic beverages are sold, are also exempt.

Are clubs in the possession of a club premises certificate covered by the provisions for late night refreshment?

No. Clubs premises certificates do not need to authorise the provision of late night refreshment by the club to members of the club, and their guests. This is because the supply of hot food or hot drink to members and guests of recognised clubs are exempt in the circumstances described above. To qualify as a recognised club, a club must satisfy the following conditions:

- a) nobody can be admitted as a member, or to any of the privileges of membership without an interval of at least two days between their nomination or application for membership and their admission;
- b) a person who is admitted as a member other than by prior nomination or application must wait at least two days between their becoming members and their enjoying the privileges of membership;
- c) the club is established and conducted in good faith as a club.

All qualifying clubs will be recognised clubs.

For more information, please see the relevant pages on [Qualifying Clubs](#).

Is a staff canteen covered by the provision for late night refreshment?

No. Refreshment made available to employees of a particular employer between 11pm and 5am are exempt from the need to obtain an authorisation for late night refreshment in the circumstances described above.

I am the owner of a late night take away shop outside London. I've never needed a licence before, will I need one now?

Yes. The Act is going to regulate licensing laws across England and Wales, which means that late night take-aways and cafes outside London will now need an authorisation to serve hot food or drink to the public on or from the premises between 11pm and 5am.

Will a supermarket be covered by the provision for late night refreshment?

Yes, if a supermarket is heating food or drink for consumption, whether on or off the premises between 11pm and 5am or provides facilities to enable the food or drink to be heated a late night refreshment licence will be required. However, if a supermarket is selling only cold food and drink and not providing facilities to enable the food or drink to be heated on the premises, then a licence authorising the provision of late night refreshment will not be required.

Will a vending machine be covered by the provision for late night refreshment?

Vending machines supplying hot drinks are exempt so long as the payment for the drink is inserted into the machine by a member of the public and the hot drink is supplied to a member of the public directly by the machine.

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