

All hot food takeaways open after 11pm 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 houses 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 11pm can be covered by the TEN. We have a separate leaflet on Temporary Events Notices.

### **Other Controls**

Having a premises licence which authorises the provision of Late Night Refreshment does not mean that the premises are allowed to sell alcohol. Other controls such as food safety, health and safety at work etc., fire safety or noise pollution and must be 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.

### **For more information, please contact:**

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## **Licensing Act 2003 Late Night Refreshment**



**Environmental Health and Building Control  
Services**

# 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 as defined by 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 become licensable activities under the Licensing Act.

## 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 chairs within the premises and
- b) where the customers could eat it at tables
- c) 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. Practically all 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 Spelthorne 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 serves 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.

The hot food does not have to be consumed on the premises so this now includes takeaways.

## 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 Spelthorne area.
- 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 any restaurant or takeaway supplying hot food after 11.00 pm will need to ensure that they have a licence for the provision of late night refreshment.