

Licensing Act 2003

General Licensing Guidance-Late Night Refreshment

Introduction

The Licensing Act 2003 heralds a change in the way liquor licensing is administered moving control from the Magistrates' Courts to local authorities. Part of the change involves the amalgamation of the licensing of public entertainment events, theatres, cinemas and late night refreshment houses already carried out by local authorities with the new liquor licensing arrangements.

The new regime fully comes into effect in November 2005 by which time all premises and persons requiring to be licensed will need to have applied for their respective permissions. The new law provides for premises licences, club premises certificates, temporary events notices and personal licences to be applied for. The Licensing Act 2003 requires that businesses involved with the supply of alcohol, the provision of regulated entertainment or the provision of late night refreshment will become regulated under the new licensing regime set up by the Act.

The provision of late night refreshment in the Act means the supply of hot food or hot drink to the public, for consumption on or off the premises, between the hours of 11.00PM and 5.00 AM or the supply of hot food or hot drink to any persons between those hours on or from premises to which the public has access. This will include take-away businesses, fast food outlets and mobile catering vehicles. For most local businesses the need to hold a premises licence to serve hot food after 11.00PM will be new. Businesses will have between the 6th August and November to apply for their new premises licences.

The Government considers that it is necessary to protect local residents because premises, which serve late night refreshment, can be used by customers who may have been drinking at other premises earlier in the evening, thereby creating the potential for disorder on and near the premises. In addition, because large numbers of customers may gather at places serving late night refreshments there is a potential for nuisance and disturbance for local residents. The regulation of late night refreshment will help tackle these issues and allow residents and other interested parties and responsible authorities to make representations about new applications, and seek reviews of existing licences where they are concerned that the licensing objectives either will be or have been affected.

Applying for a Premises Licence for the Provision of late Night Refreshment

The application form for a premises licence application form must be completed and include the correct fee and a plan of the premises drawn to the scale of 1:100 unless the Council has previously agreed in writing an alternative scale. The plan must show:

- the extent of the boundary of the building and any external and internal walls of the building, and if different, the perimeter of the premises;
- the location points of entrances and exits and any escape routes from the premises;
- the locations in the premises where the licensable activity is to take place, and if there is more than one licensable activity, where each activity is to take place;

- the locations which are used for the consumption of alcohol;
- fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without obstruction;
- the location and height of any stage or raised area, if any;
- the location and type of any fire safety and other safety equipment;
- the location of a kitchen on the premises, if any;
- the location of any steps, stairs, elevators or lifts;
- the location of public toilets.

Complete the Operating schedule part of the form

- the relevant licensable activities to be carried out;
- the proposed hours that the relevant licensable activities are to take place;
- the proposed hours that the premises are to be open to the public;
- details of who is to be the designated premises supervisor if the licensable activities include the supply of alcohol
- where the relevant licensable activities include the retail of alcohol, details of the person to be named as the Designated Premises Supervisor, together with their form of consent;
- where the relevant licensable activities include the supply of alcohol, whether the alcohol is to be consumed on or off the premises;
- the steps the applicant proposes to take to promote the following fourlicensing objectives:

The prevention of crime and disorder;

Public Safety;

The prevention of public nuisance; and

The protection of children from harm.

A list of the model pool of conditions, which focus on addressing the four licensing objectives, can be found attached to our Statement of Licensing Policy.

Copies of the application form must be to be sent out to each of the responsible authorities to allow them to comment to the licensing authority and the application advertised at the premises and in a local newspaper for their information of interested parties such as local residents.

The Council will grant the Licence unless representations are received from either responsible authorities or interested parties against the proposals, in which case a Licensing Panel will determine the application.

Designated Premises Supervisor

The details of the Designated Premises Supervisor (DPS) must be added to the Premises Licence where there will be the sale of alcohol. The DPS must hold a Personal Licence and is the person specified on the Premises Licence as being responsible for authorising the supply of alcohol. This person must be readily identifiable and will normally be given day-to-day responsibility for running the premises.

Conversion applications

From the 7 February 2005 until the 6th August 2005 licensing authorities will be able to accept and determine applications for the conversion of existing Late night refreshment licences or a Supper Licence or Special Hours Certificate issued by the Magistrates Court into the new regime of premises licences. Conversion applications (Grandfather rights) – these are applications made with the presumption that existing licensed premises will be granted a new Premises Licence unless there are any police objections on grounds of crime prevention. Also holders of Justices licence at businesses where alcohol is sold will be able to apply for a conversion to a Personal Licence. Applicants will only need to complete Part A of the application form for a straight conversion

Variation applications

Variation applications (Grandfather rights with variation) are applications made within the first 6 months of the transition period where the applicant wishes to vary a part of their current licence permissions (for example, to extend their licensed hours). The variations applied for must be advertised and copies given to each of the responsible authorities who have 28 days in which to make any representations to the licensing authority. Interested parties such as local residents can also make representations to the licensing authority in that period. Any adverse representations from any of the responsible authorities or interested parties such as local residents could result in the application having to be decided by a Licensing Panel.

Exemptions

The following are exempt from requiring a Premises Licence for the provision of late night refreshment:

- Hot drink consisting of, or containing alcohol (although a Premises Licence under the Act will be required for the supply of alcohol)
- 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
- 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;
- 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 the Charities Act 1993 or a charity not required by the Charities Act 1993 to be registered)

- Hot food or hot drink supplied on a vehicle, which is not permanently or temporarily parked at the time.
- Hot food or hot drink supplied to members and guests of recognised clubs that hold a Club Certificate
- Hot food or hot drink supplied to guests (and their guests) of hotels or similar premises that supply accommodation as their main purpose;
- Refreshment made available to employees of a particular employer between 11pm and 5am whose shift patterns require them to be present at the workplace between 11pm and 5am;

If a supermarket or other business premises (i.e. Garage) is heating food or drink for customers for consumption on or off the premises between 11pm and 5am or provides facilities for customers that enable food or drink to be heated above the ambient temperature a late night refreshment licence will be required. However, if a the business 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.

Further help and information

Further licensing information is available on the Council's website at www.gedling.gov.uk and the Department for Culture Media and Sport at www.culture.gov.uk.

You may also wish to contact our Licensing Office by telephoning 0115 901 3895, by email:licensing@gedling.gov.uk

Our postal address is Licensing Office, Planning and Environment Department, Gedling Borough Council, Civic Centre, Arnot Hill Park,Arnold,Notts.NG5 6LU.