

## FREQUENTLY ASKED QUESTIONS & ANSWERS

**Are there any instances where the provision of hot food and hot drink does not require an authorisation under the Licensing Act 2003 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.

**Are clubs which have a club premises certificate covered for late night refreshment?**

No. **Club premises certificates** [[link to CPC page](#)] 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 is exempt.

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.

**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.

**I am the owner of a late night take away shop outside London. Do I need a licence?**

Yes, if you intend to serve hot food or drink to the public on or from the premises between 11pm and 5am the following morning. The new legislation requires **all** late night takeaways and cafes in England and Wales to be licensed if open between these times.

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

Yes, if a supermarket is heating food or drink for consumption, whether for 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 is 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 is not be required, even if the supermarket stays open after 11pm.

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

Vending machines supplying hot drinks are exempt from licensing so long as the payment for the drink is inserted into the machine by the member of the public (not a member of staff) and the hot drink is supplied to the member of the public directly by the machine, not by a member of staff!

