

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 17th November 2015

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PART I

FOR INFORMATION

DEREGULATION ACT 2015 – GUIDANCE ON THE LICENSING OF LATE NIGHT REFRESHMENT

1. **Purpose of Report**

To advise members of the amendments to Schedule 2 of the Licensing Act 2003 by Section 71 of the Deregulation Act 2015 and of the recently published Home Office Guidance on the licensing of late night refreshment.

2. **Recommendation**

The Committee is requested to note the report:

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The report outlines that Slough Borough Council as the Licensing Authority for the Licensing Act 2003 determines all applications for relevant Licensable Activities including late night refreshment. The Deregulation Act 2015 amends the 2003 Act, giving Local Authorities powers, to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment.

3a. **Slough Joint Wellbeing Strategy Priorities –**

The Home Office has published Guidance on the licensing of late night refreshment which is intended to assist Licensing Authorities and the Police with monitoring and enforcement activities in relation to the provision of late night refreshment. The Guidance may also help businesses who wish to provide hot food and drink to determine whether they will require a licence under the 2003 Act.

As the amendments to the 2003 Act give Licensing Authorities powers to exempt premises, in certain circumstances from the requirement to have a licence for late night refreshment, this will contribute to the following wellbeing themes.

- Economy and Skills
- Safer Communities

Cross-Cutting themes:

Should exemptions be implemented this may promote the benefits of living and working in Slough and may contribute to the cross cutting theme of **Improving the image of the town.**

3b. **Five Year Plan Outcomes**

The amendments by the Deregulation Act 2015 give Licensing Authorities powers if they wish, to provide exemptions from the need for a Premises Licence in certain circumstances and may contribute to the Five Year Plan with the specific outcome of:

- Slough will be one of the safest places in the Thames Valley

4. **Other Implications**

(a) Financial

There are no financial implications involved in the recommendation.

Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
As detailed in Point 2.	None	It is a matter for the Licensing Authority to decide if they wish to put in place exemptions or not. Liaison with the Police will assist in the decision making.

(b) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(c) Equalities Impact Assessment

As this is an Information Report, an EIA has not been completed at this stage. However an EIA will be undertaken should the Licensing Authority decide to make any exemptions at a later date.

5. Supporting Information

- 5.1 Slough Borough Council as the Licensing Authority under the Licensing Act 2003 determines all applications for relevant Licensable Activities including late night refreshment.
- 5.2 Schedule 2 of the Licensing Act 2003 provides a definition of what constitutes late night refreshment. Section 71 of the Deregulation Act 2015 amends Schedule 2, inserting a new paragraph 2A into the 2003 Act, giving Licensing Authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment.
- 5.3 The Home Office has published Guidance on the licensing of late night refreshment outlining the relaxation for licensing late night refreshment in certain circumstances. The new guidance, attached at **Appendix A**, although not issued as part of the statutory guidance under section 182 of the 2003 Act at this time, will be incorporated into the section 182 guidance when next updated.
- 5.4 The Guidance is intended to assist Licensing Authorities and Police forces with monitoring and enforcement activity in relation to the provision of late night refreshment. It may also help businesses who wish to provide hot food and drink to determine whether they will require a licence under the 2003 Act in order to do so.
- 5.5 In summary, the amendments to Schedule 2 of the 2003 Act, now provide that Licensing Authorities can:
 - (i) designate a ***particular description of premises (as set out in the regulations)*** as not requiring permission to sell hot food and drink after 2300hrs
 - (ii) ***designate areas*** where premises do not need a premises Licence to sell hot food or drink after 2300hrs, and
 - (iii) stipulate that ***during the period between 2300hrs and 0500hrs***, premises may trade freely for the provision of hot food and drink without the need for a licence.
- 5.6 The Guidance at paragraph 3.5 lists the categories of premises which a Licensing Authority can decide are exempt from requiring a licence for hot food or drink after 2300hrs. The Guidance also makes it clear that whilst a Licensing Authority can use more than one type of exemption, it cannot use different forms of exemption in conjunction with one another, giving the example that a Licensing Authority is not permitted to change the times premises require permission to sell hot food and drink in one geographic area only. In other words, it would have to change the hours across the entire area for the Licensing Authority.
- 5.7 If a premises becomes exempt from the requirement to hold a Premises Licence for the sale of hot food, but does not surrender it, there is no requirement for the Licence Holder to continue to pay an annual fee, if the Premises Licence only permits late night refreshment. Any conditions on a licence relating solely to the provision of the late night refreshment, likewise, no longer have effect.
- 5.8 The provisions in the Deregulation Act 2015 came into force on 1st October 2015,

and took effect on 5th November 2015 and set out the types of premises that a Licensing Authority may exempt from the licensing for late night refreshment. The regulations are attached at Appendix B.

6. Comments of Other Committees

None

7. Conclusion

The Committee is requested to note the report and that a further report will be put before the Committee following liaison with the Thames Valley Police.

8. Appendices Attached

‘A’ - Home Office – Guidance on the licensing of late night refreshment.

‘B’ - The Licensing Act 2003 (Late Night Refreshment) Regulations 2015

9. Background Papers

Schedule 2 of the Licensing Act 2003

Section 71 of the Deregulation Act 2015