

# Review

## Commercial & Dispute Resolution



## Service Station forecourts - is your forecourt covered under the Licensing Act 2003?

### WHAT DOES THE LICENSING ACT COVER?

Under the 2003 Act, which came into force in 2005, the following activities must be authorised by a Premises Licence (or Temporary Event Notice for one-off events):

- The sale of alcohol;
- The provision of late night refreshment; and/or
- The provision of regulated entertainment.

### WHAT IS 'LATE NIGHT REFRESHMENT'?

Late Night Refreshment under the 2003 Act is **the provision of hot food and/or hot drink at any time between 23.00 and 05.00 daily.**

"Vending machines" are exempt from the requirement for a Licence. However, vending machine is narrowly defined to include only those machines where payment is inserted into the machine by a member of the public and the hot drink is supplied directly by the machine.

Therefore, where coffee is supplied between 11pm and 5am in Service Station forecourts and is paid for 'over the counter' a Premises Licence is required.

### THE SERVICE STATION HAS A PREMISES LICENCE – AM I COVERED?

Many service stations may already benefit from a Premises Licence covering the Restaurant/Café area. These areas required a Night Café Licence to operate pre-2005 as the food/drink served was consumed 'on' the premises. In 2005, the Night Café Licences should have been converted to Premises Licences under the grandfather provisions and a conversion application would cover the same areas as the previous licence.

However, under the 2003 Act, it does not matter whether the food or drink will be consumed on or off the premises. **Therefore, if a forecourt (or shop) sells coffee and/ or hot snacks that forecourt/shop must also be covered.** A licence that was simply converted in 2005 is very unlikely to cover the forecourt.

If you supply hot food or hot drink in your service station forecourt, please check the plans attached to your Premises Licence to ensure the forecourt (or any shop) is covered. The provision of licensable activities without authorisation is an offence punishable by a fine of up to £20,000 and/or 6 months imprisonment.

### DELAY COULD THEREFORE PROVE EXPENSIVE!

If you would like any further advice or information, please contact a member of the Licensing Team at Hammonds.

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