

DEREGULATION ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 71: Late night refreshment

337. Schedule 2 to the Licensing Act 2003 contains the framework for the regulation of the provision of late night refreshment. The provision of late night refreshment is defined as the supply of hot food or hot drink on or from premises to members of the public between 11pm and 5am for consumption on or off the premises. Schedule 2 makes provision for exempt supplies of hot food or hot drink; these include supplies which can only be made from premises which are recognised clubs or hotels to persons admitted to those premises as a member of the club or as an overnight guest at the hotel, and supplies by means of a self service vending machine or which are free.
338. This section inserts new paragraph 2A into Schedule 2 to the 2003 Act to confer powers on a licensing authority to exempt a supply of hot food or hot drink from the requirements in Schedule 2 in three respects. New paragraph 2A(1) provides that a supply of hot food or hot drink is exempt if it takes place (a) on or from premises situated in an area in the relevant licensing authority's area designated by the authority; (b) on or from premises in a relevant licensing authority's area of a description designated by the authority (by virtue of new paragraph 2A(2) premises may only be designated by the authority if they are of a description prescribed by regulations made by the Secretary of State); and (c) during a period (beginning on or after 11pm and ending on or before 5am) designated by the relevant licensing authority in its area. A relevant licensing authority can make one or more of these designations to apply simultaneously but not in conjunction with one another.
339. New paragraph 2A(3) enables a licensing authority to vary or revoke a designation. By virtue of new paragraph 2A(4), the authority must publish the designation, variation or revocation.
340. New paragraph 2A(5) provides that a "relevant licensing authority" in relation to a supply of hot food or hot drink is the licensing authority in whose area the premises on or from which the hot food or hot drink is supplied are situated, or if the premises are situated in the areas of two or more licensing authorities, any of those authorities.
341. The section, as with the Licensing Act 2003, forms part of the law of England and Wales only. It comes into force on a day to be appointed by the Secretary of State in a commencement order.