



**Shetland Islands Council
Civic Government (Scotland) Act 1982
Section 42**

**LATE HOURS CATERING LICENCE
NOTES FOR GUIDANCE**

These notes have been written to help you with the licensing application form and to draw your attention to some other things you may have to do in connection with your application. If you need any more help please contact Environmental Health on 01595 745250 or ehadmin@shetland.gov.uk or come along Old Anderson High School, Lovers Loan, Lerwick, Shetland.

The Civic Government (Scotland) Act 1982 (“the Act”) introduced compulsory licensing of certain activities and also the option to licence other activities. The Council resolved in 1997 (updated in 2013) to licence Public Entertainments, as noted below, so as to prevent crime, to preserve public order and safety and to protect the environment.

What is a Late Hours Catering Licence?

The Act defines “late hours catering” as the use of premises between the hours of 11 o’clock in the evening and 5 o’clock on the following morning for the sale or consumption by the public of food. The Act includes the sale of food for consumption on as well as off the premises in which they are sold.

‘food’ (or ‘foodstuff’) means any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans. ‘Food’ includes drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment. (Regulation (EC) No 178/2002 Of the European Parliament and of the Council).

A late hours catering licence is not required for:

- (a) the use of premises which are licensed under the Licensing (Scotland) Act 2005; or
- (b) premises which have a public entertainment licence.

Please note that if a late hours caterer operates a business from a vehicle and uses that vehicle during the day, then he needs both a late hours catering licence and a street trader’s licence.

Between what hours will the Council permit late hours catering?

While the Act specifies that late hours catering takes place between 11pm and 5am, it also permits the Council, as licensing authority, to determine hours within this period during which late hours catering may take place and different hours may be specified for different days of the week.

For example, the hours between 11pm – 3am Friday/Saturday and 11pm – 3am Saturday/Sunday.

How long is the licence for?

A full licence is granted for 3 years.

What is the fee?

A list of the fees is enclosed with this application. Fees have to be paid for applications and must be paid along with the submitted application. Please do not send cash. Cheques and postal orders should be made payable to: “Shetland Islands Council”.

Who will be consulted?

All applications will be submitted to the Police for an opinion as to whether the applicant is a fit person to hold a licence and Infrastructure Services Department will also be asked for an opinion as to the suitability of the vehicles and premises of the application.

What conditions will be applied to my licence?

The premises will be required to comply with the standards Conditions attached to these notes and these will form part of the Licence being granted. The Council may also add specific conditions on matters. This may include the times and days of the week you will be permitted to operate.

STANDARD LICENCE CONDITIONS

LICENCE

1. The Trader shall be permitted to trade at the specified business premises or locations and no other premises or locations.
2. The Trader shall be permitted to trade only on the specified days and at the specified times.
3. The Trader shall display his licence at all times in such a position that it can be clearly seen by members of the public.
4. The Trader shall keep his licence at all times clean and legible, and shall exhibit it on demand to any authorised officer of the Council or Police Officer.
5. The Trader shall not in any way alter, erase or deface his licence and shall when reasonably required, produce them for examination by any authorised officer of the Council or Police Officer.
6. The Trader shall not lend or allow any other person to use his licence.
7. If the Trader changes his address he shall, within fourteen days thereafter, give notice thereof to the Council and produce his licence to the Environmental Health Department who shall endorse thereon the particulars of such change of address.
8. If the Trader ceases to act as a late hours caterer or if his licence has expired the Trader shall, within seven days thereafter, give notice thereof to the Council and deliver his licence and means of identification to the Environmental Health Department at which time the licence shall be deemed to have been surrendered in terms of Paragraph 13 (1) of Schedule 1 to the Civic Government (Scotland) Act 1982.
9. The Trader shall hold and display in a conspicuous position, alongside the late hours catering licence, a Certificate issued by the Council that the premises comply with the requirements of the Food Hygiene (Scotland) Regulations 2006.

VEHICLE OR STALL

10. The Trader who uses a vehicle or stall for the purposes of late hours catering shall not trade from the vehicle or stall until it has been approved by the Council.
11. The Trader shall store or keep all goods to be used in connection with his catering only in the premises, vehicle or stall approved by the Council for that purpose
12. A vehicle or stall used by the Trader shall have displayed clearly on it the name and address of the owner of the vehicle or stall.
13. The Trader when using a vehicle or stall while engaged in late hours catering shall:
 - (a) not cause any obstruction on any road or footway;
 - (b) ensure that the vehicle or stall does not stand for trade within a distance of 20 metres from any pedestrian crossing or roundabout;
 - (c) at all times conduct his business and maintain and position his vehicle or stall in such a manner that no danger is likely to arise to any person;
 - (d) ensure at all times that the vehicle or stall can be easily removed.
14. The Trader shall not use his vehicle or stall to conduct a food business unless a licence has been granted for this purpose by the Council upon production by the street trader of a Certificate of Compliance for Food Safety from the Council stating that the vehicle complies with the Food Hygiene (Scotland) Regulations 2006.
15. Where the licence has been granted in relation to a specific vehicle the licence holder shall not modify or replace the said vehicle without previously having notified the Environmental Health Department in writing and having received the appropriate Certificate of Compliance with Food Safety.
16. The Trader shall when reasonably required present his vehicle or stall for inspection by any authorised officer of the Council.

LITTER & NOISE

17. The Trader shall at all times keep himself and his clothing clean and maintain any premises, vehicle or stall used for the purpose of late hours catering in a clean and proper condition to the satisfaction of any authorised officer of the Council.
18. The Trader shall collect and remove any paper, garbage or other refuse which may be produced or may accumulate in the course of trading and shall not place or deposit the same or allow the same to be placed or deposited or to fall on any road, footpath or footway or an adjoining property within a fifty metre radius of his premises, vehicle or stall, to the satisfaction of the Infrastructure Services Department.
19. The Trader shall provide, while engaged in late hours catering in one location for a period exceeding 30 minutes, a litter bin in a public place adjacent to his premises, vehicle or stall for the deposit of paper, garbage or other refuse by his customers, and empty and service this bin, to the satisfaction of the Infrastructure Services Department.
20. The Trader shall provide in his premises, vehicle or stall a container for waste material of a type approved by the Council.

SALE OF FOOD

21. The Trader shall ensure that his trading is conducted in such a manner as it does not give rise to nuisance or disturbance from fumes, smell, noise or any other cause to local residents or members of the public.
22. The Trader who uses his premises, vehicle or stall to conduct a food business within the meaning of the Food Hygiene (Scotland) Regulations 2006 shall:
 - (a) store goods to be used in connection with the food business only in premises or a vehicle approved by the Council; and
 - (b) keep food premises or vehicle clean and maintained in good repair.
23. The Trader licensed to sell food shall comply at all times with the requirements of the Food Hygiene (Scotland) Regulations 2006. The late hours caterer shall not sell food unless specifically licensed to do so, and shall sell only those classes of foods as approved by the Council as detailed in his licence

GENERAL

24. Except as otherwise directed by the Council, the Trader shall not engage in late hours catering within 50 metres of any establishment or premises in which are sold or offered for sale any goods or articles or services of the same or similar class and description as those to be sold or offered for sale by the Trader. The Council may, in their sole discretion and on application, direct that the terms hereof shall not apply to the Trader in a particular road or locality or area, and such a direction shall not be effective until it is endorsed by the Environmental Health Department on the licence.
25. Any requirements of the Scottish Fire and Rescue Service shall be complied with and adhered to during the currency of this licence.
26. The Trader shall ensure that at his premises all means of escape remain clear and free from obstruction at all times. This includes fire exit doors inside and outside buildings and thoroughfares. Firefighting equipment in the premises should not be obstructed or covered over.
27. The Trader shall comply with any reasonable order or instruction given by a Police Officer or authorised officer of the Council:
 - (a) for the prevention of obstruction or annoyance to the public or to the occupiers of any premises;
 - (b) in connection with any emergency or disturbance; or
 - (c) on any occasion when such Officer in his discretion may consider it necessary in the public interest to give such order or instruction.