

Property**Opening a Restaurant – what you need to know about legal compliance**

Opening a restaurant could be a great business opportunity as the UK food industry is thriving. Having a great chef, great recipes and a great start-up plan is just the starting point. The actual start-up process involves meeting many rules and regulations and if these are not followed, it could lead to facing fines from the authorities and even a shutdown of the restaurant. A restaurant owner should find out as much as possible about the legal requirements before investing into the business in order to avoid any penalties for non-compliance. Here are the key requirements you should think about:

Premises

When looking for the ideal premises, you will of course be looking at size, location and the target market. Most restaurant premises are likely to be leased properties requiring you to become a tenant first before you can start the business. The landlord will ask you to sign a lease and you would be well advised to have the lease terms checked by a solicitor. Once you sign the lease, it will be difficult to go back and change any terms which you later discover are not suitable for your business operations.

Use Class

To operate as a restaurant, the premises must have the correct 'use class'; restaurants are use class A3. This permits the sale of hot food and drink on the premises. If the premises you desire does not have the relevant use class, you can make a planning application to the local planning authority but this does not necessarily mean the change in use class will be allowed.

**Premises Licence**

A premises licences will be required if you are (i) going to sell alcohol (ii) have late night entertainment (iii) serve late night refreshments or (iv) have seating outside on the pavement. It is recommended that you take legal advice as these applications to the local authority can be complicated and time consuming. The local authority often imposes a number of conditions with a licence which your solicitor can negotiate on your behalf.

Refurbishment

Most restaurant owners prefer to re-design a layout according to the business venture. If you are considering structural changes, you may need planning permission or building regulations approval. Most certainly if you are a tenant you will need consent from the landlord before you start the works. Your solicitor will be able to advise you on the legal process of obtaining landlord consent. When refurbishing the premises, you should take into account (i) food and odour control (ii) noise control (iii) appropriate toilet facilities (iv) waste storage (v) drainage system (vi) ventilation (vii) lighting, to name a few. These amenities are legal requirements set by the regulations mentioned below. An owner should also ensure that the kitchen is equipped for safe food preparation and has the correct storage facilities.

Regulations

The food industry is heavily regulated to ensure food safety and hygiene. The regulations can dictate how a restaurant's layout is designed, which facilities and equipment are mandatory and how the business should operate in terms of food safety and hygiene compliance. The business will need to register with the local environmental health department and obtain food hygiene certificates and health and safety certificates.

Insurance

As you are likely to be a tenant, the landlord will have buildings insurance over the premises which will cover damage caused by non-fault incidents such as fire, floods etc. For individual business owners, you are likely to need additional insurances such as public liability, employee liability, contents and business interruption.

Outgoings

Along with the usual outgoings such as gas, electricity and water bills, a business also has to pay business rates. This varies according to the size and use of the premises. The general rule is that the business will pay rates equal to 50% of the annual rent and rent is usually determined by the location, i.e. a more up-market and popular location will dictate higher rent. For affordability purposes, you should check the amount of business rates before signing the lease.

Tax and VAT registration

The right tax structure for your business is important and equally so is ensuring you maintain the right business records to pay the right taxes. Getting tax advice before you start your business is the right approach.

If you would like further information on the above, please contact 3HR's property department.

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