

SCHEDULE L9

LONDON LOCAL AUTHORITIES ACT 1990 PART III AS HAVING EFFECT IN ACCORDANCE WITH SECTION 6 (STREET TRADING) OF THIS ACT

PART III

STREET TRADING

Part III appeals

- 30 (1) Any person aggrieved—
- (aa) by the refusal of a borough council to renew a licence because they are not satisfied as mentioned in subsection (4) (b) of section 25 (Application for street trading licences) of this Act;
 - (a) by the refusal of a borough council to grant or renew a licence on any of the grounds mentioned in subsection (6) (a) to (e) of section 25 (Application for street trading licences); or
 - (b) by a decision of a borough council under subsection (7) of the said section 25 to grant him a licence either on terms mentioned in that subsection different from those on the licence which he previously held or different from those for which he applied; or
 - (c) by any further condition attached by a borough council under subsection (8) of section 27 (Conditions of street trading licences) of this Act in addition to the standard conditions; or
 - (d) by a decision of the borough council either—
 - (i) to vary the conditions of a licence under subsection (2) of section 28 (Revocation or variation of licences under Part III) of this Act; or
 - (ii) to revoke a licence under subsection (1) of the said section 28;
 - or
 - (e) by a resolution of a borough council under section 37 (Ice cream trading) of this Act;
- may appeal to a magistrates' court acting for the area in which the licence street is situated.
- (2) An appeal under subsection (1) above may be brought—
- (a) in the case of an appeal under paragraph (aa), (a), (b), (c) or (d) of that subsection, at any time before the expiration of the period of 21 days beginning with the date upon which notification in writing is given of the refusal or decision;
 - (b) in the case of an appeal under paragraph (e) of that subsection, at any time before the expiration of the period of 21 days beginning with the date of the second publication of the notice required by subsection (10) of section 24 (Designation of licence streets) as applied by the said section 37.
- (3) A person desiring to appeal against such refusal or decision as is mentioned in subsection (1) above shall give a written notice to the magistrates' court and to the

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borough council specifying the refusal or decision against which he wishes to appeal and the grounds upon which such appeal is made.

- (4) An appeal by either party against the decision of the magistrates' court under this section may be brought to the Crown Court.
- (5) On an appeal to the magistrates' court or to the Crown Court under this section, the court may make such order as it thinks fit.
- (6) Subject to subsections (7) to (9) below, it shall be the duty of the borough council to give effect to the order of the magistrates' court or the Crown Court.
- (7) A borough council need not give effect to the order of the magistrates' court until the time for bringing an appeal under subsection (4) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.
- (8) Where a licence holder applies for renewal of his licence, his existing licence shall remain valid—
 - (a) until the grant by the borough council of a new licence with the same conditions; or
 - (b) if the borough council refuse renewal of the licence or decide to grant a licence with conditions different from those of the existing licence and he has a right of appeal under this section, until the time for bringing an appeal has expired or where an appeal is duly brought, until the determination or abandonment of the appeal; or
 - (c) if he has no right of appeal under this section until the borough council either grant him a new licence with conditions different from those of the existing licence or notify him of their decision to refuse his application.
- (9) Where—
 - (a) a borough council decide—
 - (i) to vary the conditions of a licence under subsection (2) of the said section 28; or
 - (ii) to revoke a licence under subsection (1) of the said section 28; and
 - (b) a right of appeal is available to the licence holder under this section;
 the variation or revocation shall not take effect until the time for bringing an appeal has expired or where an appeal is duly brought, until the determination or abandonment of the appeal.
- (10) For the avoidance of doubt, it is hereby declared that an application under section 31 of the Supreme Court Act 1981 (application for judicial review) or under the Rules of the Supreme Court 1965 in respect of any matter which is or could be the subject of an appeal to the magistrates' court or to the Crown Court under this section shall not be treated as an appeal for the purposes of subsection (8) or (9) above.
- (11) Any person aggrieved—
 - (a) by a resolution rescinding or varying a designating resolution;
 - (b) by a resolution under subsection (1) (b) of section 24 (Designation of licence streets) of this Act;
 - (c) by a standard condition prescribed by regulations under subsection (3) of section 27 (Conditions of street trading licences) of this Act; or

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(d) by the amount of a fee or charge under section 32 (Fees and charges) of this Act;

may appeal to the Secretary of State whose decision shall be final.

(12) An appeal under subsection (11) above may be brought—

(a) in the case of an appeal under paragraph (a) or (b) of that subsection, at any time before the expiration of the period of three months beginning with the date on which notice of the passing of the resolution is published for the second time in accordance with subsection (10) of section 24 (Designation of licence streets) of this Act;

(b) in the case of an appeal under paragraph (c) of that subsection, at any time before the expiration of the period of three months beginning with the date upon which the licence holders or a body or bodies representative of them were notified of the making of the regulations;

(c) in the case of an appeal under paragraph (d) of that subsection—

(i) if it relates to the amount of a fee payable under subsection (1)

of section 32 (Fees and charges) of this Act, at any time before the expiration of the period of three months beginning with the date on which the fee payable is notified to the licence holders or a body or bodies representative of them;

(ii) if it relates to the amount of a charge under subsection (2)

of section 32 (Fees and charges) of this Act, at any time before the expiration of the period of three months beginning with the date on which notice of the determination of the charge has been given to the licence holders or a body or bodies representative of them.