



London Local Authorities Act 1994

1994 CHAPTER xii

6 Street trading

- (1) Section 21 (2) (j) (Interpretation of Part III) of the Act of 1990 is hereby amended by the insertion after “offer for sale”, of the words “of articles”.
- (2) Section 24 (1) (Designation of licence streets) of the Act of 1990 is hereby amended by the substitution for the proviso of—

“Provided that a borough council shall—

 - (a) before passing a designating resolution, consult with the Commissioner of Police of the Metropolis on their proposal; and
 - (b) before rescinding or varying a designating resolution, consult with the licence holders trading in the street in question, or a body or bodies representative of them, on their proposal.”
- (3) Section 27 (6) (Conditions of street trading licences) of the Act of 1990 is hereby amended by the addition, at the end of the subsection, of “and shall notify the licence holders or a body or bodies representative of them of the making of such regulations.”.
- (4) In section 30 (1) (Part III appeals) of the Act of 1990, the following paragraph shall be inserted after the words “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.”.
- (5) In section 30 (1) (d) (Part III appeals) of the Act of 1990, the words, “where that decision is based on any of the grounds mentioned in subsection (1) (d) to (h) of the said section 28” shall cease to have effect.
- (6) Section 30 (2) (a) (Part III appeals) of the Act of 1990 is hereby amended by the addition after “paragraph” of “(aa),”.
- (7) Section 30 (Part III appeals) of the Act of 1990 is hereby amended by the addition, after subsection (11) of the following subsection:—

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

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- (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.”.
- (8) Section 32 (Fees and charges) of the Act of 1990 is hereby amended—
- (a)
 - (i) by the deletion in subsection (5), of “grant or” and “as aforesaid”; and
 - (ii) by the addition in that subsection after “any” of the word “such”;
 - (b) by the substitution, in subsection (7) for “or varying the amount of such charges” of the words “(whether originally or by way of variation of charges previously determined)”;
 - (c) by the addition after subsection (7) of the following subsection:—

“(7A) A notice under subsection (7) (a) above shall be accompanied by a statement showing how the proposed charges have been computed; and any body representative of licence holders may request the borough council to supply such further information or explanation with regard to the proposed charges as the body may reasonably require in order to ascertain whether the proposed charges are reasonable and have been computed in accordance with the provisions of this section.”;
 - (d) by the addition in subsection (9)—
 - (i) after the first “to” of “(a)”; and
 - (ii) at the end, of the words “and
 - (b) comply with any request made under subsection (7A) above; and where any such request is made the period so specified, if still current, shall be treated as extended by the number of days in the period beginning with the day on which the request is made and ending with that on which it is complied with.”;
 - (e) by the substitution for subsection (10) of—

“(10) When a borough council have determined fees under subsection (1) above or charges under subsection (2) above (whether originally or

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by way of variation of fees or charges previously determined) they shall give notice of the fees or charges so determined and of the date on which those fees or charges are to be brought into effect, in the manner prescribed in subsection (7) above.”.

- (9) Section 34 (Offences) of the Act of 1990 is hereby amended by the addition, at the beginning of paragraph (1) of the words “without reasonable excuse”.
- (10) Section 37 (Ice cream trading) of the Act of 1990 is hereby amended by the addition, in subsection (2) after “prohibited street” of the words “and in the case of any London borough except the City of Westminster and the Royal Borough of Kensington and Chelsea may so designate it for such days or for such parts of days as are specified in the resolution,”.
- (11) Section 38 (Unlicensed street trading) of the Act of 1990 is hereby amended—
- (a) by the substitution for subsection (1) of—
- “(1) A person who—
- (a) is not the holder of a street trading licence or a temporary licence and who engages in street trading in a borough; or
- (b) is the holder of a temporary licence and who engages in street trading in a borough on a day or in a place not specified in that temporary licence; shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”;
- (b) by the addition, in subsection (4) after “of that offence” of the words “or may be the subject of forfeiture under subsection (5) below”;
- (c) by the addition, after subsection (4) of the following subsection:—
- “(4A) (a) The following provisions of this subsection shall have effect where any article or thing (including any receptacle) is seized under subsection (4) above and references in those provisions to proceedings are to proceedings in respect of the alleged offence in relation to which the article or thing is seized.
- (b) Subject to paragraph (e) below, at the conclusion of the proceedings the article or thing shall be returned to the person from whom it was seized unless the court orders it to be forfeited under subsection (5) below.
- (c) Subject to paragraph (d) below, where a receptacle seized under subsection (4) above is a motor vehicle used for ice cream trading, the borough council or the Commissioner of Police of the Metropolis (as the case may be) shall, within three days of the receipt of an application in writing by the owner or registered keeper of the vehicle, permit him to remove it.
- (d) Paragraph (c) above shall not apply where—
- (i) the owner or registered keeper of the vehicle has been convicted of an offence under this Part of this Act; or
- (ii) the owner or registered keeper of the vehicle is being prosecuted for a previous alleged offence under this Part of this Act; or
- (iii) the vehicle has been used in the commission of such an offence or previous alleged offence;

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- if the offence or previous alleged offence was committed or is alleged to have been committed no more than three years before the seizure and (in the case of an alleged offence) the proceedings are continuing.
- (e) If no proceedings are instituted before the expiration of a period of 28 days beginning with the date of seizure, or any proceedings instituted within that period are discontinued, at the expiration of that period or, as the case may be, on the discontinuance of the proceedings, the article or thing shall be returned to the person from whom it was seized unless it has not proved possible, after diligent enquiry, to identify that person and ascertain his address.
- (f) Where the article or thing is not returned because it has not proved possible to identify the person from whom it was seized and ascertain his address the borough council (whether the article or thing was seized by a constable or by an authorised officer) may apply to a magistrates' court for an order as to the manner in which it should be dealt with.”;
- (d) by the addition, in subsection (6) at the end, of—
- “and in considering whether to make such an order a court shall have regard—
- (i) to the value of the property; and
- (ii) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).”;
- (e) by the substitution, in subsection (7) for “the article or thing” of the word “anything”;
- (f) by the addition, after subsection (7) of the following subsection:—
- “(8) (a) This subsection shall have effect where—
- (i) an article, thing or receptacle is seized under subsection (4) above; and
- (ii) (a) not less than six months have passed since the date of the seizure and no information has been laid against any person for an offence under this section in respect of the acts or circumstances which occasioned the seizure; or
- (b) proceedings for such an offence have been brought and either the person charged has been acquitted (whether or not on appeal) and the time for appealing against or challenging the acquittal (where applicable) has expired without an appeal or challenge being brought, or the proceedings (including any appeal) have been withdrawn by, or have failed for want of prosecution by, the person by whom the original proceedings were brought.

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- (b) When this subsection has effect a person who has or at the time of seizure had a legal interest in the article, thing or receptacle seized may recover compensation from the borough council or (where it is seized by a constable) the Commissioner of Police of the Metropolis by civil action in the County Court in respect of any loss suffered by him as a result of the seizure.
- (c) The court may not make an order for compensation under paragraph (b) above unless it is satisfied that seizure was not lawful under subsection (4) above.”.

(12) Part III of the Act of 1990, as amended by this Act, is set out in the Schedule to this Act.