



London Local Authorities Act 2007

2007 CHAPTER ii

PART 3

LICENSING

CHAPTER 2

STREET TRADING

London Local Authorities Act 1990

45 Seizure of perishable items

After section 38 (unlicensed street trading) of the Act of 1990, the following section is inserted—

“Seizure of perishable items

- (1) No item which is of a perishable nature (in this section referred to as a “perishable item”) shall be seized under the provisions of subsection (4) of section 38 (unlicensed street trading) of this Act unless the authorised officer or constable gives a certificate under subsection (2) below to the person from whom the item is seized.
- (2) Where a perishable item is seized under the said section 38, the person from whom it is seized must be given a certificate—
 - (a) stating the effect of subsection (4) below and subsection (6) of the said section 38;
 - (b) giving the address from which the item may be collected;
 - (c) informing the recipient that if he is not the owner of the item, then he should give the owner the information referred to in paragraphs (a) and (b) above.

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- (3) The council or the police shall store any perishable item seized under the said section 38 at an appropriate temperature.
- (4) If the person from whom a perishable item was so seized fails to collect it within 48 hours of the seizure the council or the police may dispose of it.
- (5) When any perishable item is disposed of by the council under subsection (4) above, the council shall have a duty to secure the best possible price which can reasonably be obtained for it.
- (6) Paragraphs (a) to (d) of subsection (4C), and subsections (5) and (6) of the said section 38 shall apply to perishable items seized under that section only in cases where the item concerned has not been disposed of by the council at the conclusion of the proceedings in respect of the alleged offence in relation to which the item was seized.
- (7) Paragraphs (e) and (f) of subsection (4C) of the said section 38 shall apply to perishable items seized under that section only in cases where the item concerned has not been disposed of by the council at the expiration of the period mentioned in the said paragraph (e); otherwise subsections (9) to (12) below shall apply.
- (8) Subsection (8) of the said section 38 shall apply with the omission of paragraph (c) in respect of perishable items seized under that section only in cases where the item concerned has not been disposed of by the council by the time the circumstances mentioned in paragraph (a)(ii)(A) or (B) arise; otherwise subsections (9) to (12) below shall apply.
- (9) Subsection (12) below shall have effect where the council have disposed of a perishable item under subsection (4) above and any of the following conditions apply.
- (10) The first condition is that no proceedings in respect of the alleged offence in relation to which the item was seized are instituted before the expiration of a period of 28 days beginning with the date of seizure of the item, or any such proceedings instituted within that period are discontinued.
- (11) The second condition is that—
 - (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 the said section 38 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.
- (12) When this subsection has effect a person who has, or at the time of seizure had, a legal interest in the item 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 and any such compensation shall not be included

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in the computation for calculating charges under section 32 (fees and charges) of this Act.”.