



## 2014 CHAPTER 9

### *Application for licence*

#### **Application for licence**

**3.—(1)** A person who carries on, or proposes to carry on, a relevant business may apply to the relevant district council for a pavement café licence in respect of premises specified in the application.

(2) The premises specified must be premises in or from which food or drink is, or will be, supplied in the course of the business.

(3) Only one set of premises may be specified in the application, but this does not prevent a person from making two or more separate applications in respect of different sets of premises.

(4) The application must include a plan which—

(a) shows the location and dimensions of the public area (or each of the public areas) on which the applicant wishes to place temporary furniture for use for the consumption of food or drink supplied in or from the specified premises; and

(b) meets such other requirements as the council may specify.

(5) Any such area must be situated in the district of the relevant district council.

(6) Sections 10 and 11 apply in relation to an application under this section.

(7) In this section—

“a relevant business” means a business involving the supply of food or drink to members of the public, or of a section of the public;

“the relevant district council” means the council in whose district the premises specified in the application are situated.

**Grant or refusal of licence**

4.—(1) A council must grant an application for a pavement café licence which is made to it in accordance with this Act unless it considers that it ought to refuse the application on one or more of the grounds set out in subsection (2).

(2) The council may refuse the application on any of the following grounds—

- (a) that all or any part of the public area where the applicant wishes to place temporary furniture for use for the consumption of food or drink is unsuitable for that purpose;
- (b) that placing such furniture on, or on a particular part of, that area for use for the consumption of food or drink supplied in or from the premises specified in the application would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity, or in disorder;
- (c) that, in connection with the application, the applicant made a statement which the applicant knew to be false in a material respect or failed to comply with section 11;
- (d) that the applicant has at any time been granted a pavement café licence by the council which was revoked, or could have been revoked, for reasons within the applicant's control.

(3) Where the applicant wishes to place temporary furniture for use for the consumption of food or drink on more than one public area—

- (a) subsection (2)(a) applies as if the reference to the public area were to any of the public areas; and
- (b) subsection (2)(b) applies as if the reference to that area were to those areas.

(4) Before deciding an application for a pavement café licence, a council—

- (a) must consult the Department for Regional Development as regards that department's functions with respect to roads and the regulation of road traffic; and
- (b) if the premises to which the application relates are premises licensed under the Licensing Order of a kind mentioned in Article 5(1)(a) of that Order, must (and in any other case may) consult the district commander for the police district in which the premises are situated.

(5) The council may consult such other persons as it considers appropriate.

(6) In deciding an application for a pavement café licence, the council must take into account any representations relating to the application which are made by any person to the council within the period allowed for representations (as defined by section 10(5)).

**Form, duration etc. of licence**

5.—(1) A pavement café licence must be in the prescribed form and must—

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*Status: This is the original version (as it was originally enacted).*

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- (a) specify the holder of the licence, the premises to which it relates, and such other matters as may be prescribed; and
  - (b) include a plan showing the location and dimensions of the public area to which it relates.
- (2) In this Act, in relation to a pavement café licence, “the area covered by the licence” means the area shown under subsection (1) on the plan in the licence.
- (3) That area must be—
- (a) an area which was proposed under section 3(4) in the application for the licence; or
  - (b) an area at least 75% of which falls within an area which was so proposed; but this is subject to any power under the following provisions of this Act to vary the area covered by the licence.
- (4) If more than one public area was proposed in the application for the licence, the licence may relate to one public area or more than one, and if it relates to more than one—
- (a) the plan included in the licence under subsection (1) must show the location and dimensions of each of the public areas to which the licence relates;
  - (b) references in this Act to “the area covered by the licence” are to any of the areas shown on the plan in the licence; and
  - (c) subsection (3) applies in relation to any such area.
- (5) A pavement café licence shall (except where it is surrendered, revoked or suspended)—
- (a) remain valid for such period as is specified in the licence; or
  - (b) if no period is specified in the licence, remain valid indefinitely.
- (6) Subsection (5)(a) is subject to section 7 (renewal of licence).
- (7) A licence holder may at any time surrender a pavement café licence to the council and the licence shall then cease to be valid.

### **Conditions of licence**

- 6.—**(1) A pavement café licence must include a condition requiring temporary furniture not to be placed for use as mentioned in the licence on any public area other than the area covered by the licence.
- (2) A condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on the area covered by the licence—
- (a) must be included in a pavement café licence if the premises specified in that licence are premises licensed under the Licensing Order of a kind mentioned in Article 5(1)(b) of that Order (off-licences); and

- (b) may be included in any other pavement café licence (whether or not the premises specified in that licence are licensed under the Licensing Order) if the council is satisfied that permitting persons to consume intoxicating liquor when using furniture on the area covered by the pavement café licence would be likely to result in disorder.
- (3) A council may specify in a pavement café licence such other conditions as it considers reasonable, and those conditions may in particular include conditions—
- (a) limiting the furniture which may be placed on the area covered by the licence by reference to the kind, amount, size or nature of the furniture;
  - (b) limiting the days or times when the furniture may be on that area;
  - (c) for securing that adequate arrangements are made for storing the furniture when not on that area;
  - (d) regulating the arrangements for payment to the council of fees imposed under section 12;
  - (e) for securing that such insurances and indemnities as may be specified in the licence are put in place;
  - (f) requiring the council to be notified of such matters as may be specified in the licence;
  - (g) requiring the surrender of any other pavement café licence in respect of the premises.