



London Local Authorities Act 2000

2000 CHAPTER vii

PART V

LICENSING OF BUSKERS

32 Interpretation of Part V

In this Part of this Act—

“busking” means the provision of entertainment in a street but does not include the provision of entertainment—

- (a) of a class which from time to time is by resolution of a participating council excluded from the operation of this Part of this Act;
- (b) under and in accordance with the terms of a licence granted under paragraph 1 of Schedule 12 to the London Government Act 1963;
- (c) which is authorised specifically to take place in a street under any other enactment; or
- (d) consisting of music performed as an incident of a religious meeting, procession or service;

and “busk” and “busks” shall be construed accordingly;

“licence” means a licence under section 35 (Power to license) of this Act and “licensed” shall be construed accordingly;

“street” includes—

- (a) any street or way to which the public commonly have access, whether or not as of right;
- (b) any place, not being within permanently enclosed premises, within 7 metres of any such street or way, to which the public commonly have access;
- (c) any area in the open air to which the public commonly have access;
- (d) any street, way or open area within any housing development provided or maintained by a local authority under Part II of the Housing Act 1985;

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but does not include any land in respect of which there are byelaws in force which regulate the provision of entertainment and which are made by London Transport Executive or London Regional Transport.

33 Application of Part V

- (1) This Part of this Act applies in the area of a participating council as from such day as may be fixed in relation to that council by resolution, and the council may apply this Part to all their area or to any part identified in the resolution and notice under this section.
- (2) The council shall not pass a resolution under this section in respect of any part of their area unless they have reason to believe that there has been, is being or is likely to be caused, as a result of busking—
 - (a) undue interference with or inconvenience to or risk to safety of persons using a street in that part of their area or other streets within the vicinity of that street; or
 - (b) nuisance to the occupiers of property in or in the vicinity of a street in that part of their area.
- (3) The council shall cause to be published in a local newspaper circulating in the borough or the City notice—
 - (a) of the passing of any such resolution and of a day fixed thereby; and
 - (b) of the general effect of the provisions of this Act coming into operation as from that day;

and the day so fixed shall not be earlier than the expiration of three months from the publication of the said notice.
- (4) Either a photostatic or other reproduction certified by the officer appointed for that purpose by the council to be a true reproduction of a page or part of a page of any such newspaper bearing the date of its publication and containing any such notice shall be evidence of the publication of the notice, and of the date of publication.

34 Designation of licence streets

If a participating council consider that busking should be licensed in their area they may pass any of the following resolutions:—

- (a) a resolution (in this Part of this Act referred to as a “designating resolution”) designating any street or part of a street within the borough or the City as a “licence street”;
- (b) a resolution prescribing in relation to any licence street or any part of a licence street any hours during which busking may take place;

and may by subsequent resolution rescind or vary any such resolution.

35 Power to license

- (1) The council may license an applicant for one or more days or such period as may be specified in the licence on such terms and conditions and subject to such restrictions as may be so specified.
- (2) Without prejudice to the generality of subsection (1) above, such conditions may relate to—

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- (a) the area in which busking may take place;
- (b) the hours during which busking may take place;
- (c) the prevention of obstruction to persons using the street; or
- (d) the prevention of nuisance to the occupiers of nearby property.

36 Applicants under Part V

- (1) An applicant for the grant of a licence shall provide such information as the council may by regulation prescribe.
- (2) Regulations under subsection (1) above may, inter alia, prescribe the procedure for determining applications.
- (3) An applicant for a licence shall pay such fee determined by the council as may be sufficient to cover in whole or in part the reasonable administrative or other costs incurred in connection with their functions under this Part of this Act.

37 Refusal of licence

- (1) The council may refuse to grant a licence on any of the following grounds:—
 - (a) that the applicant could be reasonably regarded as not being a fit and proper person to hold a licence;
 - (b) that there is not enough space in the street in respect of which the application is made for busking to take place without causing undue interference with, or inconvenience to, or risk to the safety of persons using the street, or other streets within the vicinity of the street;
 - (c) that there is a likelihood of nuisance being caused to the occupiers of premises in or in the vicinity of the street in respect of which the application is made.
- (2) The council shall refuse to grant a licence in respect of an application which relates to any street other than a licence street.

38 Cancellation of licence

The council may, at the written request of the holder of a licence, cancel that licence.

39 Revocation of licence

The council may revoke a licence on any of the following grounds:—

- (a) that there has been a breach of the conditions of the licence;
- (b) that undue interference with, or inconvenience to, or risk to the safety of persons using the street, or other streets within the vicinity of the street, has been caused as a result of the busking;
- (c) that nuisance has been caused as a result of the busking to occupiers of property in or in the vicinity of the street in respect of which the licence was granted.

40 Power to prescribe standard terms, conditions and restrictions under Part V

- (1) The council may make regulations prescribing standard conditions applicable to all licences.

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- (2) Where the council have made regulations under this section, every licence granted by them shall be deemed to have been so granted subject to the standard conditions except so far as they are expressly excluded or amended in any particular case.
- (3) Without prejudice to the generality of subsection (1) above, the standard conditions applied shall include a condition requiring the licence holder to carry his licence with him when busking.

41 Appeals under Part V

- (1) Any of the following persons, that is to say:—
 - (a) an applicant for the grant of a licence whose application is refused;
 - (b) a licence holder who is aggrieved by any term, condition or restriction on or subject to which the licence is held; or
 - (c) a licence holder whose licence has been revoked;
 may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to the magistrates' court acting for the area in which the licence street is situated by way of complaint for an order.
- (2) In subsection (1) above “the relevant date” means either the date on which the person in question or his representative is informed in writing of the refusal of his application, the imposition of the terms, conditions or restrictions by which he is aggrieved or the revocation of his registration, as the case may be, or 7 days after the date when such notification was posted to him by first class pre-paid letter, whichever is the earlier.
- (3) An appeal by either party against the decision of the magistrates' court under this section may be made to the Crown Court.
- (4) 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 in relation to the matter which is the subject of the appeal and it shall be the duty of the council to give effect to such order.

42 Enforcement under Part V

Any person who—

- (a) busks in any street to which this Part of this Act applies without the authority of a licence; or
- (b) is concerned with the organisation or management of busking which is not authorised by a licence; or
- (c) contravenes any condition of his licence; or
- (d) in connection with his application for a licence makes a statement which he knows to be false in a material particular;

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

43 Seizure under Part V

- (1) An authorised officer or a constable who has reasonable cause to believe that busking is taking place or is about to take place without a licence or in breach of the terms and conditions of a licence or in a street which is not a licence street to which this Part of this Act applies may require that busking either cease or not take place.

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- (2) Subject to subsection (3) below if the busking continues or takes place despite the requirement under subsection (1) above the authorised officer or constable may seize and remove any apparatus or equipment used in connection with the busking which may be required to be used in evidence in respect of an offence under section 42 (Enforcement under Part V) of this Act.
- (3) An authorised officer or constable shall not seize any apparatus or equipment in pursuance of the powers in subsection (2) above unless the person busking fails to produce, in pursuance of a request by the constable or authorised officer, a licence authorising the busking.
- (4) Before exercising any power under this section, an authorised officer shall, if requested to do so by the person busking, produce his authority.
- (5)
 - (a) The following provisions of this subsection shall have effect where any apparatus or equipment or any other thing is seized by an authorised officer under subsection (2) above and reference in those provisions to proceedings are to proceedings in respect of the alleged offence in relation to which the apparatus or equipment is seized.
 - (b) Subject to paragraph (c) below, after the conclusion of the proceedings, the apparatus or equipment shall be returned to the person from whom it was seized unless—
 - (i) the court orders it to be forfeited under any enactment;
 - (ii) any costs awarded to the council by the court, have not been paid within 28 days of the making of the order.
 - (c) Where after 28 days any costs awarded by the court to the council have not been paid to the council in full, the apparatus or equipment may be disposed of in any way the council thinks fit and any sum obtained by the council in excess of the costs awarded by the court shall be returned to the person to whom the apparatus or equipment belongs and when any apparatus or equipment is disposed of by the council under this subsection the council shall have a duty to secure the best possible price which can reasonably be obtained for that apparatus or equipment.
 - (d) 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 apparatus or equipment shall, subject to paragraph (e) below, 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.
 - (e) Where the apparatus or equipment is not returned because it has not proved possible to identify the person from whom it was seized and ascertain his address, the council (whether the article or thing was seized by an authorised officer or a constable) may apply to a magistrates' court for an order as to the manner in which it should be dealt with.
- (6) In this section “authorised officer” includes a person employed by any contractor of the council with whom the council has contracted for the purposes of this section where that person has been authorised in writing by that contractor to act in relation to this section.
- (7)
 - (a) This subsection shall have effect where apparatus or equipment is seized under subsection (2) above and either—

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- (i) 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 act or circumstances which occasioned the seizure; or
 - (ii) 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.
- (b) When this subsection has effect a person who has or at the time of seizure had a legal interest in the apparatus or equipment seized may recover compensation from the council or (where it is seized by a constable) the Commissioner 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 only make an order for compensation under paragraph (b) above if satisfied that seizure was not lawful under subsection (2) above.

44 Resolutions under Part V

- (1) The following provisions shall have effect in relation to any resolution under section 34 (Designation of licence streets) of this Act.
- (2) If a council pass a resolution, the resolution shall take effect on the day specified in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).
- (3) A council shall not pass a resolution or rescind or vary a resolution unless—
 - (a) they have published notice of their intention to do so in a local newspaper circulating in their area;
 - (b) they have served a copy of the notice on—
 - (i) the highway authority (unless they are the highway authority);
 - (ii) the Commissioner;
 - (iii) to any body which appears to the council to be representative of persons carrying on busking in the area affected by the proposed resolution; and
 - (iv) where the proposed resolution would designate private land, to the owner of that land or to the person assessed for the uniform business rate on it;
 - (c) where subsection (4) below applies, they have obtained the necessary consent.
- (4) This subsection applies—
 - (a) where the resolution relates to a street which is owned or maintained by a relevant undertaker; and
 - (b) where the resolution designates as a licence street any street maintained by a highway authority;
 and in subsection (3) above “necessary consent” means—
 - (i) in the case mentioned in paragraph (a) above, the consent of the relevant undertaker; and

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- (ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.
- (5) The following are relevant undertakers for the purposes of this section:—
 - (a) Railtrack PLC; and
 - (b) the British Waterways Board.
 - (6) The notice referred to in subsection (3) above shall—
 - (a) contain a draft of the resolution to which it relates; and
 - (b) state that representations or a request to hear representations relating to it may be made in writing to the council within such period, not less than 28 days after the publication of the notice, as may be specified in the notice.
 - (7) As soon as practicable after the expiry of the period specified under subsection (6) above, the council shall consider any written representations relating to the proposed resolution which they have received before the expiry of that period or, if requested to hear oral representations, shall hear the representations at a place and time notified to the person making the request.
 - (8) After the council have considered those representations, they may if they think fit, pass the proposed resolution with any modifications they consider appropriate as a result of any representations under this section.
 - (9) As soon as practicable after passing a resolution under subsection (8) above the council shall by notice in writing inform all persons given notice of the proposed resolution.
 - (10) The council shall publish notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks.
 - (11) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.