



2014 CHAPTER 9

Revocation, suspension and compulsory variation

Revocation of licence

14.—(1) A council may at any time revoke a pavement café licence if it is satisfied—

- (a) that all or any part of the public area where the licence permits the placing of temporary furniture for use for the consumption of food or drink has become, or is going to become, unsuitable for that purpose;
- (b) that continuing to place 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 licence would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity, or in disorder;
- (c) that the licence holder, in connection with an application for the grant, renewal or variation of the licence, made a statement which the applicant knew to be false in a material respect or failed to comply with section 11;
- (d) that the licence holder has persistently failed to comply with any condition of the licence; or
- (e) that the licence holder has, without reasonable explanation, failed to pay any fee due to the council under section 12.

(2) Where a pavement café licence permits the placing of temporary furniture on more than one public area—

- (a) subsection (1)(a) applies as if the reference to the public area were to any of the public areas; and
- (b) subsection (1)(b) applies as if the reference to that area were to those areas.

Suspension of licence

15.—(1) A council may at any time suspend a pavement café licence if it is satisfied—

- (a) that all or any part of the public area where the licence permits the placing of temporary furniture for use for the consumption of food or drink has become, or is going to become, temporarily unsuitable for that purpose; or
- (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 licence would, temporarily, be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity or in disorder.

(2) A council may also suspend a pavement café licence at any time (as an alternative to revoking it) if it is satisfied that any of the grounds set out in section 14(1)(c) to (e) is met.

(3) While a pavement café licence is suspended the licence is to be treated for all purposes (and, in particular, for the purposes of section 2(2)) as not being a valid pavement café licence.

(4) But subsection (3) does not apply for the purposes of—

- (a) the provisions of this Act relating to the surrender, renewal or variation of pavement café licences;
- (b) any requirement in section 12 to give notice to licence holders;
- (c) section 22 (powers of entry and inspection).

(5) Subsection (2) of section 14 applies for the purposes of subsection (1) (a) and (b) above as it applies for the purposes of subsection (1)(a) and (b) of that section.

Compulsory variation of section 6(3) conditions

16.—(1) A council may at any time vary a pavement café licence by—

- (a) varying the conditions (if any) specified in the licence under section 6(3);
or
- (b) specifying new conditions under section 6(3).

(2) But a council may make a variation under this section only if it considers that it ought to do so as a result of a material change in the circumstances on which the conditions specified in the licence under section 6(3) were based (or on the basis of which a particular condition was not so specified).

Compulsory variation: prohibition of alcohol

17.—(1) A council may at any time vary a pavement café licence which does not include an alcohol condition by inserting such a condition, but this is subject to subsection (3).

(2) In this section “an alcohol condition” means a condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on the area covered by the licence.

(3) A council may insert such a condition only if—

- (a) the premises specified in the licence are premises licensed under the Licensing Order of a kind mentioned in Article 5(1)(b) of that Order (off-licences); or
- (b) the council is satisfied that permitting persons to consume intoxicating liquor when using furniture on the area covered by the licence would be likely to result in disorder.

Compulsory variation of area covered by licence

18.—(1) This section applies if at any time a council is satisfied, as respects part of the public area where a pavement café licence permits the placing of temporary furniture for use for the consumption of food or drink—

- (a) that that part has become, or is going to become, unsuitable for that purpose; or
- (b) that continuing to place such furniture on that part for use for the consumption of food or drink supplied in or from the premises specified in the licence would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity, or in disorder.

(2) Where this section applies, the council may (as an alternative to revoking the licence) make a variation of the area covered by the licence.

(3) Where a pavement café licence permits the placing of temporary furniture on more than one public area—

- (a) the reference in subsection (1) to part of the public area includes any of those public areas, or any part of any of those areas (and the references in subsection (1)(a) and (b) to “that part” are to be read accordingly); and
- (b) the power under subsection (2) to make a variation of the area covered by the licence includes power to vary the licence so that one or more of the areas covered by the licence (or any part or parts of them) cease to be covered by the licence.

Notice of revocation, suspension or compulsory variation

19.—(1) Before deciding to revoke, suspend or make a compulsory variation of a pavement café licence, a council must (subject to subsection (5)) notify the licence holder in writing of its proposal to revoke, suspend or vary the licence.

(2) A notification under subsection (1) must state—

- (a) the grounds for the proposed revocation, suspension or variation; and

(b) that representations in writing relating to the proposal may be made by the licence holder to the council until the end of a period specified in the notification.

(3) Any period specified under subsection (2)(b) must be at least 21 days beginning with the date when the notification is sent unless the council considers that there are particular circumstances which make a shorter period necessary in the public interest.

(4) In deciding whether to revoke, suspend or make the proposed variation of the licence the council must take into account any representations made by the licence holder within the period specified under subsection (2)(b).

(5) If it considers that there are particular circumstances which make it necessary to do so in the public interest, a council may decide whether to revoke, suspend or make a compulsory variation of a pavement café licence even though no notification has been given under subsection (1).

(6) Where a council decides to revoke, suspend or make a compulsory variation of a pavement café licence, the council must give notice in writing to the licence holder of the revocation, suspension or variation.

(7) A notice under subsection (6) must—

- (a) state when the revocation, suspension or variation takes effect;
- (b) in the case of suspension, state when the suspension ends;
- (c) state the grounds for the revocation, suspension or variation; and
- (d) include notice of the licence holder's rights under section 21 (appeals).

(8) A notice under subsection (6) may provide for the revocation, suspension or variation to take effect on the date when that notice is served on the licence holder, but only where the council considers that there are particular circumstances which make this necessary in the public interest.

(9) In any other case, the notice must give the licence holder such notice of the revocation, suspension or variation as the council considers reasonable in all the circumstances.

(10) A notice under subsection (6) may be withdrawn at any time before the revocation, suspension or variation takes effect.

(11) Where a suspension of a pavement café licence has taken effect, the council may—

- (a) extend the suspension on one or more occasions;
- (b) revoke the suspension by notice in writing to the person whose licence was suspended.

(12) Subsections (1) to (10) apply to an extension of a suspension as they apply to a suspension.

(13) Any reference in this section to compulsory variation of a pavement café licence is to variation of a pavement café licence under any of sections 16 to 18.