



London Local Authorities Act 1994

1994 CHAPTER xii

1 Short title and commencement

This Act may be cited as the London Local Authorities Act 1994 and except section 5 (Night café licensing) of this Act shall come into operation at the end of the period of two months beginning with the date on which it is passed.

2 Interpretation

In this Act, except as otherwise expressly provided or unless the context otherwise requires—

“the Act of 1990” means the London Local Authorities Act 1990;

“authorised officer” means an officer of a borough council authorised by the council in writing to act in relation to the relevant provision of this Act;

“borough council” means London borough council but does not include the Common Council of the City of London; and “borough” shall be construed accordingly.

3 Appointed day

(1) In this Act “the appointed day” means such day as may be fixed in relation to a borough by resolution of the borough council, subject to and in accordance with the provisions of this section.

(2) Different days may be fixed under this section for the purpose of the application of different provisions of this Act to a borough.

(3) The borough council shall cause to be published in a local newspaper circulating in the borough notice—

(a) of the passing of any such resolution and of the 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.

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- (4) Either a photostatic or other reproduction certified by the officer appointed for that purpose by the borough 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.

4 Distribution of free literature

- (1) A borough council may designate, in accordance with subsection (9) below, any of the following places, or any part of such places, in the borough as places to which this section applies:—
- (a)
 - (i) a public off-street car park;
 - (ii) a recreation ground, garden, park, pleasure ground or open place under the management or control of a local authority;
 - (b) a street or way to which the public commonly have access, whether or not as of right.
- (2) Any person who distributes free literature in a place designated under subsection (1) above without the consent of the borough council or in breach of any condition subject to which the council's consent is given or causes or permits any person so to do shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) (a) The reference in subsection (2) above to a person who distributes free literature in a place designated under subsection (1) above shall be deemed to include a reference to a person who distributes free literature on or from land within 7 metres of any designated street who is not—
- (i) the owner of that land; or
 - (ii) the person liable to be assessed to the uniform business rate in respect thereof; or
 - (iii) on that land with the consent in writing of either of the persons mentioned in sub-paragraphs (i) and (ii) above.
- (b) Where in any proceedings under this section it is shown that any free literature was distributed by a person on or from land within 7 metres of any street or designated street the burden of proof shall lie on that person to show to the satisfaction of the court that at the relevant time he was a person referred to in sub-paragraph (i) or (ii) of the foregoing paragraph or had the consent referred to in sub-paragraph (iii) thereof.
- (4) Where a person is distributing free literature in a place designated under subsection (1) above without the consent of the borough council an authorised officer may seize any supply of that literature which the person has at or near that place.
- (5) (a) The following provisions of this subsection shall have effect where any literature 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 literature is seized.
- (b) Subject to paragraph (c) below, at the conclusion of the proceedings the literature shall be returned to the person from whom it was seized unless the court orders it to be forfeited under any enactment.
 - (c) 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

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be, on the discontinuance of the proceedings, the literature 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.

- (d) Where the literature is not returned because it has not proved possible to identify the person from whom it was seized and ascertain his address the council may apply to a magistrates' court for an order as to the manner in which they should deal with it.
- (6) The conditions of consent referred to in subsection (2) above include, without prejudice to the generality of the power to impose conditions, conditions as to the times or period for which the consent is valid, conditions for the prevention of detriment to the amenities of the area, a condition requiring the person distributing free literature to produce on demand to an authorised officer of the borough council or to a constable documentary evidence of the consent, conditions as to the part of the place designated under subsection (1) above where the consent is to apply and conditions as to the payment for the consent of such reasonable fee to cover the expense of the borough council in dealing with applications for such consents as the borough council may by resolution prescribe; and any such consent may be revoked by notice to the person to whom the consent was given.
- (7) The grounds upon which a borough council may withhold consent under subsection (2) above, and may revoke a consent under subsection (6) above are that—
- (a) the applicant is unsuitable by reason of misconduct;
 - (b) the applicant has within the previous five years been convicted of an offence under this section;
 - (c) there is already a sufficiency of persons to whom consent has been given under this section, carrying out in the designated place the activity in respect of which the consent is requested;
 - (d) there would be a risk of danger or unreasonable inconvenience to users of any highway if the consent is given, or, as the case may be, not revoked;
 - (e) (in the case of a revocation) the applicant has failed to avail himself, or to avail himself to a reasonable extent, of his consent.
- (8) A person aggrieved by—
- (a) the withholding by the borough council of consent referred to in subsection (2) above;
 - (b) the conditions subject to which the borough council give such consent; or
 - (c) the revocation of such consent under subsection (6) above;
- may appeal to a magistrates' court by way of complaint for an order and on such an appeal the court may dismiss or allow the appeal or may vary any conditions imposed by the borough council.
- (9) (a) Before designating any place under subsection (1) above the borough council shall give notice of their proposal by advertisement in a local newspaper circulating in the borough, and by posting a copy of the notice in the places to which it relates, stating that objections to the proposal may be made to the proper officer of the borough council within a time, not less than 28 days after the giving of the notice, specified in the notice.
- (b) After taking into consideration any objections made in accordance with paragraph (a) above, the borough council may by resolution designate, as places to which this section applies for the purposes of subsection (2) above,

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all or any, or any part, of the places specified in the notice given under that paragraph.

- (10) A resolution under subsection (9) (b) above shall come into force on such day as shall be specified by a notice given in the same manner as a notice given under subsection (9) (a) above, being a day not less than 28 days after the day on which notice is given under this subsection.
- (11) Any resolution under subsection (9) (b) above may be rescinded, or varied by the deletion of any place or part of a place, by a subsequent resolution of the borough council.
- (12) In proceedings for an offence under section 9 of the Metropolitan Streets Act 1867, it shall be a defence for the accused to show that he was acting with the consent of a borough council under this section and in compliance with any conditions subject to which that consent was given.
- (13) This section does not apply to the distribution of free literature—
- (a) by a charity within the meaning of the Charities Act 1960 where that literature relates to or is for the benefit of that body;
 - (b) by or on behalf of a political organisation;
 - (c) where the person who distributes it does so by putting it into a building or letterbox; or
 - (d) by London Regional Transport, any of its subsidiaries or any other person who provides a service pursuant to an agreement made in accordance with section 3 of the London Regional Transport Act 1984 where that literature relates to services provided by any of those persons.
- (14) In this section—
- “distribute” means to offer or make available, and includes the placing of free literature on, or affixing it to, a vehicle;
- “free literature” means any newspaper, document, card or other literature for which no charge is made to the recipient and which advertises, or contains or comprises an advertisement, for commercial gain.

5 Night café licensing

As from the appointed day in a borough section 14 (Appeals) of the Act of 1990 is hereby amended—

- (1) by the substitution for subsection (1) of—
- “(1) Any of the following persons, that is to say:—
- (a) an applicant for the grant, renewal or transfer of a night café licence whose application is refused;
 - (b) an applicant for the grant, renewal or transfer of a night café licence who is aggrieved by any term, condition or restriction on or subject to which the night café licence is granted, renewed or transferred;
 - (c) an applicant for the variation of the terms, conditions or restrictions on or subject to which a night café licence is held whose application is refused;
 - (d) an applicant for the variation of the terms, conditions or restrictions on or subject to which a night café licence is held who is aggrieved

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by any term, condition or restriction contained in a further variation made consequent on the variation applied for;

- (e) the holder of a night café licence which is revoked under section 15 (Enforcement) of this Act;

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 petty sessions area in which the premises are situated by way of complaint for an order.”;

- (2) by the substitution for subsections (7) and (8) of—

“(7) Where the holder of a night café licence makes an application under section 12 (Variation of night café licences) of this Act and the borough council make the variation applied for together with a further variation, then the night café licence shall continue as it was before the application—

- (a) until the time for bringing an appeal under this section against any term, condition or restriction contained in the further variation has expired; and
(b) where any such appeal is brought, until the determination or abandonment of the appeal.”.

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:—

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

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

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- (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;

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

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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 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.

7 Fee for hypnotism authorisation

- (1) The Hypnotism Act 1952 is hereby amended by the addition, after section 2, of the following section:—

“2A Fee

The person making an application to a controlling authority, being the council of a London borough, for an authorisation under section 2 of this Act shall on making the application pay to the council such reasonable fee as the council may determine.”.

- (2) If any regulations are made under section 150 of the Local Government and Housing Act 1989 whereby a borough council may impose a charge in connection with the granting of an authorisation under section 2 of the Hypnotism Act 1952, then upon the coming into force of those regulations this section shall cease to have effect.
- (3) For the purposes of subsection (1) (c) of the said section 150, the power conferred on a borough council by virtue of subsection (1) above shall be disregarded.

8 Dangerous structure fees

- (1) A borough council to which the London Building Acts apply may make regulations with respect to the amount of the fees payable to them under the London Building Acts in connection with any dangerous or neglected structure.
- (2) Regulations made under this section may amend or repeal any of the provisions of the First Schedule to the Act of 1939 and may repeal any byelaws made under section 11 (Power to Council to make byelaws as to fees) of the London County Council (General Powers) Act 1955, and any references in the London Building Acts to any of those provisions shall be construed as references to those provisions as so amended and, where any such provisions are repealed by those regulations, to the provisions of those regulations corresponding to the provisions so repealed.
- (3) Any regulations made under this section shall be printed and a copy of any such regulations in force shall be kept at the principal office of the borough council and a

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copy shall be supplied at all reasonable hours without payment to any applicant for the same.

- (4) Section 11 of the London County Council (General Powers) Act 1955 shall cease to have effect except in the City of London, but any byelaws made thereunder shall continue in force until repealed under subsection (2) above.
- (5) In this section—“the Act of 1939” means the London Building Acts (Amendment) Act 1939; and “the London Building Acts” means the London Building Acts 1930 to 1939 as amended by the London County Council (General Powers) Act 1952 and by the London County Council (General Powers) Act 1954.

9 Application of Act of 1990 to Camden

Schedule 1 (Participating councils) to the Act of 1990 shall be amended by the insertion, after “Bromley Borough Council” of “Camden Borough Council”.

10 Liability of directors, etc

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.