



London Local Authorities Act 1994

1994 CHAPTER xii

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.

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- (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 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;

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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, 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.