

## **Appendix 2**

### **SCHEDULE 4 Street Trading**

#### **Annotations:**

##### **Modifications etc. (not altering text)**

[C1](#)Sch.4: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 4 applied (with modifications) *prosp* by 2000 c. viii, ss. 3, 4

#### **Interpretation**

1(1)In this Schedule—

- “consent street” means a street in which street trading is prohibited without the consent of the district council;
- “licence street” means a street in which street trading is prohibited without a licence granted by the district council;
- “principal terms”, in relation to a street trading licence, has the meaning assigned to it by paragraph 4(3) below;
- “prohibited street” means a street in which street trading is prohibited;
- “street” includes—

(a)

any road, footway, beach or other area to which the public have access without payment; and

(b)

a service area as defined in section 329 of the [M1](#)Highways Act 1980,

and also includes any part of a street;

- “street trading” means, subject to sub-paragraph (2) below, the selling or exposing or offering for sale of any article (including a living thing) in a street; and
- “subsidiary terms”, in relation to a street trading licence, has the meaning assigned to it by paragraph 4(4) below.

(2)The following are not street trading for the purposes of this Schedule—

(a)trading by a person acting as a pedlar under the authority of a pedlar’s certificate granted under the [M2](#)Pedlars Act 1871;

(b)anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order.

- (c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the [M3](#) Highways Act 1980;
  - (d) trading as a news vendor;
  - (e) trading which—
    - (i) is carried on at premises used as a petrol filling station; or
    - (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
  - (f) selling things, or offering or exposing them for sale, as a roundsman;
  - (g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
  - (h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
  - (j) the doing of anything authorised by regulations made under section 5 of the [M4](#) Police, Factories, etc. (Miscellaneous Provisions) Act 1916.
- (3) The reference to trading as a news vendor in sub-paragraph (2)(d) above is a reference to trading where—
- (a) the only articles sold or exposed or offered for sale are newspapers or periodicals; and
  - (b) they are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not—
    - (i) exceed one metre in length or width or two metres in height;
    - (ii) occupy a ground area exceeding 0.25 square metres; or
    - (iii) stand on the carriageway of a street.

### **Annotations:**

#### **Marginal Citations**

- [M1](#) 1980 c. 66.
- [M2](#) 1871 c. 96.
- [M3](#) 1980 c. 66.
- [M4](#) 1916 c. 31.

### **Designation of streets**

- 2(1) A district council may by resolution designate any street in their district as—
- (a) a prohibited street;
  - (b) a licence street; or
  - (c) a consent street.
- (2) If a district council pass such a resolution as is mentioned in sub-paragraph (1) above, the designation of the street shall take effect on the day specified in that behalf 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 such a resolution unless—
- (a) they have published notice of their intention to pass such a resolution in a local newspaper circulating in their area;

(b) they have served a copy of the notice—  
(i) on the chief officer of police for the area in which the street to be designated by the resolution is situated; and  
(ii) on any highway authority responsible for that street; and  
(c) where sub-paragraph (4) below applies, they have obtained the necessary consent.

(4) This sub-paragraph applies—  
(a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and  
(b) where the resolution designates as a licence street any street maintained by a highway authority;

and in sub-paragraph (3) above “necessary consent” means—  
(i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and  
(ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.

(5) The following are relevant corporations for the purposes of this paragraph—

- (a) the British Railways Board;
- (b) the Commission for the New Towns;
- (c) a development corporation for a new town; [\[F1\]](#) and
- (d) an urban development corporation established under the [M1](#) Local Government, Planning and Land Act 1980; . . .

[F2](#) (e) . . . . .

(6) The notice referred to in sub-paragraph (3) above—  
(a) shall contain a draft of the resolution; and  
(b) shall state that representations relating to it may be made in writing to the council within such period, not less than 28 days after publication of the notice, as may be specified in the notice.

(7) As soon as practicable after the expiry of the period specified under sub-paragraph (6) above, the council shall consider any representations relating to the proposed resolution which they have received before the expiry of that period.

(8) After the council have considered those representations, they may, if they think fit, pass such a resolution relating to the street as is mentioned in sub-paragraph (1) above.

(9) The council shall publish notice that they have passed such a resolution in two consecutive weeks in a local newspaper circulating in their area.

(10) 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.

(11) Where a street is designated as a licence street, the council may resolve—

- (a) in the resolution which so designates the street; or
- (b) subject to sub-paragraph (12) below, by a separate resolution at any time, that a street trading licence is not to be granted to any person who proposes to trade in the street for a number of days in every week less than a number specified in the resolution.

(12) Sub-paragraphs (3)(a) and (6) to (10) above shall apply in relation to a resolution under sub-paragraph (11)(b) above as they apply in relation to a resolution under sub-paragraph (1) above.

(13) Any resolution passed under this paragraph may be varied or rescinded by a subsequent resolution so passed.

## **Annotations:**

### **Amendments (Textual)**

[F1](#) Word in Sch. 4 para. 2(5)(c) inserted (1.10.1998) by 1998 c. 38, s. 29, Sch. 15 para. 5 (with ss. 131(1), 137(1), 139(2), 143(2)); S.I. 1998/2244, art. 4

[F2](#) Sch. 4 para. 2(5)(e) and word "and" immediately preceding repealed (1.10.1998) by 1998 c. 38, s. 152, Sch. 18 Pt. IV (with ss. 137(1), 139(2), 143(2)); S.I. 1998/2244, art. 4

### **Marginal Citations**

[M1](#) 1980 c. 65.

## **Street trading licences**

3(1) An application for a street trading licence or the renewal of such a licence shall be made in writing to the district council.

(2) The applicant shall state—

(a) his full name and address;

(b) the street in which, days on which and times between which he desires to trade;

(c) the description of articles in which he desires to trade and the description of any stall or container which he desires to use in connection with his trade in those articles; and

(d) such other particulars as the council may reasonably require.

(3) If the council so require, the applicant shall submit two photographs of himself with his application.

(4) A street trading licence shall not be granted—

(a) to a person under the age of 17 years; or

(b) for any trading in a highway in relation to which a control order under section 7 of the [M1](#) Local Government (Miscellaneous Provisions) Act 1976 (road-side sales) is in force, other than trading to which the control order does not apply.

(5) Subject to sub-paragraph (4) above, it shall be the duty of the council to grant an application for a street trading licence or the renewal of such a licence unless they consider that the application ought to be refused on one or more of the grounds specified in sub-paragraph (6) below.

(6) Subject to sub-paragraph (8) below, the council may refuse an application on any of the following grounds—

- (a) that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;
  - (b) that there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;
  - (c) that the applicant desires to trade on fewer days than the minimum number specified in a resolution under paragraph 2(11) above;
  - (d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
  - (e) that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them for it or charges due to them under paragraph 9(6) below for services rendered by them to him in his capacity as licence-holder;
  - (f) that the applicant has at any time been granted a street trading consent by the council and has persistently refused or neglected to pay fees due to them for it;
  - (g) that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence.
- (7) If the council consider that grounds for refusal exist under sub-paragraph (6)(a), (b) or (g) above, they may grant the applicant a licence which permits him—
- (a) to trade on fewer days or during a shorter period in each day than specified in the application; or
  - (b) to trade only in one or more of the descriptions of goods specified in the application.
- (8) If—
- (a) a person is licensed or otherwise authorised to trade in a street under the provisions of any local Act; and
  - (b) the street becomes a licence street; and
  - (c) he was trading from a fixed position in the street immediately before it became a licence street; and
  - (d) he applied for a street trading licence to trade in the street, his application shall not be refused on any of the grounds mentioned in sub-paragraph (6)(a) to (c) above.

## **Annotations:**

### **Marginal Citations**

[M1](#) 1976 c. 57.

4(1) A street trading licence shall specify—

- (a) the street in which, days on which and times between which the licence-holder is permitted to trade; and
- (b) the description of articles in which he is permitted to trade.

(2) If the district council determine that a licence-holder is to confine his trading to a particular place in the street, his street trading licence shall specify that place.

(3)Matters that fall to be specified in a street trading licence by virtue of sub-paragraph (1) or (2) above are referred to in this Schedule as the “principal terms” of the licence.

(4)When granting or renewing a street trading licence, the council may attach such further conditions (in this Schedule referred to as the “subsidiary terms” of the licence) as appear to them to be reasonable.

(5)Without prejudice to the generality of sub-paragraph (4) above, the subsidiary terms of a licence may include conditions—

(a)specifying the size and type of any stall or container which the licence-holder may use for trading;

(b)requiring that any stall or container so used shall carry the name of the licence-holder or the number of his licence or both; and

(c)prohibiting the leaving of refuse by the licence-holder or restricting the amount of refuse which he may leave or the places in which he may leave it.

(6)A street trading licence shall, unless previously revoked or surrendered, remain valid for a period of 12 months from the date on which it is granted or, if a shorter period is specified in the licence, for that period.

(7)If a district council resolve that the whole or part of a licence street shall be designated a prohibited street, then, on the designation taking effect, any street trading licence issued for trading in that street shall cease to be valid so far as it relates to the prohibited street.

5(1)A district council may at any time revoke a street trading licence if they consider—

(a)that, owing to circumstances which have arisen since the grant or renewal of the licence, there is not enough space in the street for the licence-holder to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons using the street;

(b)that the licence-holder is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

(c)that, since the grant or renewal of the licence, the licence-holder has persistently refused or neglected to pay fees due to the council for it or charges due to them under paragraph 9(6) below for services rendered by them to him in his capacity as licence-holder; or

(d)that, since the grant or renewal of the licence, the licence-holder has without reasonable excuse failed to avail himself of the licence to a reasonable extent.

(2)If the council consider that they have ground for revoking a licence by virtue of sub-paragraph (1)(a) or (d) above, they may, instead of revoking it, vary its principal terms—

(a)by reducing the number of days or the period in any one day during which the licence-holder is permitted to trade; or

(b)by restricting the descriptions of goods in which he is permitted to trade.

(3)A licence-holder may at any time surrender his licence to the council and it shall then cease to be valid.

6(1)When a district council receive an application for the grant or renewal of a street trading licence, they shall within a reasonable time—

(a)grant a licence in the terms applied for; or

(b)serve notice on the applicant under sub-paragraph (2) below.

(2) If the council propose—

(a) to refuse an application for the grant or renewal of a licence; or

(b) to grant a licence on principal terms different from those specified in the application; or

(c) to grant a licence confining the applicant's trading to a particular place in a street; or

(d) to vary the principal terms of a licence; or

(e) to revoke a licence,

they shall first serve a notice on the applicant or, as the case may be, the licence-holder—

(i) specifying the ground or grounds on which their decision would be based; and

(ii) stating that within 7 days of receiving the notice he may in writing require them to give him an opportunity to make representations to them concerning it.

(3) Where a notice has been served under sub-paragraph (2) above, the council shall not determine the matter until either—

(a) the person on whom it was served has made representations to them concerning their decision; or

(b) the period during which he could have required them to give him an opportunity to make representations has elapsed without his requiring them to give him such an opportunity; or

(c) the conditions specified in sub-paragraph (4) below are satisfied.

(4) The conditions mentioned in sub-paragraph (3)(c) above are—

(a) that the person on whom the notice under sub-paragraph (2) above was served has required the council to give him an opportunity to make representations to them concerning it, as provided by sub-paragraph (2)(ii) above;

(b) that the council have allowed him a reasonable period for making his representations; and

(c) that he has failed to make them within that period.

(5) A person aggrieved—

(a) by the refusal of a council to grant or renew a licence, where—

(i) they specified in their notice under sub-paragraph (2) above one of the grounds mentioned in paragraph 3(6)(d) to (g) above as the only ground on which their decision would be based; or

(ii) they specified more than one ground in that notice but all the specified grounds were grounds mentioned in those paragraphs; or

(b) by a decision of a council to grant him a licence with principal terms different from those of a licence which he previously held, where they specified in their notice under sub-paragraph (2) above the ground mentioned in paragraph 3(6)(g) above as the only ground on which their decision would be based; or

(c) by a decision of a council—

(i) to vary the principal terms of a licence; or

(ii) to revoke a licence,

in a case where they specified in their notice under sub-paragraph (2) above one of the grounds mentioned in paragraph 5(1)(b) to (d) above as the only

ground on which their decision would be based or they specified more than one ground in that notice but all the specified grounds were grounds mentioned in those paragraphs,  
may, at any time before the expiration of the period of 21 days beginning with the date upon which he is notified of the refusal or decision, appeal to the magistrates' court acting for the petty sessions area in which the street is situated.

(6) An appeal against the decisions of a magistrates' court under this paragraph may be brought to the Crown Court.

(7) On an appeal to the magistrates' court or the Crown Court under this paragraph the court may make such order as it thinks fit.

(8) Subject to sub-paragraphs (9) to (11) below, it shall be the duty of the council to give effect to an order of the magistrates' court or the Crown Court.

(9) The council need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (6) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.

(10) If a licence-holder applies for renewal of his licence before the date of its expiry, it shall remain valid—

(a) until the grant by the council of a new licence with the same principal terms; or

(b) if—

(i) the council refuse renewal of the licence or decide to grant a licence with principal terms different from those of the existing licence, and

(ii) he has a right of appeal under this paragraph,

until the time for bringing an appeal has expired or, where an appeal is duly brought, until the determination or abandonment of the appeal; or

(c) if he has no right of appeal under this paragraph, until the council either grant him a new licence with principal terms different from those of the existing licence or notify him of their decision to refuse his application.

(11) Where—

(a) a council decide—

(i) to vary the principal terms of a licence; or

(ii) to revoke a licence; and

(b) a right of appeal is available to the licence-holder under this paragraph, the variation or revocation shall not take effect until the time for bringing an appeal has expired or, where an appeal is duly brought, until the determination or abandonment of the appeal.

## **Street trading consents**

7(1) An application for a street trading consent or the renewal of such a consent shall be made in writing to the district council.

(2) Subject to sub-paragraph (3) below, the council may grant a consent if they think fit.

(3) A street trading consent shall not be granted—

(a) to a person under the age of 17 years; or



- (b) for any trading in a highway to which a control order under section 7 of the [M1](#) Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.
- (4) When granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.
- (5) Without prejudice to the generality of sub-paragraph (4) above, the conditions that may be attached to a street trading consent by virtue of that sub-paragraph include conditions to prevent—
- (a) obstruction of the street or danger to persons using it; or
  - (b) nuisance or annoyance (whether to persons using the street or otherwise).
- (6) The council may at any time vary the conditions of a street trading consent.
- (7) Subject to sub-paragraph (8) below, the holder of a street trading consent shall not trade in a consent street from a van or other vehicle or from a stall, barrow or cart.
- (8) The council may include in a street trading consent permission for its holder to trade in a consent street—
- (a) from a stationary van, cart, barrow or other vehicle; or
  - (b) from a portable stall.
- (9) If they include such a permission, they may make the consent subject to conditions—
- (a) as to where the holder of the street trading consent may trade by virtue of the permission; and
  - (b) as to the times between which or periods for which he may so trade.
- (10) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.
- (11) The holder of a street trading consent may at any time surrender his consent to the council and it shall then cease to be valid.

## **Annotations:**

### **Marginal Citations**

[M1](#) 1976 c. 57.

## **General**

8 The holder of a street trading licence or a street trading consent may employ any other person to assist him in his trading without a further licence or consent being required.

9(1) A district council may charge such fees as they consider reasonable for the grant or renewal of a street trading licence or a street trading consent.

(2) A council may determine different fees for different types of licence or consent and, in particular, but without prejudice to the generality of this sub-paragraph, may determine fees differing according—

- (a) to the duration of the licence or consent;
- (b) to the street in which it authorises trading; and
- (c) to the descriptions of articles in which the holder is authorised to trade.

(3)A council may require that applications for the grant or renewal of licences or consents shall be accompanied by so much of the fee as the council may require, by way of a deposit to be repaid by the council to the applicant if the application is refused.

(4)A council may determine that fees may be paid by instalments.

(5)Where a consent is surrendered or revoked, the council shall remit or refund, as they consider appropriate, the whole or a part of any fee paid for the grant or renewal of the consent.

(6)A council may recover from a licence-holder such reasonable charges as they may determine for the collection of refuse, the cleansing of streets and other services rendered by them to him in his capacity as licence-holder.

(7)Where a licence—

(a)is surrendered or revoked; or

(b)ceases to be valid by virtue of paragraph 4(7) above,

the council may remit or refund, as they consider appropriate, the whole or a part—

(i)of any fee paid for the grant or renewal of the licence; or

(ii)of any charges recoverable under sub-paragraph (6) above.

(8)The council may determine—

(a)that charges under sub-paragraph (6) above shall be included in a fee payable under sub-paragraph (1) above; or

(b)that they shall be separately recoverable.

(9)Before determining charges to be made under sub-paragraph (6) above or varying the amount of such charges the council—

(a)shall give notice of the proposed charges to licence-holders; and

(b)shall publish notice of the proposed charges in a local newspaper circulating in their area.

(10)A notice under sub-paragraph (9) above shall specify a reasonable period within which representations concerning the proposed charges may be made to the council.

(11)It shall be the duty of a council to consider any such representations which are made to them within the period specified in the notice.

## **Offences**

10(1)A person who—

(a)engages in street trading in a prohibited street; or

(b)engages in street trading in a licence street or a consent street without being authorised to do so under this Schedule; or

(c)contravenes any of the principal terms of a street trading licence; or

(d)being authorised by a street trading consent to trade in a consent street, trades in that street—

(i)from a stationary van, cart, barrow or other vehicle; or

(ii)from a portable stall,

without first having been granted permission to do so under paragraph 7(8) above; or

(e)contravenes a condition imposed under paragraph 7(9) above, shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under subparagraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(3) Any person who, in connection with an application for a street trading licence or for a street trading consent, makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.

(4) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding [F1]level 3 on the standard scale].

### **Annotations:**

#### **Amendments (Textual)**

[F1] Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

### **Savings**

11 Nothing in this Schedule shall affect—

(a) section 13 of the [M1](#) Markets and Fairs Clauses Act 1847 (prohibition of sales elsewhere than in market or in shops etc.) as applied by any other Act; (4 & 5 Eliz. 2).

(b) [F1] section 56 of the Food Act 1984] (prohibition of certain sales during market hours).

### **Annotations:**

#### **Amendments (Textual)**

[F1] Words substituted by Food Act 1984 (c. 30, SIF 53:1), s. 134, Sch. 10 para. 34

#### **Marginal Citations**