



# Business and Planning Act 2020

## 2020 CHAPTER 16

An Act to make provision relating to the promotion of economic recovery and growth. [22nd July 2020]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### CONSUMPTION OF FOOD AND DRINK OUTDOORS

##### *Pavement licences*

#### **1 Pavement licences**

- (1) A person whose use or proposed use of any premises in England is or includes relevant use may apply to the appropriate local authority for a licence under this section (a “pavement licence”) in respect of those premises.
- (2) A pavement licence in respect of any premises is a licence for the licence-holder to put removable furniture on part of a relevant highway adjacent to the premises for either or both of the purposes in subsection (3).
- (3) The purposes are—
  - (a) use of the furniture by the licence-holder to sell or serve food or drink supplied from, or in connection with relevant use of, the premises;
  - (b) use of the furniture by other persons for the purpose of consuming food or drink supplied from, or in connection with relevant use of, the premises.
- (4) In this group of sections “relevant use”, in relation to premises, means either or both of the following—

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- (a) use as a public house, wine bar or other drinking establishment;
  - (b) other use for the sale of food or drink for consumption on or off the premises.
- (5) In this group of sections “relevant highway” means a highway—
- (a) to which Part 7A of the Highways Act 1980 applies, and
  - (b) which is not over Crown land or maintained by Network Rail.
- (6) In subsection (1) “appropriate local authority” means the local authority in whose area the premises referred to in that subsection are situated.

## 2 Applications

- (1) An application for a pavement licence made to a local authority must—
- (a) be made in writing and in such form as the authority may specify,
  - (b) be sent to the authority using electronic communications in such manner as the authority may specify, and
  - (c) be accompanied by such fee not exceeding £100 as the local authority may require.
- (2) An application for a pavement licence made to a local authority must—
- (a) specify the premises, the part of the relevant highway and the purpose or purposes specified in section 1(3) to which the application relates,
  - (b) specify the days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
  - (c) describe the type of furniture to which the application relates,
  - (d) specify the date on which the application is made,
  - (e) contain or be accompanied by such evidence of public liability insurance in respect of anything to be done by the licence-holder pursuant to the licence as the authority may require, and
  - (f) contain or be accompanied by such other information or material as the local authority may require.
- (3) The local authority to which an application for a pavement licence is made must, in such manner as it considers appropriate—
- (a) publish the application and any information or material required by the local authority under subsection (2)(f), and
  - (b) publicise the fact that representations relating to the application may be made to the authority during the public consultation period (and indicate when that period comes to an end).
- (4) In this group of sections, the “public consultation period” means the period of 7 days beginning with the day after that on which the application is made.
- (5) A person who applies for a pavement licence must—
- (a) on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises, and
  - (b) secure that the notice remains in place until the end of the public consultation period.
- (6) A notice under subsection (5) must—

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- (a) be in such form as the local authority to which the application is made may require,
  - (b) state that the application has been made and the date on which it was made,
  - (c) indicate that representations relating to the application may be made to the local authority during the public consultation period (and indicate when that period comes to an end), and
  - (d) contain such other information or material as the local authority may require.
- (7) For the purposes of this section an application for a pavement licence is made on the day it is sent to the local authority.
- (8) A person who applies for a pavement licence is to be taken to have agreed—
- (a) to the use of electronic communications for all purposes relating to the application, and to any licence resulting from the application, which are capable of being carried out electronically, and
  - (b) that the applicant's address for the purposes of such communications is the address incorporated into, or otherwise logically associated with, the person's application.
- (9) Where a person applies for a pavement licence, the person may not make another application for a pavement licence in respect of the same premises before the end of the determination period (see section 3).

### **3 Determination of applications**

- (1) This section applies where an application for a pavement licence is made to a local authority in accordance with section 2.
- (2) Before making a determination in respect of the application, the local authority must—
- (a) take into account any representations made to it during the public consultation period,
  - (b) consult the highway authority for the relevant highway to which the application relates, where the local authority is not that authority, and
  - (c) consult such other persons as the local authority considers appropriate.
- (3) After the end of the public consultation period the local authority may—
- (a) grant a pavement licence to the applicant, or
  - (b) reject the application.
- (4) A pavement licence granted to the applicant may be granted in respect of—
- (a) any or all of the purposes in relation to which the application is made;
  - (b) some or all of the part of the relevant highway specified in the application.
- (5) A local authority may grant a pavement licence under subsection (3)(a) only if the authority considers that, taking into account any conditions subject to which it proposes to grant the licence (as to which, see section 5), nothing done by the licence-holder pursuant to the licence would have an effect specified in subsection (6).
- (6) The effects referred to in subsection (5) are—
- (a) preventing traffic, other than vehicular traffic, from—
    - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),

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- (ii) passing along the relevant highway, or
  - (iii) having normal access to premises adjoining the relevant highway,
  - (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
  - (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
  - (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
- (7) Where a local authority is considering for any purpose of this group of sections whether furniture put on a relevant highway by a licence-holder pursuant to a pavement licence has or would have the effect referred to in subsection (6)(a), the authority must have regard in particular to—
- (a) the needs of disabled people, and
  - (b) the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State.
- (8) In subsection (6), words and expressions which are also used in Part 7A of the Highways Act 1980 have the same meanings as in that Part of that Act.
- (9) If the local authority does not make a determination under subsection (3) by the end of the determination period, the licence for which the application was made is deemed to be granted by the authority to the applicant.
- (10) In this group of sections, the “determination period” means the period of 7 days beginning with the first day after the public consultation period.

#### **4 Duration**

- (1) A pavement licence may be granted by a local authority—
- (a) for such period as the local authority may specify in the licence, or
  - (b) with no limit on its duration, in which case it expires at the end of [<sup>F1</sup>30 September 2022].
- (2) A period specified under subsection (1)(a)—
- (a) may not be less than three months, and
  - (b) may not extend beyond [<sup>F2</sup>30 September 2022].
- (3) Where a pavement licence is deemed to be granted under section 3(9) it is, subject to subsection (4), deemed to be granted for a year starting with the first day after the determination period.
- (4) A pavement licence deemed to be granted under section 3(9) which is in force at the end of [<sup>F3</sup>30 September 2022] expires at that time.
- (5) The licence-holder may surrender a pavement licence at any time by giving notice to the local authority by which it is granted or deemed to be granted.
- (6) A notice under subsection (5) must be made in writing and sent using electronic communications in such manner as the local authority may specify.

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### **Textual Amendments**

- F1** Words in s. 4(1)(b) substituted (20.7.2021) by [The Business and Planning Act 2020 \(Pavement Licences\) \(Coronavirus\) \(Amendment\) Regulations 2021 \(S.I. 2021/866\)](#), regs. 1, **4(a)** (with reg. 2)
- F2** Words in s. 4(2)(b) substituted (20.7.2021) by [The Business and Planning Act 2020 \(Pavement Licences\) \(Coronavirus\) \(Amendment\) Regulations 2021 \(S.I. 2021/866\)](#), regs. 1, **4(b)** (with reg. 2)
- F3** Words in s. 4(4) substituted (20.7.2021) by [The Business and Planning Act 2020 \(Pavement Licences\) \(Coronavirus\) \(Amendment\) Regulations 2021 \(S.I. 2021/866\)](#), regs. 1, **4(c)** (with reg. 2)

## **5 Conditions**

- (1) A pavement licence may be granted by a local authority subject to such conditions as it considers reasonable.
- (2) A local authority may publish conditions subject to which it proposes to grant pavement licences.
- (3) Where a pavement licence is deemed to be granted by a local authority under section 3(9), it is deemed to be granted subject to any conditions which are published by the local authority under subsection (2) before the day on which the application for the licence was made.
- (4) To the extent that a pavement licence which is granted or deemed to be granted would not by virtue of the preceding provisions of this section be subject to a no-obstruction condition or a smoke-free seating condition, it is deemed to be granted subject to such a condition.
- (5) A “no-obstruction condition” is a condition that anything done by the licence-holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6).
- (6) A “smoke-free seating condition” is a condition that, where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.
- (7) In considering for any purposes of this group of sections whether a licence-holder has made reasonable provision for seating where smoking is not permitted, a local authority must have regard to guidance issued by the Secretary of State.
- (8) The Secretary of State may by regulations—
  - (a) specify conditions for pavement licences, and
  - (b) make provision as to whether, or the extent to which, those conditions have effect in addition to, or instead of, any other conditions to which pavement licences are subject.

## **6 Enforcement and revocation**

- (1) If the local authority by which a pavement licence is granted or deemed to be granted considers that the licence-holder has breached any condition of the licence, the authority may—
  - (a) revoke the licence, or