



Licensing of Pavement Cafés Act (Northern Ireland) 2014

2014 CHAPTER 9

An Act to make provision for the regulation by district councils of the placing on public areas of furniture for use for the consumption of food or drink.
[12th May 2014]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Requirement for pavement café licence

Meaning of “pavement café licence” and other key terms

1.—(1) In this Act a “pavement café licence” means a licence authorising the licence holder to place on a public area (identified by the licence) temporary furniture for use for the consumption of food or drink supplied, in the course of a business carried on by the licence holder, in or from premises specified in the licence.

(2) In this Act “a public area” means a place in the open air—

- (a) to which the public has access, without payment, as of right; and
- (b) which is not in a market area.

(3) For the purposes of this Act, “furniture” means all or any of the following—

- (a) tables;

(b) chairs;

(c) umbrellas, barriers, heaters and other articles for facilitating the use, by persons consuming food or drink, of tables and chairs in a public area.

(4) For the purposes of this Act, furniture placed on a public area by or on behalf of a person is “temporary” if that person can remove, or cause to be removed, all of it in 20 minutes.

(5) In subsection (4) “remove” means remove to a place which is not a public area.

(6) In this Act “supplied”, in relation to food or drink, means supplied to members of the public or of a section of the public.

(7) In this Act references to placing a thing are to placing it personally or by an employee or agent.

Commencement Information

II [S. 1](#) in operation at 1.10.2016 by [S.R. 2016/126](#), [art. 2](#)

Offence of placing furniture on public area without pavement café licence

2.—(1) Subject to subsection (2), if at any time while a business involving the supply of food or drink in or from any premises to members of the public, or of a section of the public, is being carried on (“the time in question”)—

(a) furniture for use for the consumption of food or drink supplied in or from the premises is placed on a public area in the course of the business, or

(b) furniture for such use which has been placed on a public area in the course of the business remains on that public area,

each responsible person commits an offence.

(2) Subsection (1) does not apply if the furniture is temporary and, at the time in question, the person carrying on the business holds a pavement café licence in respect of the premises.

(3) For the purposes of subsection (1) each of the following is a “responsible person”—

(a) the person carrying on the business; and

(b) any other person concerned in the management of the premises who is responsible for the furniture being placed on, or (as the case may be) remaining on, the public area.

(4) Where the business is carried on by more than one person—

(a) the reference in subsection (2) to the person carrying on the business includes any of those persons; and

(b) the reference in subsection (3)(a) to the person carrying on the business is to each of those persons.

(5) Subsection (1)(b) applies whether the furniture was placed on the public area before or after the commencement of this section.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) It is a defence for a person charged with an offence under this section to prove that that person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Commencement Information

I2 [S. 2](#) in operation at 1.10.2016 by [S.R. 2016/126](#), [art. 2](#)

Application for licence

Application for licence

3.—(1) A person who carries on, or proposes to carry on, a relevant business may apply to the relevant district council for a pavement café licence in respect of premises specified in the application.

(2) The premises specified must be premises in or from which food or drink is, or will be, supplied in the course of the business.

(3) Only one set of premises may be specified in the application, but this does not prevent a person from making two or more separate applications in respect of different sets of premises.

(4) The application must include a plan which—

(a) shows the location and dimensions of the public area (or each of the public areas) on which the applicant wishes to place temporary furniture for use for the consumption of food or drink supplied in or from the specified premises; and

(b) meets such other requirements as the council may specify.

(5) Any such area must be situated in the district of the relevant district council.

(6) Sections 10 and 11 apply in relation to an application under this section.

(7) In this section—

“a relevant business” means a business involving the supply of food or drink to members of the public, or of a section of the public;

“the relevant district council” means the council in whose district the premises specified in the application are situated.

Commencement Information

I3 S. 3 in operation at 1.10.2016 by S.R. 2016/126, art. 2

Grant or refusal of licence

4.—(1) A council must grant an application for a pavement café licence which is made to it in accordance with this Act unless it considers that it ought to refuse the application on one or more of the grounds set out in subsection (2).

(2) The council may refuse the application on any of the following grounds—

- (a) that all or any part of the public area where the applicant wishes to place temporary furniture for use for the consumption of food or drink is unsuitable for that purpose;
- (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 application would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity, or in disorder;
- (c) that, in connection with the application, the applicant made a statement which the applicant knew to be false in a material respect or failed to comply with section 11;
- (d) that the applicant has at any time been granted a pavement café licence by the council which was revoked, or could have been revoked, for reasons within the applicant's control.

(3) Where the applicant wishes to place temporary furniture for use for the consumption of food or drink on more than one public area—

- (a) subsection (2)(a) applies as if the reference to the public area were to any of the public areas; and
- (b) subsection (2)(b) applies as if the reference to that area were to those areas.

(4) Before deciding an application for a pavement café licence, a council—

- (a) must consult the Department for Regional Development as regards that department's functions with respect to roads and the regulation of road traffic; and
- (b) if the premises to which the application relates are premises licensed under the Licensing Order of a kind mentioned in Article 5(1)(a) of that Order, must (and in any other case may) consult the district commander for the police district in which the premises are situated.

(5) The council may consult such other persons as it considers appropriate.

(6) In deciding an application for a pavement café licence, the council must take into account any representations relating to the application which are made

by any person to the council within the period allowed for representations (as defined by section 10(5)).

Commencement Information

I4 [S. 4](#) in operation at 1.10.2016 by [S.R. 2016/126](#), [art. 2](#)

Form, duration etc. of licence

5.—(1) A pavement café licence must be in the prescribed form and must—

- (a) specify the holder of the licence, the premises to which it relates, and such other matters as may be prescribed; and
- (b) include a plan showing the location and dimensions of the public area to which it relates.

(2) In this Act, in relation to a pavement café licence, “the area covered by the licence” means the area shown under subsection (1) on the plan in the licence.

(3) That area must be—

- (a) an area which was proposed under section 3(4) in the application for the licence; or
- (b) an area at least 75% of which falls within an area which was so proposed;

but this is subject to any power under the following provisions of this Act to vary the area covered by the licence.

(4) If more than one public area was proposed in the application for the licence, the licence may relate to one public area or more than one, and if it relates to more than one—

- (a) the plan included in the licence under subsection (1) must show the location and dimensions of each of the public areas to which the licence relates;
- (b) references in this Act to “the area covered by the licence” are to any of the areas shown on the plan in the licence; and
- (c) subsection (3) applies in relation to any such area.

(5) A pavement café licence shall (except where it is surrendered, revoked or suspended)—

- (a) remain valid for such period as is specified in the licence; or
- (b) if no period is specified in the licence, remain valid indefinitely.

(6) Subsection (5)(a) is subject to section 7 (renewal of licence).

(7) A licence holder may at any time surrender a pavement café licence to the council and the licence shall then cease to be valid.