



# City of Westminster Act 1999

## 1999 CHAPTER i

An Act to make further provision for the control of street trading in the City of Westminster; and for related purposes. [25th March 1999]

WHEREAS—

- (1) The City of Westminster (hereinafter called “the city”) is a London borough under the management and local government of the lord mayor and citizens of the city:
- (2) Certain powers relating to street trading are exercisable by the Westminster City Council under the London Local Authorities Act 1990 and it is expedient to revise those powers in respect of street trading in the city:
- (3) The purposes of this Act cannot be effected without the authority of Parliament:
- (4) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 have been observed:

May it therefore please Your Majesty that it may be enacted, and 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:—

### **1 Citation and commencement**

- (1) This Act may be cited as the City of Westminster Act 1999.
- (2) 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—

“authorised officer” means a person authorised by the council to act in relation to the relevant provisions of this Act;

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“the city” means the City of Westminster;

“the Commissioner” means the Commissioner of Police of the Metropolis;

“the council” means the Westminster City Council;

“house” includes any part of a building constituting a separate dwelling;

“ice cream trading” means the selling, exposing or offering for sale of goods consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities;

“itinerant ice cream trading” means ice cream trading from a vehicle which goes from place to place remaining in any one location in the course of trading for short periods only;

“licence street” means a street or part of a street designated under section 5 (Designation of streets and specification of articles) and section 6 (Designating resolution) of this Act;

“receptacle” includes a vehicle, trailer or stall and any basket, bag, box, vessel, stand, easel, board, tray or thing which is used (whether or not constructed or adapted for such use) as a container for or for the display of any article or thing or equipment used in the provision of any service;

“street” includes—

- (a) any road or footway;
- (b) any other area, not being within permanently enclosed premises, within 7 metres of any road or footway, to which the public have access without payment;
- (c) any part of such road, footway or area;
- (d) any part of any housing development provided or maintained by a local authority under Part II of the Housing Act 1985;

“street trading” means, subject to section 3 (Exemptions) of this Act—

- (a) the selling, offering for sale, display or exposing for sale of any article (including a living thing); and
  - (b) the supplying or offering to supply a service for gain or reward,
- in a street;

“street trading licence” means a licence granted under this Act but excludes a temporary licence;

“street trading pitch” means the area authorised by a street trading licence or a temporary licence for street trading purposes;

“temporary licence” means a licence granted under this Act for one or more days not exceeding six months.

### 3 Exemptions

The following are not street trading for the purposes of this Act—

- (a) trading only as a newsvendor provided that no undue interference or inconvenience or safety hazard is caused to people using the street and that the only articles sold, exposed or offered for sale are current newspapers or periodicals and that such articles are being sold, offered or exposed for sale—
  - (i) without a receptacle; or
  - (ii) from a single receptacle which does not—
    - (A) exceed 1 metre in length or width or 2 metres in height; or
    - (B) occupy a ground area exceeding 0.25 square metres; or

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- (C) stand on the carriageway of the street.
- (b) the selling of articles or things to occupiers of premises adjoining any street, or the offering or exposing of them for sale by a delivery person from a vehicle which is used only for the regular delivery of milk or other perishable goods to those persons.
  - (c) the selling, exposure or offer for sale of articles or the provision of services on private land adjacent to a shop provided that the selling, exposure or offer for sale of the articles or the provision of the services—
    - (i) forms part of the business of the owner of the shop or person assessed for uniform business rate of the shop; and
    - (ii) takes place during the period during which the shop is open to the public for business.
  - (d) the doing of anything authorised by regulations made under section 5 of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916 or by permit or order made under Part III of the Charities Act 1992.
  - (e) trading by a person acting as a pedlar under the authority of a pedlar's certificate under the Pedlars Act 1871, if the trading is carried out only by means of visits from house to house.

#### **4 Itinerant ice cream trading**

- (1) Nothing in this Act shall apply to itinerant ice cream trading in any street unless—
  - (a) that street is a licence street; or
  - (b) the street has been designated as a prohibited street under the following provisions of this section.
- (2) If at any time it is necessary to prohibit itinerant ice cream trading in any street in the city which is not a licence street in the interests of preventing a safety hazard, obstruction to traffic or undue interference or inconvenience to persons using that street, the council may by resolution designate the street as a prohibited street and may from time to time rescind or vary any such resolution.
- (3) The council shall not pass such a resolution unless they have first given notice in writing of their intention to do so—
  - (a) to the Commissioner;
  - (b) to the highway authority (except where the council is the highway authority); and
  - (c) to any body which appears to the council to be representative of persons carrying on ice cream trading in the area affected by the proposed resolution.
- (4) The notice shall—
  - (a) give details of the proposed resolution and the reasons for it; and
  - (b) state that representations may be made regarding the proposed resolution by the date specified in the notice as the due date which shall be not less than 42 days after the notice has been given.
- (5) As soon as practicable after the due date the council shall consider all representations received by that date and may at their discretion consider representations received after that date.

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- (6) The council shall give to any person who makes representations by the due date an opportunity to make oral representations to the council and may at their discretion give to other persons making representations a similar opportunity.
- (7) The council may pass the proposed resolution, with any modifications they consider appropriate as a result of any representations received under this section.
- (8) As soon as practicable after passing a resolution under subsection (7) above, the council shall by notice in writing inform all persons given notice of the proposed resolution.

## **5 Designation of streets and specification of articles**

- (1) The council may pass any of the following resolutions:—
  - (a) a resolution designating a street or part of a street in the city as a licence street (a“designating resolution”);
  - (b) a resolution specifying that in relation to a licence street or streets either—
    - (i) only specified articles, things or services or classes of articles, things or services may be sold, offered or provided in that street; or
    - (ii) the sale, offer or provision of specified articles, things or services or classes of articles, things or services are prohibited in that street;(a“specifying resolution”).
- (2) The council may from time to time rescind or vary any such resolution.

## **6 Designating resolution**

- (1) The council shall not pass a designating resolution or rescind or vary such a resolution unless they have first given notice in writing of their intention to do so—
  - (a) to the Commissioner;
  - (b) to the highway authority (except where the council is the highway authority);
  - (c) to any body which appears to the council to represent the relevant street traders;
  - (d) to all licence holders whom the council could reasonably expect would be affected by the proposed resolution; and
  - (e) where the proposed resolution would designate private land, to the owner of that land or to the person assessed for the uniform business rate on it.
- (2) The council may, if they think fit, also give notice in writing to residents associations or amenity societies representing residents living in the vicinity of the area which is the subject of a proposed designating resolution.
- (3) The notice shall—
  - (a) give details of the proposed resolution; and
  - (b) state that representations may be made regarding the proposed resolution by the date specified in the notice as the due date, which date shall be not less than 28 days after the notice has been given.
- (4) As soon as practicable after the due date the council shall consider all representations received by that date and may at their discretion consider representations received after that date.

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- (5) The council shall give to any person who makes representations by the due date an opportunity to make oral representations to the council and may at their discretion give to other persons making representations a similar opportunity.
- (6) The council may pass the proposed resolution with any modifications they consider appropriate as a result of any representations received under this section except that no designating resolution may be passed—
  - (a) in respect of private land without the consent of the owner of that land or the person assessed for the uniform business rate on it or;
  - (b) in respect of a highway in respect of which the council is not the highway authority, without the consent of the highway authority.
- (7) As soon as practicable after passing a resolution under subsection (6) above the council shall by notice in writing inform all persons given notice of the proposed resolution.
- (8) If a street trading pitch becomes temporarily unsuitable for street trading purposes the council may after consulting the Commissioner, the highway authority, the licence holder and any other body or person they think fit, temporarily designate an alternative location for that pitch.
- (9) A temporary designation under subsection (8) above shall remain in force for a period of no longer than five years from the date of designation and the street trading licence for the temporarily unsuitable pitch may be transferred, with any necessary modification to that licence, to the temporarily designated pitch.

## **7 Specifying resolution**

- (1) The council shall not pass a specifying resolution or rescind or vary such a resolution unless they have first given notice in writing—
  - (a) to all licence holders whom the council could reasonably expect would be affected by the proposed resolution; and
  - (b) to any body which appears to the council to represent such licence holders.
- (2) The notice shall—
  - (a) give details of the proposed resolution; and
  - (b) state that representations may be made regarding the proposed resolution by the date specified in the notice as the due date which date shall be not less than 28 days after the notice has been given.
- (3) As soon as practicable after the due date the council shall consider all representations received by that date and may at their discretion consider representations received after that date.
- (4) The council shall give to any person who makes representations by the due date an opportunity to make oral representations to the council and may at their discretion give to other persons making representations a similar opportunity.
- (5) The council may pass the resolution with any modifications which they consider appropriate as a result of any representations received under this section.
- (6) As soon as practicable after passing a resolution under subsection (5) above the council shall by notice in writing inform all parties given notice of the proposed resolution.