



London Local Authorities Act 1994

1994 CHAPTER xii

An Act to confer further powers upon local authorities in London; and for other purposes. [21st July 1994]

WHEREAS—

- (1) It is expedient that further and better provision should be made for the improvement and development of local government services in London and for the benefit of persons residing therein and that the powers of London borough councils should be extended and amended as provided in this Act:
- (2) In relation to the promotion of the Bill for this Act the Westminster City Council have complied with the requirements of section 239 of the Local Government Act 1972 and the other London borough councils, all of whom are participating in the promotion of the Bill, have complied with the requirements of section 87 of the Local Government Act 1985:
- (3) It is expedient that the other provisions contained in this Act should be enacted:
- (4) The purposes of this Act cannot be effected without the authority of Parliament:

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, that is to say:—

1 Short title and commencement

This Act may be cited as the London Local Authorities Act 1994 and except section 5 (Night café licensing) of 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—

“the Act of 1990” means the London Local Authorities Act 1990;

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“authorised officer” means an officer of a borough council authorised by the council in writing to act in relation to the relevant provision of this Act;

“borough council” means London borough council but does not include the Common Council of the City of London; and “borough” shall be construed accordingly.

3 Appointed day

- (1) In this Act “the appointed day” means such day as may be fixed in relation to a borough by resolution of the borough council, subject to and in accordance with the provisions of this section.
- (2) Different days may be fixed under this section for the purpose of the application of different provisions of this Act to a borough.
- (3) The borough council shall cause to be published in a local newspaper circulating in the borough notice—
 - (a) of the passing of any such resolution and of the day fixed thereby; and
 - (b) of the general effect of the provisions of this Act coming into operation as from that day;
 and the day so fixed shall not be earlier than the expiration of three months from the publication of the said notice.
- (4) Either a photostatic or other reproduction certified by the officer appointed for that purpose by the borough council to be a true reproduction of a page or part of a page of any such newspaper bearing the date of its publication and containing any such notice shall be evidence of the publication of the notice, and of the date of publication.

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

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- (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.
- (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;

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- (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;

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

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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.

5 Night café licensing

As from the appointed day in a borough section 14 (Appeals) of the Act of 1990 is hereby amended—

(1) by the substitution for subsection (1) of—

“(1) Any of the following persons, that is to say:—

- (a) an applicant for the grant, renewal or transfer of a night café licence whose application is refused;
- (b) an applicant for the grant, renewal or transfer of a night café licence who is aggrieved by any term, condition or restriction on or subject to which the night café licence is granted, renewed or transferred;
- (c) an applicant for the variation of the terms, conditions or restrictions on or subject to which a night café licence is held whose application is refused;
- (d) an applicant for the variation of the terms, conditions or restrictions on or subject to which a night café licence is held who is aggrieved by any term, condition or restriction contained in a further variation made consequent on the variation applied for;
- (e) the holder of a night café licence which is revoked under section 15 (Enforcement) of this Act;

may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to the magistrates' court acting for the petty sessions area in which the premises are situated by way of complaint for an order.”;

(2) by the substitution for subsections (7) and (8) of—

“(7) Where the holder of a night café licence makes an application under section 12 (Variation of night café licences) of this Act and the borough council make the variation applied for together with a further variation, then the night café licence shall continue as it was before the application—

- (a) until the time for bringing an appeal under this section against any term, condition or restriction contained in the further variation has expired; and
- (b) where any such appeal is brought, until the determination or abandonment of the appeal.”.

6 Street trading

(1) Section 21 (2) (j) (Interpretation of Part III) of the Act of 1990 is hereby amended by the insertion after “offer for sale”, of the words “of articles”.