

NOTICE OF MEETING

SPECIAL LICENSING SUB COMMITTEE

Thursday, 28th July, 2022, 11.00 am - Westbury Room - George Meehan House, 294 High Road, N22 8JZ (watch the live meeting [here](#) watch the recording [here](#))

Members: Councillors Luke Cawley-Harrison, Ajda Ovat (Chair) and Yvonne Say

Quorum: 3

1. **FILMING AT MEETINGS**

Please note this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on. By entering the 'meeting room', you are consenting to being filmed and to the possible use of those images and sound recordings.

The Chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual, or may lead to the breach of a legal obligation by the Council.

2. **APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

3. **URGENT BUSINESS**

It being a special meeting of the Sub Committee, under Part Four, Section B, Paragraph 17, of the Council's Constitution, no other business shall be considered at the meeting.

4. **DECLARATIONS OF INTEREST**

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

(i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and

(ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct.

5. SUMMARY OF PROCEDURE

The Chair will explain the procedure that the Committee will follow for the hearing considered under the Licensing Act 2003.

6. REVOCATION OF A STREET TRADING LICENCE FOR NON PAYMENT OF FEES (PAGES 1 - 4)

To consider an item for a revocation of a street trading licence.

7. EXCLUSION OF THE PRESS AND PUBLIC

Note from the Democratic Services and Scrutiny Manager:

Item 8 allows for consideration of exempt information.

TO RESOLVE

That the press and public be excluded from the remainder of the meeting as Item 9 contains exempt information as defined under paragraphs 1, 2 and 3.

Part 1, 2 and 3 , Schedule 12A of the Local Government Act 1972:
information relating to any individual.

Information which is likely to reveal the identity of an individual.

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

8. EXEMPT - REVOCATION OF A STREET TRADING LICENCE FOR NON PAYMENT OF FEES (PAGES 5 - 82)

To consider an item for a revocation of a street trading licence.

Nazyer Choudhury, Principal Committee Co-ordinator

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Fiona Alderman
Head of Legal & Governance (Monitoring Officer)
George Meehan House, 294 High Road, Wood Green, N22 8JZ

Tuesday, 19 July 2022

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Report for: Licensing Sub Committee - 28 July 2022

Item number: 6

Title: Revocation of a street trading license for non-payment of fees.

Report authorised by: Daliah Barrett-Licensing Team Leader – Regulatory Services.

Ward(s) affected Noel Park

Report for Key/ Non Key Decision: Not applicable

This report is exempt, as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985);
para 1- information relating to any individual
para 2- information which is likely to reveal the identity of an individual
para 3 - information relating to the financial or business affairs of any particular person (including the authority holding that information).

1. Describe the issue under consideration

1.1 This report relates to a matter for the revocation of a street trading licence for the following reasons under section 28 of the London Local Authorities Act 1990:

“ (e) – that since the grant or renewal of the licence, the licence holder has for a period of four weeks or more failed to pay fees or charges due to the borough council in connection with the street trading licence or has failed to pay any charges due from him for accommodation provided in pursuance of subsection (2) of section 33 (Receptacles and containers) of this Act;

1.2 The licence holder has previously put his case before the LSC in January 2022. The LSC determined to postpone their determination of the matter for 3 months to allow the licence holder time to clear the outstanding arrears or to put satisfactory measures in place to clear the debts. The resolution is attached at Appendix F.

2 Recommendation

2.1 The street trading licence of the reported trader identified in Appendix A (as identified in the closed report) be revoked on the grounds of non-payment of licence fee.

3 Background

3.1 The Authority runs all street trading activities in the borough and is responsible for issuing licences and ensuring that rules /conditions imposed and regulations are adhered to. These conditions and regulations are governed by the London Local Authorities Act 1990 (as amended).

The Act provides that a Council may revoke a street trading licence granted by it if the licence holder has:

- failed to pay fees or charges due to the borough council in connection with the street trading licence”

3.2 The trader has operated in in the Wood Green area for over 40 years. The arrears

have accrued since 1st July 2020. Records show a payment was made in August 2020 but this was in relation to previous debt owed. A final payment was received from the trader on 6th September 2021. The street trading accounts remain in arrears as shown in Appendix B. Appendix C shows the outstanding arrears for the storage facility at the Car Park provided to the trader by the Council for the use of storing goods sold at the stall.

- 3.3 The licence holder has subsequently made further payments following the LSC decision to withhold making a decision on the question of revocation. Reminder emails were sent to the Trader about the need to address the matter in the 3 months set by the LSC. Payments were received on:
- 19/5/22 - £500
 - 24/5/22 -£500
 - 31/5/22 -£814.67
- 3.4 Council has adopted regulations/conditions by which each trader agrees to operate under, these are attached as Appendix D to the report.
- 3.5 The Act asks that the Council serve on the trader a notice stating that revocation is proposed and offering the opportunity to appear before the LSC. The notice gave the trader 21 days' notice to make any representations, the notice was sent on 26th October 2021. Further emails were sent to The Trader. A secondary notice was issued on 6th January 2022. The licence holder has been sent reminders relating to the outstanding fees as well as monthly invoices.
- 3.6 The Finance Team has referred the debts to Legal for a bad debt order to be sought through the Court.
- 3.7 The LSC should note that as the commodity sold at the stall is food (fruit and veg) it has not been affected by the Lockdowns and has been able to continue trading throughout the last two years.
- 3.8 Under the Act revocation is the only sanctions open to the committee, i.e. it cannot suspend the licence. The LSC may determine to impose conditions:
- a) Reducing the number of days in any week or the period in any one day during which the licence holder is permitted to trade;
 - b) Specifying a different licence street or position or place in any such street at which the licence holder may sell or expose or offer for sale articles or things or provide services; or
 - c) Restricting the description of articles, things or services in which the licence holder is permitted to trade.
- 3.9 None of the above options are suitable or recommended in this situation. Reducing the number of days etc will not address the outstanding debt. Haringey has no other available licence street position to offer and lastly restricting the description of articles will not address the outstanding unpaid debt.
- 3.10 If the committee do decide to revoke or vary a licence, the licence holder then has Right of appeal to the magistrates court, and thereafter to the Crown Court. The licence Holder is entitled to continue trading until such time as any such appeal has been determined.

4 Policy implications

- 4.1 To advise the committee of traders non-compliance with his/her street trading licence conditions, non-exercising of trading rights and to seek the Committee's authority to revoke his/her street trading licence.

4.2 Effect of proposed changes on those affected

The Street Trading account is operated on a break even basis. The fees are kept as low as financially possible, but this can only happen if all traders adhere to the licence conditions and pay fees before their monthly trading as specified in the London Local Authorities Act 1990 (as amended 1994).

4.3 Resource implications

Monitoring accounts, sending reminder letters, meeting with trader(s), confirming contents of meeting in writing being time consuming and costly, which is financed from Street Trading account.

- 4.4 If a street trading licence is revoked, the resultant vacancy will be advertised and the licence granted in accordance with Council policy. Therefore no adverse impact foreseen on the Street Trading account provided there is no delay in filling the vacancy.

4.5 Equalities Impact

This decision has been judged to have no or a very small impact on local people and communities. The trader has broken his/her license conditions and therefore his/her licence is being revoked, the decision has an impact solely on the trader.

4.6 Legal implications

- i) This report recommends that the street trading licence is revoked on the grounds of persistent no-payment of fees in accordance with Section 28(1)(e) of the London Local Authorities Act 1990 (as amended).
- ii) It is a requirement of the Act that before revoking any licences, the Council shall have given the licence holder not less than 21 days previous notice in writing that revocation is proposed. This notice must also specify the grounds on which such a decision would be based and give the licence holder the opportunity to appear before the committee, sub-committee or officer determining the matter. The decision cannot be taken until after the 21 day period has expired. The Council is also obliged to consider any representations made by the licence holder.
- iii) Section 28 (2)of the Act states that the Council may instead of revoking a licence vary it by attaching further specified conditions; (a) reducing the numbers if days in any week or the period in any one day during which the licence holder is permitted to trade; (b) specifying a different licenced street or position or place at which the licence holder may trade; (c) restricting the items which the licence holder is permitted to sell.
- iv) If the Council should decide to revoke or vary the licence, it must notify the licence holder in writing of this decision, and of the grounds for revocation/variation and notify him/her of his/her right of appeal. As the report states, an appeal may be brought in the first instance, to the magistrates court. This is within a period of 21 days from notification in writing of the Council's decision to revoke, a further appeal may be brought to the Crown Court. In each case, the appeal would effectively be by way of re-hearing.
- v) The council has a duty in considering this matter to take account of all relevant considerations and disregard any matters of irrelevance. In doing so, it must have regard to the rules of natural justice. This is in addition to complying with procedural requirements set out in the statute.

5 Other Considerations

5.1 Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to a fair hearing
- Article 10 – Freedom of Expression

6 Use of Appendices

Appendix A-

Appendix B-

Appendix C –

Appendix D –

Appendix E - LLA 1990

Appendix F –

Appendix G

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Appendix E

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London Local Authorities Act 1990

CHAPTER vii

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.
3. Appointed day.

PART II

NIGHT CAFÉ LICENSING

4. Interpretation of Part II.
5. Application of Part II.
6. Licensing.
7. Applications.
8. Refusal of licence.
9. Transmission and cancellation of night café licences.
10. Power to prescribe standard terms, conditions and restrictions.
11. Provisional grant of night café licences.
12. Variation of night café licences.
13. Occasional night café licences.

Section

14. Appeals.
15. Enforcement.
16. Offences by bodies corporate.
17. Powers of entry.
18. Sex establishments.
19. Application to existing premises.
20. Repeal.

PART III

STREET TRADING

21. Interpretation of Part III.
22. Application of Part III.
23. Licensing of street traders.
24. Designation of licence streets.
25. Application for street trading licences.
26. Succession.
27. Conditions of street trading licences.
28. Revocation or variation of licences under Part III.
29. Further provisions relating to grant, renewal or revocation of street trading licences.
30. Part III appeals.
31. Temporary licences.
32. Fees and charges.
33. Receptacles and containers.
34. Offences.
35. Power to remove receptacles.
36. Employment of assistants.
37. Ice cream trading.
38. Unlicensed street trading.
39. Savings.
40. Local enactments relating to street trading repealed.
41. Saving for sales in legal markets or fairs.

PART IV

MISCELLANEOUS

42. Restoration of gas and electricity services.
43. Shopping or luggage trolleys found in open air.
44. Surrey County Council Act 1958.

SCHEDULES—

- Schedule 1—Participating councils.
- Schedule 2—Local enactments repealed in Greater London in relation to street trading.
- Schedule 3—Greater London Council (General Powers) Act 1972, section 19 (1) as having effect in accordance with section 42 (Restoration of gas and electricity services) of this Act.
- Schedule 4—Provisions of Surrey County Council Act 1958.

ELIZABETH II



1990 CHAPTER vii

**An Act to confer further powers upon local authorities
in London; and for other purposes.**

[22nd February 1990]

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) It is expedient that London borough councils should have improved power to licence and control night cafés:

(3) It is expedient to ensure that London borough councils can exercise more efficient control over street trading:

(4) It is expedient to amend section 19 of the Greater London Council (General Powers) Act 1972 with regard to the restoration of gas and electricity services: 1972 c. xl.

(5) It is expedient to provide for the better control in London of shopping or luggage trolleys found in the open air:

(6) It is expedient to re-enact certain provisions of the Surrey County Council Act 1958 in their application within certain London boroughs: 1958 c. xlii.

2

c. vii

London Local Authorities Act 1990

(7) It is expedient that the other provisions contained in this Act should be enacted:

(8) The purposes of this Act cannot be effected without the authority of Parliament:

1972 c. 70.
1985 c. 51.

(9) 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 participating councils have complied with the requirements of section 87 of the Local Government Act 1985:

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:—

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the London Local Authorities Act 1990.

Interpretation.

2. In this Act, except as otherwise expressly provided or unless the context otherwise requires—

“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; and

“participating council” means any of the borough councils mentioned in Schedule 1 to this Act.

Appointed day.

3.—(1) In this Act “the appointed day” means such day as may be fixed in relation to the borough of a participating council 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.

PART II

NIGHT CAFE LICENSING

4. In this Part of this Act—

“the Act of 1964” means the Licensing Act 1964;

“the fire authority” means the London Fire and Civil Defence Authority;

“night café” means—

(a) any premises in a borough which are kept open for public refreshment at any time between the hours of 11 o'clock in the evening and 5 o'clock in the morning; or

(b) any premises in a borough where meals or refreshments are supplied, between the hours of midnight and 5 o'clock in the morning, for consumption exclusively off those premises; or

(c) any premises which are used by a club, organisation or body and which, if they were kept open to the public, would fall within paragraph (a) of this definition;

but does not include any premises—

(i) in respect of which there is in force—

(A) a justices' on-licence within the meaning of section 1 (2) of the Act of 1964;

(B) a licence granted by the council under Schedule 12 to the London Government Act 1963, section 21 (Licensing of public exhibitions, etc.) of the Greater London Council (General Powers) Act 1966 or the Private Places of Entertainment (Licensing) Act 1967;

(C) a licence granted by the council under the Theatres Act 1968 for the public performance of plays;

(D) a licence granted by the council under the Cinemas Act 1985 where the premises are subject to the full requirements of the Cinematograph (Safety) Regulations 1955;

during the hours permitted by such licence or, in the case of premises to which sub-paragraph (A) above applies, until the expiration of 30 minutes after the end of the hours permitted by such licence:

Provided that the premises are in use wholly or mainly and bona fide for the purpose authorised by such licence; or

(ii) which are kept open wholly or mainly as an ancillary amenity to a bona fide hotel, guest house or lodging house; or

(iii) which are being used exclusively and bona fide by a club registered or licensed under the Act of 1964 or a club provided or maintained by the borough council; or

(iv) which are being used exclusively and bona fide by a club, organisation or body—

(A) registered as a charity under section 4 of the Charities Act 1960 or not required to be registered under that section by virtue of the provisions of subsection (4) thereof; or

(B) for the purpose of a gymnasium or swimming bath, or of playing badminton, fives, racquets, squash, bingo, tombola, ten-pin bowling, billiards, chess, dominoes, bridge, whist or any game similar to any of those games;

(v) so long as they are being used exclusively and bona fide as a canteen forming part of a factory or office which is subject to the Health and Safety at Work etc. Act 1974;

Interpretation of
Part II.
1964 c. 26.

1963 c. 33.

1966 c. xxviii.
1967 c. 19.

1968 c. 54.

1985 c. 13.
S.I. 1955/1129.

1960 c. 58.

1974 c. 37.

PART II
—cont.

(vi) comprised in the undertaking of the British Railways Board, Heathrow Airport Limited or London Regional Transport;

“occupier” in relation to any premises includes a person with an immediate leasehold interest in the premises or with a licence to occupy the premises.

Application
of Part II.

5. This Part of this Act applies to the borough of a participating council as from the appointed day.

Licensing.

6.—(1) No premises shall be used in the borough as a night café except under and in accordance with a night café licence granted under this section by the council.

(2) The council may grant to an applicant and from time to time, renew or transfer a night café licence on such terms and conditions and subject to such restrictions as may be specified.

(3) Without prejudice to the generality of subsection (2) above, such conditions may relate to—

- (a) the maintenance of public order and safety;
- (b) the number of persons who may be allowed to be on the premises at any time;
- (c) the taking of proper precautions against fire, and the maintenance in proper order of means of escape in case of fire, fire-fighting appliances and means of lighting, sanitation and ventilation of the premises;
- (d) the maintenance in safe condition of means of heating the premises;
- (e) the hours of opening and closing the premises for use as a night café to ensure that nuisance is not likely to be caused to residents in the neighbourhood.

(4) Subject to section 13 (Occasional night café licences) of this Act and provided it has not been cancelled or revoked the night café licence shall remain in force for 18 months or such shorter period specified in the night café licence as the council may think fit.

Applications.

7.—(1) An applicant for the grant, renewal or transfer of a night café licence shall not later than the day the application is made send a copy to the Commissioner of Police of the Metropolis and a copy to the fire authority and, subject to subsection (2) below, no such application shall be considered by the council unless the applicant complies with this subsection.

(2) The council may in such cases as they think fit, after consulting with the Commissioner of Police of the Metropolis and the fire authority, consider an application for the grant, renewal or transfer of a night café licence notwithstanding that the applicant has failed to comply with subsection (1) above.

(3) In considering any application for the grant, renewal or transfer of a night café licence the council shall have regard to any observations submitted to them by the Commissioner of Police of the Metropolis or by the fire authority within 28 days of the making of the application and may have regard to any observations submitted by him or them thereafter.

(4) An applicant for the grant, renewal, transfer or variation of a night café licence shall furnish such particulars and give such other notices, including the public advertisement of the application, as the council may by regulation prescribe.

(5) Regulations under subsection (4) above may, inter alia, prescribe the procedure for determining applications.

PART II
—cont.

(6) An applicant for the grant, renewal or transfer of a night café licence shall pay a reasonable fee determined by the council.

(7) Where, before the date of expiry of a night café licence, an application has been made for its renewal or transfer, the night café licence shall be deemed to remain in force, or as the case may require, to have effect with any necessary modifications until the determination of the application by the council or the withdrawal of the application.

8.—(1) The council may refuse to grant, renew or transfer a night café licence on any of the following grounds:—

Refusal of
licence.

- (a) the premises are not structurally suitable for the purpose;
- (b) there is a likelihood of nuisance being caused by reason of the conduct, management or situation of the premises or the character of the relevant locality or the use to which any premises in the vicinity are put;
- (c) the persons concerned or intended to be concerned in the conduct or management of the premises as a night café could be reasonably regarded as not being fit and proper persons to hold such a licence;
- (d) the premises are not provided with satisfactory means of lighting, sanitation and ventilation;
- (e) the means of heating the premises are not safe;
- (f) proper precautions against fire on the premises are not being taken;
- (g) satisfactory means of escape in case of fire and suitable fire-fighting appliances are not provided on the premises;
- (h) the applicant has, within the period of five years immediately preceding the application to the council, been convicted of an offence under this Part of this Act; or
- (i) the applicant has failed to comply with the requirements of subsection (4) or (6) of section 7 (Applications) of this Act.

(2) The council shall not refuse an application without giving the applicant an opportunity to appear before the committee, sub-committee or officer determining the application.

9.—(1) In the event of the death of the holder of a night café licence, the person carrying on at the place in respect of which the night café licence was granted the function to which the night café licence relates shall be deemed to be the holder of the night café licence unless and until the night café licence is transferred to some other person.

Transmission and
cancellation of
night café
licences.

(2) The council may, at the written request of the holder of a night café licence, cancel the night café licence.

10.—(1) The council may make regulations prescribing standard conditions applicable to all, or any class, of night café licences, that is to say terms, conditions and restrictions on or subject to which such night café licences, or night café licences of that class are in general to be granted, renewed or transferred by them.

Power to
prescribe
standard terms,
conditions and
restrictions.

(2) Where the council have made regulations under this section, every such night café licence granted, renewed or transferred by them shall be deemed to have been so granted, renewed or transferred subject to any standard conditions applicable to it unless those standard conditions have been expressly excluded or amended.

PART II
—cont.
Provisional grant
of night café
licences.

11.—(1) Where application is made to the council for the grant of a night café licence in respect of premises which are to be, or are in the course of being, constructed, extended or altered and the council are satisfied that the premises would, if completed in accordance with plans deposited in pursuance of the requirements of the council be such that they would grant the night café licence, the council may grant the night café licence subject to a condition that it shall be of no effect until confirmed by them.

(2) The council shall, on application being made for the appropriate variation of the night café licence, confirm any night café licence granted by virtue of subsection (1) above if and when they are satisfied that the premises have been completed in accordance with the plans referred to in the said subsection (1) or in accordance with those plans as modified with the approval of the council and that the night café licence is held by a fit and proper person.

Variation of night
café licences.

12.—(1) The holder of a night café licence may at any time apply to the council for a variation in the terms, conditions or restrictions on or subject to which the night café licence is held.

(2) The person making an application for such a variation of licence shall on making the application pay to the council such reasonable fee as the council may fix.

(3) The council may—

- (a) make the variation specified in the application;
- (b) make such variations as they think fit, including the imposition of terms, conditions or restrictions, whether or not specified in the application; or
- (c) refuse the application:

Provided that no variation may be made under this section unless it is specified in the application or consequent upon a variation specified in the application.

Occasional night
café licences.

13.—(1) The council may grant a night café licence in respect of one or more particular occasions only as may be specified in the night café licence.

(2) Save where a shorter period is agreed by the council, an applicant for the grant of an occasional night café licence shall make such application not less than 28 days in advance of the occasion for which the night café licence is sought and shall send a copy of the application to the Commissioner of Police of the Metropolis.

(3) An applicant for the grant of an occasional night café licence shall furnish such particulars and give such other notices as the council may by regulation prescribe and shall pay a reasonable fee determined by the council.

Appeals.

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

- (a) an applicant for the grant, renewal or transfer of a night café licence in respect of any place whose application is refused;
- (b) an applicant for the variation of the terms, conditions or restrictions on or subject to which any such night café licence is held whose application is refused;
- (c) a holder of any such night café licence who is aggrieved by any term, condition or restriction on or subject to which the night café licence is held; or
- (d) a holder of any such night café licence whose night café licence 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.

PART II
—cont.

(2) In this section "the relevant date" means the date on which the person in question is notified in writing of the refusal of his application, the imposition of the terms, conditions or restrictions by which he is aggrieved or the revocation of his night café licence, as the case may be.

(3) An appeal by either party against the decision of the magistrates' court under this section may be brought to the Crown Court.

(4) On an appeal to the magistrates' court or to the Crown Court under this section the court may make such order as it thinks fit and it shall be the duty of the council to give effect to such order.

(5) Where any night café licence is revoked under section 15 (Enforcement) of this Act or an application for the renewal of such a night café licence is refused, the night café licence shall be deemed to remain in force—

- (a) until the time for bringing an appeal under this section has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal; and
- (b) where an appeal relating to the refusal of an application for such a renewal is successful until the licence is renewed by the council.

(6) Where any night café licence is renewed under section 6 (Licensing) of this Act and the council specify any term, condition or restriction which was not previously specified in relation to that licence, the night café licence shall be deemed to be free of it until the time for bringing an appeal under this section has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.

(7) Where—

- (a) the holder of a night café licence makes an application under section 12 (Variation of night café licences) of this Act; and
- (b) the council impose any term, condition or restriction other than one specified in the application;

the night café licence shall (without prejudice to subsection (8) below) be deemed to be free of it until the time for bringing an appeal under this section has expired.

(8) Where an appeal is brought under this section against the imposition of any such term, condition or restriction, the night café licence shall be deemed to be free of the term, condition or restriction until the determination or abandonment of the appeal.

15.—(1) If any occupier or other person concerned in the conduct or management of premises in the borough which are not currently licensed by the council under this Part of this Act—

Enforcement.

- (a) uses them as a night café; or
- (b) permits them to be so used knowing or having reasonable cause to suspect that they are not currently so licensed;

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.

(2) If any premises in respect of which a night café licence is in force are used as a night café otherwise than in accordance with the terms, conditions or restrictions on or subject to which the night café licence is held then the holder

PART II
—cont.

of the licence or other person concerned in the conduct or management of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Subject to section 14 (Appeals) of this Act, the council may revoke a night café licence if its holder is convicted of an offence under subsection (2) above.

Offences by
bodies corporate.

16.—(1) Where an offence under this Part of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members subsection (1) above shall apply to the acts and defaults of a member in connection with his function of management as if he were a director of the body corporate.

Powers of entry.

17.—(1) (a) Any duly authorised officer (on production, if so required, of a duly authenticated document of his authority) or any police officer, may at all reasonable times enter upon, inspect and examine any premises used, or which he has reasonable cause to believe are—

- (i) used or intended to be used as a night café either without the requisite night café licence; or
- (ii) used in contravention of the terms, conditions or restrictions on or subject to which a night café licence is granted;

and may do all things reasonably necessary for the purpose of ascertaining whether an offence has been committed.

(b) An officer of the fire authority authorised by the fire authority in writing to act in relation to this Part of this Act may at all reasonable times enter upon, inspect and examine premises which are licensed under this Part of this Act to ascertain whether conditions attached to the licence by virtue of section 6 (3) (c) (Licensing) of this Act are being complied with.

1936 c. 49.

(2) Subsections (2), (3) and (4) of section 287 of the Public Health Act 1936 shall apply in respect of entry to premises for the purposes of this section as they apply to entry to premises for the purposes of subsection (1) of that section.

(3) Any person who intentionally obstructs any person acting in the exercise of his powers under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Sex
establishments.
1982 c. 30.

18. In Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (which provides for control of sex establishments), in paragraph 3A, proviso (ii) is hereby repealed.

Application to
existing premises.
1969 c. 53.
1968 c. xxxix.

19. In respect of premises licensed under the Late Night Refreshment Houses Act 1969 or registered under Part VIII of the Greater London Council (General Powers) Act 1968 on the date this Part of this Act comes into force in the borough in which the premises are situated—

- (a) section 6 (Licensing) of this Act shall not apply until the expiry of the licence or registration granted under either of those enactments;
- (b) if on the initial grant of a licence under this Part of this Act conditions are imposed additional to those attached to the licence or registration granted under either of those enactments, the licence shall be free of

those conditions until the time for bringing an appeal under section 14 (Appeals) of this Act has expired and where an appeal is brought under the said section 14 against such conditions the licence shall be deemed to be free of them until the determination or abandonment of the appeal.

PART II
—cont.

20. Part VIII of the Greater London Council (General Powers) Act 1968 and the Late Night Refreshment Houses Act 1969 shall cease to have effect in a borough on the day which the council of that borough resolves to be the appointed day for the purposes of this Part of this Act.

Repeal.
1968 c. xxxix.
1969 c. 53.

PART III

STREET TRADING

21.—(1) In this Part of this Act—

Interpretation of
Part III.

“grant”, unless the context otherwise requires, includes renew and renewal, and cognate words shall be construed accordingly;

“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 from a vehicle;

“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 designated under section 24 (Designation of licence streets) of this Act;

“receptacle” includes a vehicle 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;

1985 c. 68.

“street trading” means subject to subsection (2) below the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward;

“street trading licence” means a licence granted under this Part of this Act and valid for the period specified therein being not less than six months and not more than three years;

“temporary licence” means a licence granted under this Part of this Act valid for a single day or for such period as may be specified in the licence not exceeding six months.

(2) The following are not street trading for the purposes of this Part of this Act:—

(a) trading by a person acting as a pedlar under the authority of a Pedlar’s Certificate granted under the Pedlars Act 1871;

1871 c. 96.

- PART III
—cont.
- 1980 c. 66.
- (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 any enactment or order;
- (c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
- (d) trading as a news-vendor provided that the only articles sold or exposed or offered for sale are newspapers or periodicals and they are sold or exposed or offered for sale without a receptacle for them or, if with a receptacle for them such receptacle does not—
- (i) exceed 1 metre in length or width or 2 metres in height; or
 - (ii) occupy a ground area exceeding 0.25 square metre; or
 - (iii) stand on the carriageway of a street; or
 - (iv) cause undue interference or inconvenience to persons using the street;
- (e) selling articles or things to occupiers of premises adjoining any street, or offering or exposing them for sale from a vehicle which is used only for the regular delivery of milk or other perishable goods to those persons;
- (f) the use for trading under Part VIIA of the Highways Act 1980 of any object or structure placed on, in or over a highway;
- (g) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
- 1916 c. 31. (h) the doing of anything authorised by regulations made under section 5 of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916;
- 1976 c. 57. (i) trading in a highway in relation to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply; and
- (j) the sale, exposure or offer for sale or offer or provision of services on any land comprised in a street (not being part of a highway) within the meaning of subsection (1) above by the owner or occupier of the land or by a bona fide employee of the owner or occupier of the land.
- Application of Part III. 22. This Part of this Act applies to the borough of a participating council as from the appointed day.
- Licensing of street traders. 23.—(1) Subject to the provisions of this Part of this Act it shall be unlawful for any person to engage in street trading (whether or not in or from a stationary position) in any licence street within a borough unless that person is authorised to do so by a street trading licence or a temporary licence.
- (2) For the purposes of this Part of this Act a person shall be deemed to engage in street trading whether or not he regularly carries on the business of street trading.
- Designation of licence streets. 24.—(1) If a borough council consider that street trading should be licensed in their area they may from time to time pass any of the following resolutions:—
- (a) a resolution (in this Part of this Act referred to as a “designating resolution”) designating any street within the borough as a “licence street”;
 - (b) a resolution specifying in relation to any such street or any part of a street any class or classes of articles, things or services which they will,

or other than which they will not, prescribe in any street trading licence granted by them in respect of that street; and may from time to time by subsequent resolution rescind or vary any such resolution:

PART III
—cont.

Provided that before passing a designating resolution, a borough council shall consult with the Commissioner of Police of the Metropolis on their proposal.

(2) At the appointed day for the purposes of this Part of this Act in a borough, the streets prescribed by any licences granted by the council of the borough in pursuance of powers contained in any of the enactments referred to in column (2) of Schedule 2 to this Act and then in force shall be deemed to have been designated as licence streets under a designating resolution.

(3) If a borough council pass a designating resolution the designation of the street shall take effect on the day specified 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).

(4) A borough council shall not pass a resolution or rescind or vary a resolution under this section unless—

- (a) they have published notice of their intention to do so in a local newspaper circulating in their area;
- (b) they have served a copy of the notice on the highway authority for that street (unless they are that highway authority); and
- (c) where subsection (5) below applies, they have obtained the necessary consent.

(5) This subsection 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 subsection (4) 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.

(6) The following are relevant corporations for the purposes of this section:—

- (a) British Railways Board;
- (b) London Regional Transport; and
- (c) an urban development corporation established under the Local Government, Planning and Land Act 1980.

1980 c. 65.

(7) The notice referred to in subsection (4) above shall—

- (a) contain a draft of the resolution to which it relates; and
- (b) state that representations relating to it may be made in writing to the borough council within such period, not less than 28 days after the publication of the notice, as may be specified in the notice.

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

PART III
—cont.

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

(10) The borough council shall publish notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks.

(11) 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.

Application for
street trading
licences.

25.—(1) An application for a street trading licence or renewal of such a licence shall be made in writing to the borough council, and in the case of an application for the renewal of a licence shall be made not later than two months or earlier than three months before the date on which that licence unless revoked or surrendered will cease to be valid:

Provided that nothing in this section shall prevent a borough council from renewing a licence, other than a temporary licence notwithstanding that application has been made for such renewal at a later date than aforesaid if they consider it reasonable in the circumstances so to do.

(2) In the application, the applicant shall state—

(a) in the case of an application by an individual, his full name and address and date of birth;

(b) in the case of an application for a licence to carry on ice cream trading—

(i) by a company incorporated under the Companies Acts, the name of the company and its registered office;

(ii) by a partnership, the names of its members and the address of its principal office;

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

(d) the description of articles, things or services in which he desires to trade; and

(e) such other particulars, relevant to street trading, as the borough council may reasonably require;

and may in the case of an individual specify the name and address of a relative of his who is associated with, or dependent upon, the business of street trading in respect of which the application is made and to whom he desires the licence to be granted in any of the events specified in subsection (1) (a) of section 26 (Succession) of this Act.

(3) No later than the date on which he submits his application, the applicant shall hand to an authorised officer two identical full-face photographs of himself, taken within the preceding 12 months, signed by the applicant on the reverse except where the application is made by a company incorporated under the Companies Acts, or by a partnership, for a licence to carry on ice cream trading.

(4) A street trading licence—

(a) shall not be granted—

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

(ii) except where the application is made by a company incorporated under the Companies Acts, or by a partnership, for a licence to carry on ice cream trading to a person, on a corresponding day, days or time, who holds a street trading licence in any other licence street granted under this Part of this Act but nothing in this paragraph shall prevent the renewal of such a licence; or

- (iii) except where the application is made by a company incorporated under the Companies Acts, or by a partnership, for a licence to carry on ice cream trading to a body corporate or to an unincorporated association; or
- (iv) in respect of an application for a licence which is not a temporary licence to trade in a street which is not a licence street; or
- (v) where the street to which the application relates is a street in respect of which the borough council have by resolution passed under subsection (1) (b) of section 24 (Designation of licence streets) of this Act specified a class of articles or things, or services which they will not prescribe in any street trading licence and the grant of the licence would be contrary to any of the terms of that resolution;
- (b) shall not be granted unless the borough council are satisfied that there is 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 or vehicular traffic using the street.
- (5) Subject to subsection (4) above, the borough council shall grant an application for a street trading licence unless they consider that the application ought to be refused on one or more of the grounds specified in subsection (6) below.
- (6) Subject to subsection (8) below the council may refuse an application on any of the following grounds:—
- (a) that there are enough traders trading in the street or in any street adjoining the street in respect of which the application is made in the goods in which the applicant desires to trade;
- (b) that the applicant is on account of misconduct or for any other sufficient reason unsuitable to hold the licence;
- (c) that the applicant is an individual who has without reasonable excuse failed personally to avail himself fully of a previous street trading licence;
- (d) that the applicant has at any time been granted a street trading licence by the borough council which was revoked or could have been revoked on the grounds that he had refused or neglected to pay fees or other charges due to them in respect of the licence;
- (e) that the applicant has failed to provide or to identify suitable or adequate premises for the storage of any receptacles or perishable goods in which he proposes to trade when street trading is not taking place;
- (f) that—
- (i) the application is for the grant (but not the renewal) of a street trading licence; and
- (ii) the only available position is in that part of the street which is contiguous with the frontage of a shop; and
- (iii) the articles, things or services mentioned in the application are sold or provided at the shop;
- (g) that—
- (i) the application is for the grant (but not the renewal) of a street trading licence; and
- (ii) the only available position in the street is within the curtilage of a shop; and
- (iii) the applicant is not the owner or occupier of the premises comprising the shop.

PART III
—cont.

(7) If the borough council consider that grounds for refusal exist under subsection (6) (a) or (c) 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 is specified in the application; or
- (b) to trade only in one or more of the descriptions of goods specified in the application.

(8) Subject to subsection (4) above if—

- (a) a person is at the appointed day licensed to trade in a street under the provisions of any local enactment; and
- (b) the street becomes a licence street under this Part of this Act; and
- (c) he was trading from a fixed position in the street immediately before it became a licence street; and
- (d) within two months from the appointed day he applies for a street trading licence to trade in the street;

his application shall not be refused.

(9) Subject to subsections (4), (6) and (8) above a borough council when considering applications for licences to trade in licence streets under this Part of this Act shall give preference to applications from persons who immediately before the appointed day were under the provisions of any local enactment authorised to trade in a street in the borough which is not a licence street.

(10) A borough council when considering applications for licences to carry on ice cream trading in a licence street shall treat all applicants, whether companies, partnerships or individuals, on an equal footing and in particular—

- (a) shall not treat individuals less favourably than companies or partnerships; and
- (b) as between applicants who are companies or partnerships, shall not treat any particular company or partnership more favourably than others.

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

Succession.

26.—(1) (a) When the holder of a licence who is an individual has specified the name and address of a relative to whom he desires the licence to be granted—

- (i) dies; or
- (ii) retires having reached the normal age for retirement; or
- (iii) notifies the borough council that owing to ill-health he is unable to continue to engage in the street trading permitted by the licence, and submits evidence to satisfy the borough council as to his ill-health;

the borough council shall not (except as provided in paragraph (b) of this subsection) grant a licence in respect of the position or place in a street at which the former licensee was entitled to engage in street trading under the authority of his licence until the expiration of 28 days from the date of the death of the licensee or his retirement or receiving the notification, as the case may be;

(b) If during the said period of 28 days the person specified by the holder of the licence, when making application for the licence, as the relative to whom he desired the licence to be granted in any of the events mentioned in paragraph (a) above makes application for the grant of a licence in respect of the position or place available in the street the borough council shall, save as provided by paragraphs (b) to (e) of subsection (6) of section 25 (Application for street trading licences) of this Act grant a licence to that person.

(2) For the purposes of this section a person shall be treated as being related to another if the latter is the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister of the former and shall be deemed to be so related notwithstanding that he is so related only through an illegitimacy or in consequence of an adoption.

PART III
—cont.

27.—(1) A licence granted under section 25 (Application for street trading licences) of this Act, shall—

Conditions of
street trading
licences.

- (a) unless it is revoked or surrendered, be valid for a period of three years from the date on which it is granted, or for such shorter period as the borough council may determine;
- (b) specify the conditions; and
- (c) in the case of an individual incorporate one of the photographs of the licence holder submitted under subsection (3) of the said section 25;

and on any occasion of the renewal of a licence, or at 1st January in any year during the currency thereof, (whether on application by the licence holder or otherwise) or at any time on application by the licence holder, the borough council may vary the conditions.

(2) Where a licence is granted to a company incorporated under the Companies Acts or to a partnership to carry on ice cream trading, any individual carrying on ice cream trading in accordance with that licence shall at all times while he is so trading carry with him a recent photograph of him authenticated by the company or on behalf of the partnership, as the case may be, which holds the licence.

(3) The borough council may make regulations prescribing standard conditions which they may attach to the licence on the occasion of its grant or renewal.

(4) Before making regulations under subsection (3) above, the borough council shall—

- (a) publish notice of their intention to do so in a local newspaper circulating in their area, and such notice shall—
 - (i) contain a draft of the resolution to which it relates; and
 - (ii) state that representations relating to it may be made in writing to the borough council within such period, not less than 28 days after the publication of the notice, as may be specified in the notice; and
- (b) consult the licence holders or a body or bodies representative of them.

(5) As soon as practicable after the expiry of the period specified under subsection (4) above, the borough council shall consider any representations relating to the proposed regulations which they have received before the expiry of that period.

(6) After the borough council have considered those representations they may if they think fit make regulations as mentioned in subsection (3) above.

(7) Without prejudice to the generality of subsection (3) above the standard conditions shall include such conditions as may be reasonable—

- (a) identifying the street or streets in which and the position or place in any such street at which the licence holder may sell or expose or offer for sale articles or things, or offer or provide services under the authority of the licence;

PART III
—cont.

- (b) identifying the class or classes of articles, things or services which the licence holder may so sell or expose or offer for sale or provide;
- (c) identifying the day or days on which and the time during which the licence holder may sell or expose or offer for sale articles, things or services as aforesaid;
- (d) identifying the nature and type of any receptacle which may be used by the licence holder or in connection with any sale or exposure or offer for sale or provision of services and the number of any such receptacles which may be so used;
- (e) requiring that any receptacle so used shall carry the name of the licence holder and the number of his licence;
- (f) regulating the storage of receptacles or perishable goods;
- (g) regulating the deposit and removal of refuse and the containers to be used for the deposit of such refuse and their location pending its removal;
- (h) requiring that the licence holder shall commence trading or exercising his rights under the licence by a certain time on any day or forfeit his right to trade or exercise his rights under the licence on that day from the fixed position to which his licence refers.

(8) Without prejudice to the standard conditions, the borough council may in addition attach to a licence such further conditions as appear to them to be reasonable in any individual case.

(9) When granting a licence a borough council shall give to the licence holder a copy of the licence which, in the case of an individual, shall bear his photograph.

Revocation or
variation of
licences under
Part III.

28.—(1) Subject to the provisions of this Part of this Act a borough council may at any time revoke a street trading licence if they are satisfied that—

- (a) owing to circumstances which have arisen since the grant or renewal of the licence, there is not enough space in the street in which the licence holder trades for him to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons or vehicular traffic using the street; or
- (b) the licence holder is trading in a class of articles, things or services which the borough council have resolved under subsection (1) (b) of section 24 (Designation of licence streets) of this Act not to prescribe in licences granted for the licence street in which the licence holder trades; or
- (c) the licence holder is an individual who has without reasonable excuse personally failed fully to avail himself of his licence; or
- (d) the licence holder is on account of misconduct or for any other sufficient reason unsuitable to hold the licence; or
- (e) that since the grant or renewal of the licence, the licence holder has for a period of four weeks or more failed to pay fees or charges due to the borough council in connection with the street trading licence or has failed to pay any charges due from him for accommodation provided in pursuance of subsection (2) of section 33 (Receptacles and containers) of this Act; or
- (f) that since the grant or renewal of the licence, the licence holder has failed to make provision for the suitable and adequate storage of the receptacles used by him for trading or for any perishable goods in which he trades when trading is not taking place; or

- (g) that since the grant or renewal of the licence, the licence holder has persistently failed to remove to a place of storage the receptacles used by him for trading; or
- (h) that the licence holder has persistently failed to comply with any condition of his licence.

PART III
—cont.

(2) If a borough council consider that a licence could be revoked on any of the grounds mentioned in paragraphs (a) to (c) of subsection (1) above they may instead of revoking it, vary its conditions by attaching further conditions—

- (a) reducing the number of days in any week or the period in any one day during which the licence holder is permitted to trade; or
- (b) specifying a different licence street or position or place in any such street at which the licence holder may sell or expose or offer for sale articles or things or offer or provide services; or
- (c) restricting the description of articles, things or services in which the licence holder is permitted to trade.

29.—(1) A borough council shall not—

- (a) refuse to grant or renew a licence on any of the grounds mentioned in subsection (6) of section 25 (Application for street trading licences) of this Act; or
- (b) revoke or vary a licence under section 28 (Revocation or variation of licences under Part III) of this Act; or
- (c) vary a licence under subsection (1) of section 27 (Conditions of street trading licences) of this Act;

Further provisions relating to grant, renewal or revocation of street trading licences.

unless they shall have given to the applicant or licence holder not less than 21 days' previous notice in writing that objection has been or will be taken to such grant or renewal or that such revocation or variation is proposed, specifying the ground or grounds on which their decision would be based and giving him an opportunity to appear before the committee, sub-committee or officer determining the matter.

(2) A borough council shall not proceed to determine any of the matters referred to in subsection (1) above until after the expiry of the period specified in the notice given under that subsection; and in determining any of the matters referred to, they shall consider any representations made by an applicant or licence holder in respect of that matter.

(3) A borough council shall not refuse to grant or renew and shall not revoke a licence on the ground only that the applicant or licensee, being an individual, does not reside in the borough.

(4) If the borough council refuse to grant or renew a licence or decide to revoke or vary a licence—

- (a) they shall notify the applicant or licence holder in writing of their decision and of the ground or grounds for such refusal, revocation or variation; and
- (b) they shall notify the applicant or licence holder of his rights of appeal (if any) specified in the next following section.

30.—(1) Any person aggrieved—

- (a) by the refusal of a borough council to grant or renew a licence on any of the grounds mentioned in subsection (6) (a) to (e) of section 25 (Application for street trading licences); or

Part III appeals.

PART III
—cont.

- (b) by a decision of a borough council under subsection (7) of the said section 25 to grant him a licence either on terms mentioned in that subsection different from those on the licence which he previously held or different from those for which he applied; or
- (c) by any further condition attached by a borough council under subsection (8) of section 27 (Conditions of street trading licences) of this Act in addition to the standard conditions; or
- (d) by a decision of the borough council either—
- (i) to vary the conditions of a licence under subsection (2) of section 28 (Revocation or variation of licences under Part III) of this Act; or
 - (ii) to revoke a licence under subsection (1) of the said section 28; where that decision is based on any of the grounds mentioned in subsection (1) (d) to (h) of the said section 28; or
- (e) by a resolution of a borough council under section 37 (Ice cream trading) of this Act;
- may appeal to a magistrates' court acting for the area in which the licence street is situated.
- (2) An appeal under subsection (1) above may be brought—
- (a) in the case of an appeal under paragraph (a), (b), (c) or (d) of that subsection, at any time before the expiration of the period of 21 days beginning with the date upon which notification in writing is given of the refusal or decision;
 - (b) in the case of an appeal under paragraph (e) of that subsection, at any time before the expiration of the period of 21 days beginning with the date of the second publication of the notice required by subsection (10) of section 24 (Designation of licence streets) as applied by the said section 37.
- (3) A person desiring to appeal against such refusal or decision as is mentioned in subsection (1) above shall give a written notice to the magistrates' court and to the borough council specifying the refusal or decision against which he wishes to appeal and the grounds upon which such appeal is made.
- (4) An appeal by either party against the decision of the magistrates' court under this section may be brought to the Crown Court.
- (5) On an appeal to the magistrates' court or to the Crown Court under this section, the court may make such order as it thinks fit.
- (6) Subject to subsections (7) to (9) below, it shall be the duty of the borough council to give effect to the order of the magistrates' court or the Crown Court.
- (7) A borough council need not give effect to the order of the magistrates' court until the time for bringing an appeal under subsection (4) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.
- (8) Where a licence holder applies for renewal of his licence, his existing licence shall remain valid—
- (a) until the grant by the borough council of a new licence with the same conditions; or
 - (b) if the borough council refuse renewal of the licence or decide to grant a licence with conditions different from those of the existing licence

and he has a right of appeal under this section, 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 section until the borough council either grant him a new licence with conditions different from those of the existing licence or notify him of their decision to refuse his application.

(9) Where—

- (a) a borough council decide—

(i) to vary the conditions of a licence under subsection (2) of the said section 28; or

(ii) to revoke a licence under subsection (1) of the said section 28; and

(b) a right of appeal is available to the licence holder under this section; 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.

(10) For the avoidance of doubt, it is hereby declared that an application under section 31 of the Supreme Court Act 1981 (application for judicial review) or under the Rules of the Supreme Court 1965 in respect of any matter which is or could be the subject of an appeal to the magistrates' court or to the Crown Court under this section shall not be treated as an appeal for the purposes of subsection (8) or (9) above.

1981 c. 54.

(11) Any person aggrieved—

- (a) by a resolution rescinding or varying a designating resolution;

(b) by a resolution under subsection (1)(b) of section 24 (Designation of licence streets) of this Act;

(c) by a standard condition prescribed by regulations under subsection (3) of section 27 (Conditions of street trading licences) of this Act; or

(d) by the amount of a fee or charge under section 32 (Fees and charges) of this Act;

may appeal to the Secretary of State whose decision shall be final.

31.—(1) A borough council may if they think fit on the receipt from any person of an application for that purpose and accompanied by the appropriate fee grant to that person a temporary licence.

Temporary licences.

(2) A temporary licence shall be valid only for the day or period specified in the licence and—

(a) shall be in the like form as a street trading licence with such modifications therein as the circumstances require; and

(b) shall prescribe such conditions as the borough council deem appropriate.

(3) Where the holder of a street trading licence is not for the time being exercising his rights under the licence, a temporary licence authorising street trading in the position or place prescribed by the street trading licence may be granted to any other person but shall be subject to the condition that it shall cease to be valid if during the currency thereof the holder of the licence desires to resume the exercise of his rights and gives the appropriate notice, and for the purposes of this subsection "the appropriate notice" means—

- (a) in the case of a holder of a licence who has not exercised his rights under the licence for a period of at least 14 days, 7 days' notice;

PART III
—cont.

PART III
—cont.

(b) in any other case, 24 hours' notice.

(4) In this section "appropriate fee" means such fee as the borough council may have determined under section 32 (Fees and charges) of this Act.

Fees and charges.

32.—(1) A borough council may charge such fees for the grant or renewal of a street trading licence under this Part of this Act, the grant of a temporary licence or for the variation at the request of the licence holder of the conditions of a street trading licence as they may determine and as may be sufficient in the aggregate to cover in whole or in part the reasonable administrative or other costs in connection with their functions under this Part of this Act, not otherwise recovered.

(2) A borough council may recover from licence holders such charges as may be sufficient in the aggregate taking one year with another to cover the reasonable costs, not otherwise recovered, of—

- (a) the collection, removal and disposal of refuse or other services rendered by them to such holders; and
- (b) the cleansing of streets in which street trading takes place in so far as that cleansing is attributable to such trading; and
- (c) any reasonable administrative or other costs incurred in connection with the administration of this Part of this Act; and
- (d) the cost of enforcing the provisions of this Part of this Act.

(3) A borough council may determine—

- (a) that charges under subsection (2) above shall be included in a fee payable under subsection (1) above; or
- (b) that they shall be separately recoverable.

(4) A borough council may—

- (a) require that every application for a licence under this Part of this Act be accompanied by the whole or part of the fee determined under subsection (1) above; and
- (b) determine that the fee may be paid by instalments.

(5) Where a borough council refuse to grant or renew a licence they shall repay to the person who made the application therefor the amount of any fee paid by him as aforesaid.

(6) A borough council may determine the fees to be charged on the grant of a temporary licence under section 31 (Temporary licences) of this Act, and in doing so they shall have regard to the matters specified in subsection (2) above and such fees shall be included in the computation for the purposes of determining the fees and charges under subsections (1) and (2) above.

(7) Before determining charges to be made under subsection (2) above or varying the amount of such charges a borough council—

- (a) shall give notice of the proposed charges to licence holders or to a body or bodies representative of them; and
- (b) shall publish notice of the proposed charges in a newspaper circulating in the area in which the licence street or streets in respect of which the charges will be applied is situated.

(8) A notice under subsection (7) (a) above shall specify a reasonable period being not less than 28 days from the date of publication of the newspaper referred to in subsection (7) (b) above within which written representations concerning the proposed charges may be made to the borough council.

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

PART III
—cont.

(10) When a borough council have determined charges under subsection (2) above they shall give notice of the charges so fixed or varied and of the date on which those charges are to be brought into effect, in the manner prescribed in subsection (7) above.

(11) Where a licence is revoked under subsection (1) (a) or (b) of section 28 (Revocation or variation of licences under Part III) of this Act, the borough council shall refund the appropriate part of any fee paid for the grant or renewal of the licence.

(12) Where a licence is revoked otherwise than under subsection (1) (a) or (b) of section 28 (Revocation or variation of licences under Part III) or is surrendered, the borough council may remit or refund, as they consider appropriate, the whole or a part—

- (a) of any fee paid for the grant or renewal of the licence; or
- (b) of any charges recoverable under subsection (2) above.

33.—(1) A borough council may sell or let on hire or otherwise provide to any person holding a street trading licence or a temporary licence under this Part of this Act receptacles for use by him in street trading.

Receptacles and
containers.

(2) A borough council may provide and maintain accommodation for the storage of receptacles and containers for the deposit of refuse arising in the course of street trading and for that purpose may—

- (a) adapt any premises or erect any buildings on any land belonging to them but not already appropriated for such purpose; and
- (b) make such charges as they think fit for the use of such accommodation.

34. Any person who—

Offences.

- (1) contravenes any of the conditions of a street trading licence or a temporary licence; or
- (2) in connection with an application for a street trading licence or a temporary licence makes a statement which he knows to be false in a material particular; or
- (3) resists or intentionally obstructs any authorised officer of a borough council in the execution of his duties under this Part of this Act; or
- (4) fails on demand without reasonable excuse in the case of an individual licence holder to produce his licence duly signed by him and bearing his photograph, and, in the case of an individual carrying on ice cream trading under a licence granted to a company incorporated under the Companies Acts or to a partnership, to produce the photograph required by subsection (2) of section 27 (Conditions of street trading licences) of this Act to an authorised officer of the borough council or to a constable;

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

35.—(1) Where any receptacle used by a licence holder is not removed to a place of storage on the cessation of trading on any day it shall be lawful for the borough council to cause it to be removed to a place of storage and to recover from the licence holder the costs incurred by them in removing and storing the receptacle.

Power to remove
receptacles.

PART III
—cont.

(2) Such charges as the borough council may fix as the cost of removing and storing a receptacle in pursuance of subsection (1) above, shall be payable by the licence holder before the return of the receptacle to him.

(3) The provisions of subsection (1) above are without prejudice to the power of the borough council to prosecute the licence holder for any breach of the conditions of his licence arising from the failure to remove the receptacle.

Employment of
assistants.

36. Subject to the provisions of this section a person holding a street trading licence may employ any other person to assist him in the conduct of street trading authorised by the licence but if any person employed by a licence holder during the temporary absence of the licence holder fails to comply with the conditions of the street trading licence held by his employer such failure shall be deemed to be a failure by the licence holder.

Ice cream
trading.

37.—(1) Nothing in this Part of 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 area of a borough council which is not a licence street in the interests of preventing obstruction to traffic, or undue interference or inconvenience to persons using that street, the borough council may by resolution designate the street as a prohibited street and may from time to time by subsequent resolution rescind or vary any such resolution.

(3) Before passing a resolution under this section, a borough council shall consult the Commissioner of Police of the Metropolis and such bodies as appear to them to be representative of persons carrying on ice cream trading in the area of the borough council.

(4) Subsections (3) to (11) of section 24 (Designation of licence streets) of this Act shall apply to a resolution under this section as they apply to a resolution under that section.

Unlicensed street
trading.

38.—(1) Any person who—

- (a) engages in street trading in the borough in a street which is not a licence street; or
- (b) engages in street trading in the borough in a licence street without the authority of a street trading licence or a temporary licence;

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) In any proceedings for an offence under this section or for an offence of aiding, abetting, counselling or procuring the commission of an offence under this section where it is shown that—

- (a) any article or thing was displayed (whether or not in or on any receptacle) in any street; or
- (b) any receptacle or equipment used in the provision of any service was available in any street in such circumstances that a service was being offered;

the article or thing shall be presumed to have been exposed or offered for sale and the receptacle or equipment shall be presumed to have been available for the provision of a service at such time and in such position as it was displayed

or available by the person having care or control or appearing to have care and control thereof unless in either case, it is shown to the satisfaction of the court that the article or thing or receptacle or equipment was brought into that street for some purpose other than for the purpose of selling it or exposing or offering it for sale or using it in the course of the provision of the service in a street.

PART III
—cont.

(3) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence and liable to the same maximum penalty as the body corporate.

(4) If an authorised officer or a constable has reasonable grounds for suspecting that a person has committed an offence under this section he may seize any article or thing being offered or exposed for sale or receptacle being used by that person which may be required to be used in evidence in any proceedings in respect of that offence, provided that no article or thing which is of a perishable nature shall be seized under the provisions of this subsection.

(5) Subject to subsection (6) below the court by or before which a person is convicted of an offence under this section or for an offence of aiding, abetting, counselling or procuring the commission of an offence under this section may order anything produced to the court, and shown to the satisfaction of the court to relate to the offence, to be forfeited and dealt with in such manner as the court may order.

(6) The court shall not order anything to be forfeited under subsection (5) above where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

(7) An authorised officer shall produce his authority if required to do so by the person having care or control of the article or thing seized in pursuance of the powers in subsection (4) above.

39.—(1) Nothing in this Part of this Act shall affect—

Savings.

(a) section 13 of the Markets and Fairs Clauses Act 1847 (prohibition of sales elsewhere than in a market or in shops etc.) as applied by any other Acts;

1847 c. 14.

(b) section 56 of the Food Act 1984 (prohibition of certain sales during market hours);

1984 c. 30.

(c) the sale or exposure or offer for sale by London Regional Transport or (as the case may be) a designated company (within the meaning of the Transport (London) Act 1969) of refreshments at any shelter or other accommodation provided by either of them under section 65 (Refreshment shelters etc.) of the London Passenger Transport Act 1938.

1969 c. 35.

1938 c. xcii.

(2) Nothing in this Part of this Act shall afford a defence to a charge in respect of any offence at common law or under an enactment other than this Part of this Act.

40.—(1) Subject to subsection (2) below, the enactments specified in column (2) of Schedule 2 to this Act, so far as they relate to any part of Greater London, shall cease to have effect in a borough as from the appointed day for that borough to the extent specified in column (3) of that Schedule.

Local enactments
relating to street
trading repealed.

(2) Notwithstanding the repeal of the enactments specified in column (2) of Schedule 2 to this Act, any licence granted by a borough council under any of

PART III
—cont.

those enactments which authorises street trading in the borough and which was in force immediately before the appointed day shall continue in force until three months after the appointed day or until the determination of any application made by the holder of the licence under section 25 (Application for street trading licences) of this Act, whichever is the later.

Saving for sales in legal markets or fairs.

41. In the case of any market or fair held in pursuance of any statute, royal licence, royal charter or letters patent, or as of right from time immemorial, nothing in this Part of this Act shall affect the sale or exposure or offer for sale of goods in any such market or fair by any person who has paid a toll to, or is acting under the written authority of, a person holding or entitled to hold such market or fair or entitled to receive tolls in respect of sales made or stalls or stands occupied in such market or fair.

PART IV

MISCELLANEOUS

Restoration of gas and electricity services.
1972 c. xl.

42.—(1) As from the appointed day in the borough of a participating council, section 19 (Restoration of gas and electricity services) of the Greater London Council (General Powers) Act 1972 is hereby amended by the substitution, in subsection (1), for the words “pay to the statutory undertakers their reasonable expenses of reconnecting” of the words “make such arrangements as they think fit with the statutory undertakers who provided for”.

(2) Section 19 (1) of the Greater London Council (General Powers) Act 1972, as that subsection has effect as from the appointed day in the borough of a participating council, is set out in Schedule 3 to this Act.

Shopping or luggage trolleys found in open air.

43.—(1) In this section—

“excluded land” means—

(a) land in which the owner of the shopping or luggage trolley has an interest; or

(b) where an off-street parking place for vehicles affords facilities for the parking of shopping trolleys after their use by shoppers, the land comprising those facilities; or

(c) where any other place designated by the borough council affords like facilities, the land comprising those facilities; or

(d) operational land of the British Railways Board;

“luggage trolley” means an unpowered trolley provided for travellers’ use by transport undertakers for the carriage of luggage to, from or within their premises by travellers;

“shopping trolley” means an unpowered trolley provided for customers’ use at a shop (within the meaning of the Shops Act 1950) for the carriage of goods purchased at the shop;

“trolley” means a luggage trolley or shopping trolley.

1950 c. 28.

(2) This section shall have effect in the borough of any participating council as from an appointed day and, before fixing the appointed day and from time to time thereafter, the borough council shall consult with transport undertakers within their borough and such persons or organisations as appear to them to represent shops in their borough by which shopping trolleys are provided—

(a) as to the operation of this section;

(b) as to making arrangements for affording suitable places for the parking of shopping or luggage trolleys at off-street parking places

and at other places approved by the borough council following use of the trolleys by travellers or, as the case may be, the customers of shops; and

- (c) as to the places to which trolleys respecting which the powers of subsection (3) below are exercised should be removed and as to arrangements for collection by their owners.

(3) Where any empty trolley is found on any land in the open air in a borough, not being excluded land, or on any other land forming part of a highway, the borough council may if they think fit, subject to subsection (4) below, remove the trolley.

(4) The borough council shall not be entitled to exercise their powers under subsection (3) above as respects a trolley situated on land appearing to the borough council to be occupied by any person without that person's consent unless the borough council have given him notice that they propose to remove the trolley and he has failed to object to the proposal by notice served on the borough council within 14 days from the day when the notice was so given to him.

(5) The borough council shall—

(a) subject to subsection (6) (a) below, deliver up to any person claiming and appearing to the borough council to be its owner any trolley which the council have removed under subsection (3) above;

(b) as respects any trolley which has not been so claimed and delivered, as soon as reasonably practicable and not later than 14 days after removing the trolley under the said subsection (3), give to any person appearing to them to be its owner notice of its removal and of the place to which it has been removed, such notice to be in writing addressed to the last known address of the owner or, in the case of a limited company, to its registered office.

(6) The borough council may—

(a) before delivering up a trolley to any person under subsection (5) (a) above, require payment of the reasonable cost to the borough council of collecting, transporting and storing the trolley;

(b) at any time after the expiry of 28 days following—

(i) the service of the notice under subsection (5) (b) above; or

(ii) where the owner cannot be ascertained after reasonable inquiry, the removal of any trolley under the powers of subsection (3) above;

sell or otherwise dispose of that trolley if it has not been claimed by any person appearing to the borough council to be its owner.

(7) A borough council may agree with the owners of trolleys a scheme for collection, containment or restriction of trolleys, and where such an agreed scheme is in operation the borough council shall not be entitled to require repayment under subsection (6) (a) above in respect of any trolley which complies with the requirements of the scheme.

(8) In the exercise of its powers under this section, a borough council shall exercise all due care in the handling and storage of trolleys.

(9) This section has effect without prejudice to the powers of a borough council under any other enactment.

44. The provisions of the Surrey County Council Act 1958 mentioned in Schedule 4 to this Act (which provisions, together with the rest of the said Act of 1958, were repealed by the Surrey Act 1985) are hereby revived in their application to the London boroughs of Croydon, Kingston upon Thames, Merton and Sutton.

PART IV
—cont.

Surrey County
Council Act
1958.
1958 c. xlii.
1985 c. iii.

SCHEDULES

Section 2.

SCHEDULE 1

PARTICIPATING COUNCILS

Barking and Dagenham Borough Council
Barnet Borough Council
Bexley Borough Council
Brent Borough Council
Bromley Borough Council
Croydon Borough Council
Ealing Borough Council
Enfield Borough Council
Greenwich Borough Council
Hackney Borough Council
Hammersmith and Fulham Borough Council
Haringey Borough Council
Harrow Borough Council
Havering Borough Council
Hillingdon Borough Council
Hounslow Borough Council
Islington Borough Council
Kensington and Chelsea Royal Borough Council
Kingston upon Thames Royal Borough Council
Lambeth Borough Council
Lewisham Borough Council
Merton Borough Council
Newham Borough Council
Redbridge Borough Council
Richmond upon Thames Borough Council
Southwark Borough Council
Sutton Borough Council
Tower Hamlets Borough Council
Waltham Forest Borough Council
Wandsworth Borough Council
Westminster City Council

SCHEDULE 2

Sections 24 and 40.

LOCAL ENACTMENTS REPEALED IN GREATER LONDON
IN RELATION TO STREET TRADING

Chapter (1)	Enactment (2)	Extent of repeal (3)
21 & 22 Geo. 5. c. lx.	West Ham Corporation Act 1931.	Part IV.
21 & 22 Geo. 5. c. xcvi.	Dagenham Urban District Council Act 1931.	Part VI.
23 & 24 Geo. 5. c. lxxvii.	Wimbledon Corporation Act 1933.	Part VIII.
23 & 24 Geo. 5. c. lxxviii.	Barking Corporation Act 1933.	Part IX.
26 Geo. 5 & 1 Edw. 8. c. cxv.	Merton and Morden Urban District Council Act 1936.	Part VI.
1 Edw. 8 & 1 Geo. 6. c. xcvi.	Coulsdon and Purley Urban District Council Act 1937.	Part VI.
7 & 8 Geo. 6. c. xxi.	Middlesex County Council Act 1944.	Part IX.
10 & 11 Geo. 6. c. xlvi.	London County Council (General Powers) Act 1947.	Part IV.
4 & 5 Eliz. 2. c. lxxxiv.	Walthamstow Corporation Act 1956.	Part V.
4 & 5 Eliz. 2. c. xc.	Middlesex County Council Act 1956.	Part V.
5 & 6 Eliz. 2. c. xxxv.	London County Council (General Powers) Act 1957.	Part VII.
6 & 7 Eliz. 2. c. xxi.	London County Council (General Powers) Act 1958.	Section 37.
8 & 9 Eliz. 2. c. xl.	Croydon Corporation Act 1960.	Part XII.
10 & 11 Eliz. 2. c. xlv.	London County Council (General Powers) Act 1962.	Sections 33 and 34.
1974 c. xxiv.	Greater London Council (General Powers) Act 1974.	Sections 17 to 19.
1978 c. xiii.	Greater London Council (General Powers) Act 1978.	Section 10 and Schedules 1 and 2.
1978 c. xvi.	Greater London Council (General Powers) (No. 2) Act 1978.	Section 10 and Part II of Schedule 1.
1981 c. xvii.	Greater London Council (General Powers) Act 1981.	Section 17 and Schedule 1.
1982 c. i.	Greater London Council (General Powers) Act 1982.	Section 6 and Schedule 1.

28

c. vii

London Local Authorities Act 1990

Section 42.

SCHEDULE 3

1972 c. xl.

GREATER LONDON COUNCIL (GENERAL POWERS) ACT 1972 SECTION 19 (1)
AS HAVING EFFECT IN ACCORDANCE WITH SECTION 42 (RESTORATION OF
GAS AND ELECTRICITY SERVICES) OF THIS ACT

19.—(1) Where any building used for human habitation has ceased to be supplied with gas or electricity sufficient for the domestic purposes of any occupier thereof (hereafter in this section referred to as “the occupier”) by reason of the failure of the owner thereof to pay to the statutory undertakers such charges as are properly due from him for the supply of gas or electricity, the borough council may, without prejudice to any action or proceedings which may be taken under any other enactment, make such arrangements as they think fit with the statutory undertakers who provided for the supply of gas or electricity to the building to secure that such supply is restored and shall thereafter, for so long as they consider necessary, pay the statutory undertakers’ charges in respect of the subsequent supply of gas or electricity to the building.

Section 44.

SCHEDULE 4

1958 c. xliii.

PROVISIONS OF SURREY COUNTY COUNCIL ACT 1958

Section 4	(Interpretation);
Section 33	(Metropolitan commons);
Section 44	(Social rehabilitation);
Section 57	(Breach of conditions of consent);
Section 58	(Restriction on right to prosecute);
Section 63	(Appeals);
Section 65	(Application of general provisions of Act of 1936);
Section 67	(Crown rights);
Section 69	(Saving for town and country planning);
Second Schedule	(Sections of Public Health Act 1936 applied).



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