



# London Local Authorities Act 2012

## 2012 CHAPTER ii

### PART 4

#### LICENSING

##### *City of Westminster Act 1999*

#### **10 Street trading in the City of Westminster**

- (1) The City of Westminster Act 1999 is amended as follows.
- (2) In section 2 (interpretation), in the definition of "street trading", for "subsection (2)" substitute "subsections (1A) and (2)".
- (3) After section 2(1) insert the following subsection—
  - “(1A) In this Act "street trading" shall also include the selling or exposure or offer for sale of any motor vehicle in the course of business if the vehicle is—
    - (a) exposed or offered for sale on the internet; and
    - (b) kept on a street during the period when it is so exposed or offered for sale.”.
- (4) In subsection (9) of section 9 (street trading licences), after "street trading" insert "(other than street trading of the type described in subsection (1A) of section 2 (interpretation) of this Act)".
- (5) In section 22 (fees and charges), after subsection (2) insert—
  - “(2A) In calculating the levels of fees and charges under subsections (1) and (2) above, the council shall disregard costs incurred by them in relation to street trading of the type described in subsection (1A) of section 2 (interpretation) of this Act.”.
- (6) Renumber subsections (5) and (6) of section 27 (unlicensed street trading) as subsections (1) and (2) of a new section, headed "27A Seizure".

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(7) After subsection (2) in the new section 27A insert—

- “(3) An authorised officer or constable may also seize any receptacle or equipment (other than a motor vehicle) which—
- (a) is in a street; and
  - (b) he has reasonable cause to believe is intended to be used in connection with an offence under section 27 of this Act involving the sale, offer for sale, display, or exposing for sale of refreshments.”.

(8) Renumber subsection (7) of section 27 as subsection (4) of new section 27A.

(9) After new section 27A insert the following new section—

**“27B Seizure: notices**

(1) In this section ”relevant item” means—

- (a) any receptacle used in the sale, offer for sale, display, or exposing for sale of refreshments which has been seized under subsection (1) or (2) of section 27A (seizure) of this Act;
- (b) any receptacle or equipment seized under subsection (3) of that section.

(2) An authorised officer or a constable—

- (a) may give a notice under this section to the person from whom a relevant item was seized under subsection (1) or (2) of section 27A (seizure) of this Act (but no such notice may be given under this paragraph in respect of a motor vehicle);
- (b) shall give a notice under this section to the person from whom a relevant item was seized under subsection (3) of that section,

and any such notice must be given as soon as reasonably practicable after the item was seized.

(3) A notice under this section shall be in such form as the council may prescribe, and shall—

- (a) explain that unless the recipient of the notice completes it in accordance with subsection (4) below and then returns it to the council in accordance with subsection (5) below, the council may dispose of the relevant item in question in accordance with section 27D (disposal of seized objects by council) of this Act; and

(b) set out—

- (i) the address to which the completed notice should be returned;
- (ii) the date by which it must be returned (which must be no earlier than the date on which expires the period of 14 days beginning with the date on which the notice was given under subsection (2) above).

(4) A notice under this section is completed by writing, in the appropriate place on the notice—

- (a) the name and full postal address of the recipient of the notice under subsection (2) above; and
- (b) (in the case of a notice given in accordance with subsection (2)(a) above) confirmation that that person—

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- (i) intends to contest any criminal proceedings brought in respect of the alleged offence in respect of which the item in question was seized; or
    - (ii) if not, that he requires the council to make a complaint for a disposal order under section 27I (disposal orders) of this Act in respect of the relevant item in question; and
  - (c) (in the case of a notice given in accordance with subsection (2)(b) above) confirmation that that person requires the council to make a complaint for a disposal order under the said section 27I in respect of the relevant item in question; and
  - (d) the signature of that person; and
  - (e) the date on which it was signed.
- (5) A notice under this section, once completed, is returned by delivering it or sending it by post to the address set out on the notice as mentioned in subsection (3)(b)(i) above on or before the date as mentioned in that subsection.
- (6) If a notice given in accordance with subsection (2) above is completed and returned in accordance with subsections (4) and (5) above the council must, no later than the date on which expires the period of 28 days beginning with the date on which the notice was received by them—
  - (a) make a complaint to the magistrates' court for a disposal order under section 27I (disposal orders) of this Act in respect of the relevant item in question; or
  - (b) return the relevant item in question to the person whose name and address are written on the returned notice,unless, before the expiry of that period, an information has been laid and not withdrawn in respect of any alleged offence in respect of which the item was seized.”.
- (10) For subsection (8)(a) of section 27 substitute the following as subsection (1) of a new section, headed ”27C Return of seized items”—

After new section 27A insert the following new section—

“(1) The provisions of this section shall have effect where any item is seized under subsection (1) of section 27A (seizure) of this Act (except where a notice is given under section 27B(2)(a) (seizure: notices) in respect of the item) or is seized and retained because it is required for evidential purposes under subsection (2) of the said section 27A and references in those provisions to proceedings are to proceedings in respect of the alleged offence in relation to which the item is seized.”.
- (11) Renumber paragraphs (b) to (h) of section 27(8) as subsections (2) to (8) of the new section 27C.
- (12) After new section 27C insert the following new section—

**“27D Disposal of seized objects by council**

(1) The council may, in such manner as they think fit, dispose of—

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- (a) any relevant item (within the meaning of section 27B (seizure: notices) of this Act) seized under subsection (1) or (2) of section 27A (seizure) of this Act if in respect of the alleged offence in question—
    - (i) a fixed penalty is paid in accordance with section 16 of the [London Local Authorities Act 2004 \(c. i\)](#) before the expiry of the period mentioned in subsection (2) of that section; and
    - (ii) the fixed penalty notice contained or was accompanied by written notice that the recipient could require the council on or before the time when the fixed penalty was paid to make a complaint for a disposal order under section 27I (disposal orders) of this Act in respect of the relevant item in question; and
    - (iii) no such requirement was made of the council on or before that time; or
  - (b) any such relevant item seized under subsection (1), (2) or (3) of the said section 27A if a notice was given under section 27B (seizure: notices) as soon as reasonably practicable after the article or thing was seized and the notice was not completed and returned to the council in accordance with subsections (4) and (5) of that section.
- (2) The council may recover their costs of disposing of a relevant item under subsection (1) above from the person from whom the object was seized.
- (3) Where a requirement of the sort mentioned under subsection (1)(a)(ii) was made on or before the time when the fixed penalty was paid, the council must make a complaint for a disposal order under section 27I (disposal orders) of this Act in respect of the relevant item in question.”.
- (13) Renumber subsections (9), (10)(a) and (10)(b) of section 27 as subsections (1), (2) and (3) of a new section, headed ”27E Forfeiture of seized items by court”.
- (14) Renumber subsections (11)(a), (b) and (c) and (12) of section 27 as subsections (1) to (4) of a new section, headed ”27F Compensation” and—
- (a) renumber subsections (11)(a)(i) and (ii) as subsections (1)(a) and (b); and
  - (b) renumber subsections (11)(a)(ii)(A) and (B) as subsections (1)(b)(i) and (ii).
- (15) After paragraph (b)(ii) of new section 27F(1) as numbered by subsection (14) insert—
- “(iii) (in the case of a relevant item (within the meaning of section 27B (seizure: notices) of this Act) seized under subsection (3) of section 27A (seizure) of this Act) the council has failed to comply with subsection (6) of section 27B (seizure: notices) of this Act.”.
- (16) Renumber section 27A (seizure of perishable items) as section 27G.
- (17) Renumber section 27B (motor vehicles) as section 27H.
- (18) Renumber section 27C (disposal orders) as section 27I.