



Number 19 of 1995

CASUAL TRADING ACT 1995
REVISED
Updated to 15 December 2022

This Revised Act is an administrative consolidation of the *Casual Trading Act 1995*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Social Welfare Act 2022* (43/2022), enacted 15 December 2022, and all statutory instruments up to and including the *Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 16) (Change in Rates) Regulations 2022* (S.I. No. 718 of 2022), made 14 December 2022, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Local Government Reform Act 2014 (1/2014)*
- *Property Services (Regulation) Act 2011 (40/2011)*
- *Consumer Protection Act 2007 (19/2007)*
- *Local Government Act 2001 (37/2001)*

- *Taxes Consolidation Act 1997* (39/1997)
- *Finance Act 1996* (9/1996)

All Acts up to and including *Social Welfare Act 2022* (43/2022), enacted 15 December 2022, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *European Union (Casual Trading Act) Regulations 2018* (S.I. No. 308 of 2018)
- *Casual Trading Act (Section 2(3)) Regulations 2004* (S.I. No. 191 of 2004)
- *Casual Trading Act, 1995 (Forms) Regulations 1996* (S.I. No. 146 of 1996)
- *Casual Trading Act, 1995 (Commencement) Order 1995* (S.I. No. 267 of 1995)

All statutory instruments up to and including *Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 16) (Change in Rates) Regulations 2022* (S.I. No. 718 of 2022), made 14 December 2022, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Casual trading.
3. Restriction on casual trading.
4. Casual trading licences.
- 4A. Application of European Union (Provision of Services) Regulations 2010.
5. Display of casual trading licences.
6. Bye-laws.
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7. Acquisition and extinguishment of market rights.
8. Powers of local authorities in relation to market rights owned by them.
9. Prohibition of false information and alteration of licences.
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AN ACT TO PROVIDE FOR THE CONTROL AND REGULATION OF CASUAL TRADING AND TO PROVIDE FOR CONNECTED MATTERS. [18th July, 1995]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

“the Act of 1980” means the Casual Trading Act, 1980;

“authorised officer” means a person appointed under *section 10* to be an authorised officer;

“casual trading area” means land standing designated by bye-laws under *section 6* as an area where casual trading may be carried on;

“casual trading licence” means a licence granted under *section 4*;

“Dutch auction” means a sale of goods by auction in which the price is reduced by the auctioneer until a purchaser is found;

F1[“local authority” means a local authority for the purposes of the Local Government Act 2001 (as amended by the Local Government Reform Act 2014);]

“market right” means a right conferred by franchise or statute to hold a fair or market, that is to say, a concourse of buyers and sellers to dispose of commodities;

“the Minister” means the Minister for Enterprise and Employment; “prescribed” means prescribed by regulations made by the Minister;

“selling” includes agreeing or offering to sell, or displaying for sale, or inviting an offer to buy;

F1[“reserved function”, in relation to a local authority, shall be construed in accordance with section 131 (as amended by the Local Government Reform Act 2014) of the Local Government Act 2001;]

(2) In this Act—

(a) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act,

- (b) a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other enactment is intended,
- (c) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

Annotations:**Amendments:**

- F1** Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(8) and sch. 2 part 6, S.I. No. 214 of 2014.

Casual trading.

2.—(1) Subject to *subsection (2)*, “casual trading” means selling goods at a place (including a public road) to which the public have access as of right or at any other place that is a casual trading area.

(2) Casual trading does not include—

F2[(a) selling by auction (other than by Dutch auction) by the holder of a licence within the meaning of section 2(1) of the Property Services (Regulation) Act 2011, or a relevant authorisation within the meaning of section 82 of that Act, in respect of a service which falls, or substantially falls, as the case requires, within paragraph (a) of the definition of “property service” in that first-mentioned section,]

(b) selling to a person at the place where he resides or carries on business,

(c) selling in respect of which it is shown by the seller—

(i) that any profits therefrom are for use for charitable purposes or for other purposes from which no private profit is derived, and

(ii) that no remuneration, emolument, gain or profit will accrue to the seller or his servants or agents **F3**[therefrom,]

F4[(d) selling, during the period 1 May to 30 September in any year, by—

(i) the grower (within the meaning assigned to that expression by the Casual Trading Act 1995 (Section 2(3)) Regulations 2004),

or

(ii) subject to the condition specified in relation to this subparagraph by those Regulations being satisfied, a servant or agent of the grower, of one or more of the following fruits and vegetables, namely—

(I) strawberries, raspberries, blueberries, gooseberries, blackberries, loganberries, tayberries and currants,

and

(II) potatoes having loose skins and which have been harvested prior to maturity.]

(3) The Minister may, by regulations, amend (whether by the addition, deletion or alteration of classes) the classes of selling specified in *subsection (2)* and that subsection shall have effect in accordance with any such regulations.

(4) A local authority may, as respects its functional area, by bye-laws under *section 6* add to the classes of selling specified in *subsection (2)* and that subsection shall, in relation to that functional area, be construed and have effect in accordance with any such bye-laws for the time being in force.

Annotations:

Amendments:

- F2** Substituted (6.07.2012) by *Property Services (Regulation) Act 2011* (40/2011), s. 101 and sch. 8 para. 8, S.I. No. 198 of 2021, art. 3(n), subject to transitional provisions in ss. 99, 100.
- F3** Substituted (1.05.2004) by *Casual Trading Act 1995 (Section 2(3)) Regulations 2004* (S.I. No. 191 of 2004), reg. 5(a), in effect as per reg. 2, subject to reg. 6.
- F4** Inserted (1.05.2004) by *Casual Trading Act 1995 (Section 2(3)) Regulations 2004* (S.I. No. 191 of 2004) reg. 5(b), in effect as per reg. 2, subject to reg. 6.

Editorial Notes:

- E1** Power pursuant to subs. (3) exercised (1.05.2004) by *Casual Trading Act 1995 (Section 2(3)) Regulations 2004* (S.I. 191 of 2004), in effect as per reg. 2.

Restriction on casual trading.

3.—(1) A person shall not engage in casual trading unless he is, or is the servant or agent acting as such of, a person who holds a casual trading licence that is for the time being in force and the casual trading is in accordance with the licence.

(2) (a) Where there is a casual trading area in the functional area of a local authority, a person shall not engage in casual trading in that functional area other than in that casual trading area unless he is the holder of a casual trading licence granted under *section 4 (1) (a) (iii)* for the time being in force and the casual trading is in accordance with the licence.

(b) The restriction effected by *paragraph (a)* shall not, during the currency of a casual trading licence granted to a person in respect of the functional area of a local authority and in force immediately before the designation of a casual trading area (being the first such area so designated by that authority under this Act) in the functional area of that authority, have effect in relation to the person.

(3) A person who contravenes this section shall be guilty of an offence.

(4) In a prosecution for an offence under *subsection (1)*, it shall be presumed until the contrary is shown that, at the time of the casual trading to which the offence relates, the defendant, or, if he was at that time acting as a servant or agent of another person in relation to such trading, that that other person was not the holder of a casual trading licence for the time being in force.

(5) In a prosecution for an offence under *subsection (2) (a)* where it is shown that a person was engaging in casual trading, it shall be presumed until the contrary is shown that, at the time of the casual trading to which the offence relates—

- (a) there was a casual trading area in the functional area of the local authority concerned,
- (b) the casual trading was carried on in an area that was not a casual trading area, and
- (c) the defendant or, if he was at that time acting as a servant or agent of another person in relation to such trading, that that other person was not the holder

of a casual trading licence granted under *section 4 (1) (a) (iii)* for the time being in force.

Casual trading licences.

4.—(1) (a) Subject to the subsequent provisions of this section, a local authority shall, on the application in writing of a person therefor and on payment to the local authority of the fee (if any) fixed by bye-laws under *section 6*, grant to the person a licence (referred to in this Act as “a casual trading licence”), in such form and specifying such matters as the local authority may determine, authorising the person to engage in casual trading on specified days—

(i) if no casual trading area stands designated in respect of the functional area of the authority under *section 6*, in that area, or

(ii) at one place only in one specified casual trading area in the functional area of the authority, or

(iii) at an event or events specified in the licence to which the public are admitted, whether subject to or free of charge, or at or in the immediate vicinity of the place where and on the day on which the event takes place.

(b) A local authority may grant more than one casual trading licence to a person in respect of casual trading in different casual trading areas or at different specified places in a casual trading area.

(2) An application for a casual trading licence shall be made to the local authority concerned not less than 30 days before the first day on which it is intended to engage in the casual trading to which the application relates and shall be in such form as may be prescribed or in a form to the like effect.

F5[(2A) (a) For the purposes of the assessment, charge, collection and recovery of any tax or duty placed under the care and management of the Revenue Commissioners —

(i) a casual trading licence shall not be granted unless the application for a casual trading licence contains the applicant's tax reference number, and

(ii) the local authority concerned shall, upon the grant of a casual trading licence, or as soon as may be thereafter, notify the Revenue Commissioners in writing of the name, address and tax reference number of the person to whom the licence was granted and the conditions (if any) contained in the licence including the duration thereof.

(b) In this subsection, “tax reference number”, in relation to an applicant for a casual trading licence, means—

(i) in the case of an applicant who is an individual, the identifying number, known as the Revenue and Social Insurance (RSI) Number, and

(ii) in the case of any other applicant, the identifying or reference number, stated on any correspondence, including a notice of determination of tax-free allowances, return of income or return of profits form or notice of assessment issued to the applicant by an inspector of taxes appointed under F6[section 852 of the Taxes Consolidation Act, 1997].]

(3) (a) A casual trading licence may contain such conditions (if any) as the local authority concerned determines and specifies in the licence.

(b) A person who holds a casual trading licence shall comply with the conditions of the licence.

(c) A person who contravenes *paragraph (b)* shall be guilty of an offence.

(4) A local authority may revoke a casual trading licence if it is satisfied that a condition of the licence is being or has been contravened or if the person to whom it was granted is convicted of an offence in relation to the importation, possession or sale of goods committed while he was the holder of a casual trading licence or an offence under *section 3*.

(5) A local authority may refuse to grant a casual trading licence to a person if—

(a) the person fails to furnish a completed application form for a casual trading licence,

(b) the person fails to pay the appropriate fee (if any) with the said application form, or

(c) a trading place for the purpose of casual trading is not available.

(6) A local authority may refuse to grant a casual trading licence to a person who has been convicted of an offence in relation to the importation, possession or sale of goods committed while he was the holder of a casual trading licence or an offence under this Act (other than an offence under *section 5*) during the period of 3 years before the date of application for the licence.

(7) A local authority shall not grant a casual trading licence to a person who was convicted of two or more offences (each offence being either an offence in relation to the importation, possession or sale of goods committed while the person was the holder of a casual trading licence or an offence under this Act (other than an offence under *section 5*)) if two, at least, of the convictions occurred less than 3 years before the first day on which the person proposes to engage in casual trading to which the application for the licence relates.

F7[(8) *Section 4A(4)* (inserted by Regulation 4 of the European Union (Casual Trading Act 1995) Regulations 2018 (S.I. 308 of 2018)) shall apply for the purposes of the duration of a casual trading licence.]

(9) A person who applies to a local authority for a casual trading licence shall furnish to the local authority the information requested in the form prescribed together with such further information as the local authority may request for the purposes of the exercise of its powers and functions under this section and, if the person fails to comply with this subsection, the local authority may refuse to grant the person the licence.

(10) This section is without prejudice to the provisions of statutes or instruments made under statute or of any other laws governing the sale of goods by a person while the person is the holder of a casual trading licence.

(11) Upon the grant of a casual trading licence, or as soon as may be thereafter, the local authority concerned shall notify the Minister for Social Welfare in writing of the name and address of the person to whom the licence was granted and the conditions (if any) contained in the licence including the duration thereof.

Annotations:

Amendments:

- F5** Inserted (15.05.1996) by *Finance Act 1996* (9/1996), s. 141, commenced on enactment.
- F6** Substituted (30.11.1997) by *Taxes Consolidation Act 1997* (39/1997), s. 1100 and sch. 31, commenced on enactment.
- F7** Substituted (1.01.2019) by *European Union (Casual Trading Act 1995) Regulations 2018* (S.I. No. 308 of 2018), reg. 3, in effect as per reg. 1(2).

Editorial Notes:

- E2** Power pursuant to subs. (2) exercised (1.06.1996) by *Casual Trading Act 1995 (Forms) Regulations 1996* (S.I. No. 146 of 1996), in effect as per reg. 2.

F8[Application of European Union (Provision of Services) Regulations 2010

4A.(1) Regulation 13 (other than paragraph (c)) of the Regulations of 2010 shall apply for the purposes of this Act subject to the modification that—

(a) “A local authority responsible for issuing a casual trading licence shall not make access to, or the performance of, the casual trading by a provider” shall be substituted for “A competent authority in the State responsible for administering an authorisation scheme relating to a service activity shall not make access to, or the performance of, the service activity by a provider”, and

(b) a reference to “licence” shall be construed as reference to “scheme”.

(2) Regulation 14(1) of the Regulations of 2010 shall apply for the purposes of this Act subject to the modification that “Every local authority responsible for issuing a casual trading licence shall ensure that the licensing procedures and formalities applicable to the casual trading licence” shall be substituted for “Every competent authority in the State responsible for administering an authorisation scheme shall ensure that the authorisation procedures and formalities applicable to the scheme”.

(3) Regulation 15 (other than paragraphs (3), (4), (5) and (6)) of the Regulations of 2010 shall apply for the purposes of this Act subject to the modifications—

(a) that the following paragraph shall be substituted for paragraph (1): “(1) A local authority responsible for issuing a casual trading licence shall exercise its power of assessment in relation to the operation of the licensing scheme on the basis of criteria that are not arbitrary.”,

(b) in paragraphs (1), (2), (7), (8), (9) and (10), that a reference to “a competent authority” shall be construed as a reference to “a local authority”, and

(c) in paragraphs (1), (2), (7), (8), (9) and (10), that a reference to “an authorisation” shall be construed as a reference to “a casual trading licence”.

(4) Regulation 16 of the Regulations of 2010 shall apply for the purposes of this Act subject to the following modifications—

(a) that a reference to “an authorisation” shall be construed as a reference to “a casual trading licence”,

(b) that a reference to “authorisations” shall be construed as a reference to “casual trading licences”,

(c) that a reference to “a competent authority” shall be construed as a reference to “a local authority”, and

(d) in paragraph (3), that “the local authority responsible for issuing a casual trading licence” shall be substituted for “the competent authority in the State responsible for administering the scheme to which the authorisation relates”.

(5) Regulation 17 of the Regulations of 2010 shall apply for the purposes of this Act subject to the following modifications—

(a) that a reference to “A competent authority in the State” shall be construed as a reference to “A local authority”,

(b) that a reference to “an authorisation” shall be construed as a reference to “a casual trading licence”,

(c) that a reference to “authorisations” shall be construed as a reference to “casual trading licences”, and

(d) in paragraph (1), that “the local authority responsible for issuing a casual trading licence” shall be substituted for “the competent authority in the State responsible for issuing authorisations for that activity”.

(6) Regulation 18 of the Regulations of 2010 shall apply for the purposes of this Act subject to the following modifications—

(a) that “Every local authority responsible for issuing a casual trading licence” shall be substituted for “Every competent authority in the State responsible for administering an authorisation scheme”,

(b) in paragraph (1)(a), that a reference to an “authorisation” shall be construed as a reference to a “casual trading licence”,

(c) in paragraphs (3), (4), (5) and (7), that a reference to “a competent authority in the State” shall be construed as a reference to “a local authority responsible for issuing a casual trading licence”, and

(d) in paragraph (6)(b), that a reference to “competent authority” shall be construed as a reference to “local authority”.

(7) Regulation 19 of the Regulations of 2010 shall apply for the purposes of this Act subject to the following modifications—

(a) in paragraph (1), that “a casual trading licence, a local authority responsible for issuing a casual trading licence” shall be substituted for “an authorisation, a competent authority in the State”,

(b) in paragraph (3)—

(i) that a reference to “an authorisation” shall be construed as a reference to “a casual trading licence”, and

(ii) that a reference to “competent authority” shall be construed as a reference to “local authority”, and

(c) in paragraph (4), that “local authority responsible for issuing a casual trading licence that refuses an application for a casual trading licence” shall be substituted for “competent authority in the State that refuses an application for an authorisation”.

(8) Regulation 20 of the Regulations of 2010 shall apply for the purposes of this Act subject to the following modifications in paragraph (1)—

(a) that a reference to “competent authority in the State” shall be construed as a reference to “local authority responsible for issuing a casual trading licence”,

(b) in subparagraph (e), that “a casual trading licence” shall be substituted for “an authorisation”, and

(c) in subparagraph (f)—

(i) in clause (i), that “a casual trading licence” shall be substituted for “an authorisation”, and

(ii) in clause (ii), that “local authority” shall be substituted for “competent authority in the State (other than a professional body or other organisation acting as the relevant competent authority in the State)”.

(9) Regulation 21 (other than paragraph (6)) of the Regulations of 2010 shall apply for the purposes of this Act subject to the following modifications—

(a) in paragraph (1), that a reference to “competent authority in the State” shall be construed as a reference to “local authority responsible for issuing a casual trading licence”, and

(b) in paragraph (5), that a reference to “competent authority in the State” shall be construed as a reference to “local authority responsible for issuing a casual trading licence”.

(10) In this section, “Regulations of 2010” means the European Union (Provision of Services) Regulations 2010 (S.I. No. 533 of 2010).]

Annotations:

Amendments:

F8 Inserted (1.01.2019) by *European Union (Casual Trading Act 1995) Regulations 2018* (S.I. No. 308 of 2018), in effect as per reg. 1.

Editorial Notes:

E3 The section heading is taken from the content of the section in the absence of one included in the amendment.

Display of casual trading licences.

5.—(1) A person carrying on casual trading at any place shall—

(a) display the number of the casual trading licence relating to the trading in such manner as may be determined by the local authority and in such a position at the place as to be clearly visible and easily legible to members of the public at the place, and

(b) if so requested, produce the licence on demand to any person at the place.

(2) A person who contravenes this section shall be guilty of an offence.

Bye-laws.

6.—(1) A local authority shall, as soon as may be after the commencement of this Act, make bye-laws in relation to the control, regulation, supervision and administration of casual trading in its functional area.

(2) Without prejudice to the generality of *subsection (1)*, bye-laws under this section may make provision in relation to one or more of the following matters:

(a) the designation of—

(i) any land (including a public road, other than a motorway or a busway within the meaning in each case of the Roads Act, 1993) in its functional area to which the public have access as of right or any land occupied by and in the functional area of the authority, or

(ii) with the consent of another local authority, any land (including a public road, other than a motorway or a busway within the meaning in each case of the Roads Act, 1993) in the functional area of that other authority or any land occupied by and in the functional area of that authority,

as a place where casual trading may be carried on (in this Act referred to as “a casual trading area”),

(b) the specification of the maximum area that may be occupied in a casual trading area by a person engaged in casual trading,

(c) the regulation of access to casual trading areas,

F9[(d) the fixing of fees in respect of casual trading licences which fees (if any) shall be reasonable and proportionate to the cost of the administration of a casual trading licence scheme and do not exceed the cost of such administration,]

(e) the provision of trading places for disabled persons,

(f) the enforcement of the bye-laws.

(3) When deciding whether to designate any land as a casual trading area or to revoke a designation made in bye-laws under this section, a local authority shall have regard to the proper planning and development of its functional area (including the preservation and improvement of the amenities thereof), the development plan for its functional area and any special amenity order (within the meaning in each case of the Local Government (Planning and Development) Acts, 1963 to 1993) relating to its functional area, the traffic likely to be generated by the casual trading in the casual trading area and to all other matters that it considers relevant to its decision.

(4) When making bye-laws under *subsection (2) (d)*, a local authority may have regard to the facilities and services provided by it to persons engaged in casual trading.

(5) Bye-laws under this section may contain such incidental, subsidiary and ancillary provisions as a local authority considers necessary or expedient for the purposes of the bye-laws.

(6) Before making bye-laws under this section (other than bye-laws under *subsection (2) (d)*), a local authority shall—

(a) publish notice of the proposed bye-laws in at least two newspapers circulating in the area to which the proposed bye-laws relate—

(i) indicating the times at which, the period (being not less than one month) during which and the place (being a place within their functional area) where a copy of the proposed bye-laws may be inspected, and

(ii) stating that the local authority will consider any submissions in relation to the proposed bye-laws which are submitted to the authority in writing by any person within 2 weeks after the end of the period referred to in *subparagraph (i)* of this paragraph.

(7) A person may, within 2 weeks after the end of the period for inspection of the proposed bye-laws, make submissions in writing to the local authority in relation to proposed bye-laws and the local authority shall, before deciding whether to make the bye-laws, take into consideration any submissions duly made to it and not withdrawn.

(8) (a) A person who is aggrieved by any proposed bye-laws (other than bye-laws under *subsection (2) (d)*) may, within a period of 21 days beginning on the date of compliance by the local authority concerned with *subsection (6)*, appeal to the District Court against the proposed bye-laws and that Court may, on the hearing of the appeal, prohibit the proposed bye-laws or authorise them subject to such conditions (if any) as it may deem appropriate and specify.

(b) Notice of an appeal under this subsection shall be given to the local authority concerned and an officer of the local authority shall be entitled to appear and be heard on the hearing of the appeal.

(c) A party concerned may appeal to the Circuit Court from a decision of the District Court.

(9) The making of bye-laws under this section shall be a reserved function.

(10) As soon as may be after the making of bye-laws under this section, notice of their making and of the place where copies thereof may be purchased or inspected shall be published in *Iris Oifigiúil* and in at least two of the newspapers circulating in the area to which the bye-laws relate.

(11) A local authority shall not proceed to make bye-laws relating to casual trading (other than bye-laws under *subsection (2) (d)*) before the expiry of 30 days from the date of compliance by the local authority concerned with *subsection (6)* in relation to the bye-laws and, if an appeal is brought against the proposed bye-laws, before the final determination of the appeal.

(12) A person who contravenes a bye-law under this section shall be guilty of an offence.

Annotations:

Amendments:

- F9** Substituted (1.01.2019) by *European Union (Casual Trading Act 1995) Regulations 2018* (S.I. No. 308 of 2018, reg. 5, in effect as per reg. 1(2)).

Editorial Notes:

- E4** Functions under section to be performed by municipal district members as prescribed by Local Government Act 2001 (37/2001), s. 131A(1)(a), (4) and sch. 14A part 1 ref. no. 31, as inserted (1.06.2014) by Local Government Reform Act 2014 (1/2014), s. 21(3), (4) and sch. 3, S.I. No. 214 of 2014.

F10 [Guidelines with respect to performance of functions under *section 6*.

6A.— (1) The Minister may prepare and issue to local authorities guidelines, in writing, regarding the performance by them of their functions under *section 6* in relation to bye-laws.

(2) Without prejudice to the generality of *subsection (1)*, guidelines under this section may include guidelines as to the particular provision that a local authority should make by bye-laws under *section 6* in relation to each of the matters mentioned in *subsection (2)* of that section.

(3) Local authorities shall have regard to guidelines for the time being in force under this section in performing their functions under *section 6* in relation to bye-laws.

(4) The Minister may amend or revoke, in writing, guidelines issued under this section.

(5) The Minister shall cause a copy of any guidelines issued under this section and of any amendment or revocation of them to be laid before each House of the Oireachtas.]

Annotations:

Amendments:

- F10** Inserted (1.05.2007) by *Consumer Protection Act 2007* (19/2007), S.I. No. 178 of 2007.

Acquisition and extinguishment of market rights.

7.—(1) A local authority may acquire any market right in respect of a market or fair in its functional area by agreement or compulsorily.

(2) Section 10 of the Local Government (No. 2) Act, 1960, and Part V of and the Third and Fourth Schedules to the Housing Act, 1966, shall apply in relation to a market right in respect of markets or fairs as they apply in relation to land—

(a) with the substitution of references to such market right for references to land,

(b) with the deletion of—

(i) “and of the map referred to therein” in section 78 (1) of the said Housing Act, 1966,

(ii) “and shall have attached thereto a map of the land to which it applies” in section 82 (1) of the said Housing Act, 1966,

(iii) “by reference to a map” in paragraph 3 of the said Third Schedule, and

(iv) “and of the map referred to therein” in paragraph 4 (a) of the said Third Schedule, and

(c) with any other necessary modifications.

(3) References in the said Local Government (No. 2) Act, 1960 (other than section 2), to the appropriate Minister shall, in relation to acquisition under this section or borrowing for the purposes of such acquisition, be construed as references to the Minister for the Environment.

(4) Where, after the commencement of this section, a market right in respect of a market or fair in the functional area of a local authority remains unexercised for a period of not less than 10 years, then, the market right concerned shall stand extinguished.

Powers of local authorities in relation to market rights owned by them.

8.—(1) A local authority may carry on, manage and regulate a market or fair to which a market right owned by it relates as if it were a market established by it under the Public Health (Ireland) Act, 1878, and shall have all such powers as may be necessary for those purposes.

(2) A local authority may by order extinguish a market right owned by it.

(3) (a) A local authority shall not extinguish a market right under this section unless it provides, or has already provided, alternative facilities in the same vicinity as the market or fair to which the right relates and comprising or including facilities reasonably corresponding in all respects, having regard to all the circumstances, to the market or fair.

(b) Where a local authority acquires a market right compulsorily under this Act, it shall not discontinue the holding of the market or fair to which it relates unless it provides, or has already provided, alternative facilities in the same vicinity as the market or fair to which the right relates and comprising or including facilities reasonably corresponding in all respects, having regard to all the circumstances, to the market or fair.

(4) (a) Whenever a local authority proposes to extinguish a market right under this section the local authority shall—

(i) give notice in writing of the proposal to any person appearing to the authority to have an interest in the right, and

(ii) publish notice of the proposal in at least two newspapers circulating in the area in which the market or fair to which the right relates is held.

(b) Notices under this subsection shall include particulars of the facilities proposed to be provided or already provided by the local authority in the place of the market or fair to which the right proposed to be extinguished relates.

(c) A notice under this subsection may be served on any person by sending it by registered post in an envelope addressed to him at his usual or last known address.

(5) (a) A person who is aggrieved by a proposal of a local authority to extinguish a market right may, within a period of 21 days beginning on the date of compliance by the local authority concerned with *subsection (4) (a) (ii)* in relation to the right, appeal to the District Court against the extinguishment and that Court may, on the hearing of the appeal, if it is of opinion that the extinguishment would, notwithstanding the alternative facilities to be provided or already provided by the local authority and having regard to all the circumstances, constitute an undue interference with the facilities enjoyed by the public in relation to the market right, prohibit the proposed extinguishment or authorise the extinguishment subject to such conditions (if any) as it may deem appropriate and specify.

(b) Notice of an appeal under this subsection shall be given to the local authority concerned and an officer of the local authority shall be entitled to appear and be heard on the hearing of the appeal.

(c) A party concerned may appeal to the Circuit Court from a decision of the District Court.

(6) A local authority shall not proceed with a proposal to extinguish a market right under this section before the expiry of 30 days from the date of compliance by the local authority concerned with *subsection (4) (a) (ii)* in relation to the right or, if an appeal is brought against the proposal, before the final determination of the appeal.

(7) The extinguishment of a market right under this section shall be a reserved function.

(8) A local authority may do any act or thing which may be necessary or incidental to the doing of anything which the local authority is authorised by the other provisions of this section and of *sections 6 and 7* to do.

Annotations:

Editorial Notes:

- E5** Functions under section to be performed by municipal district members as prescribed by *Local Government Act 2001* (37/2001), s. 131A(1)(a), (4) and sch. 14A part 1 ref. no. 31, as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 21(3), (4) and sch. 3, S.I. No. 214 of 2014.

Prohibition of false information and alteration of licences.

9.—(1) A person shall not give false information to a local authority in relation to an application for the grant of a casual trading licence.

(2) A person shall not with intent to deceive either alter or use a casual trading licence.

(3) A person shall not forge a document purporting to be a casual trading licence.

(4) A person who contravenes *subsection (1), (2) or (3)* shall be guilty of an offence.

(5) It shall be a defence for a person charged with an offence under this section in relation to the giving of false information to a local authority to show that he did not know and could not, with the exercise of reasonable care, have known that the information was false.

Powers of
authorised
officers and
Garda Síochána.

10.—(1) A local authority may appoint officers of the local authority or other persons to be authorised officers for the purpose of this Act, and an authorised officer appointed under this subsection may exercise the powers conferred by this section on authorised officers only in the functional area of the authority by which he was appointed or in the functional area of another local authority with whom an agreement exists for the exercise or performance by officers of the first-mentioned authority in the functional area of that other authority of the powers and functions of an authorised officer.

(2) (a) An authorised officer or a member of the Garda Síochána may—

- (i) enter, inspect and examine any place where he has reasonable cause to believe that casual trading is being engaged in,
- (ii) require any person whom he has reasonable cause to believe to be engaging in casual trading—
 - (I) to produce, if it is not being displayed, a casual trading licence authorising such trading and to permit the officer or member to examine the licence, and
 - (II) if he fails, neglects or refuses to produce such a licence or, in a case in which it is not being displayed, to furnish to the officer his name and address and, if he is the servant or agent of another person, the name and address of the other person,
- (iii) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act or of bye-laws made thereunder are being complied with,
- (iv) require any person whom he has reasonable cause to believe to be engaging in casual trading in contravention of this Act to give such information as is in his power to give as to the ownership of any goods being sold in the course of such trading,
- (v) require any person whom he has reasonable cause to believe to be engaging in casual trading in contravention of this Act to produce to him any documents, books or records relating to such trading in his power, possession or control and give to him such information as he may request in relation to entries in those documents, books or records and examine, copy or take extracts from any such document, book or record.

(b) An authorised officer who proposes to perform a power or function conferred on him by *paragraph (a) (i)* may request a member of the Garda Síochána to accompany him if he has reasonable cause to apprehend any obstruction in the execution of his duty.

(3) A person shall not obstruct or interfere with, or give false information to, an authorised officer or a member of the Garda Síochána in the performance of his functions under this Act.

(4) (a) A person shall not fail, refuse or neglect to comply with a requirement of an authorised officer or a member of the Garda Síochána under this section.

(b) A person shall be deemed not to have failed or refused to comply with a requirement of an authorised officer or a member of the Garda Síochána under this section to produce a casual trading licence if he gives to the officer or member his name and address and, if he is the servant or agent of another person, the name and address of that other person.

(5) If a person fails, refuses or neglects to comply with a requirement of a member of the Garda Síochána under this section, the person may be arrested and any goods which he is selling or has in his possession for sale at the place where the member believed him to be engaging in casual trading and the receptacle, vehicle or stand on

or in which the goods are and all utensils, boxes and other articles (including money) thereon and any draught animal attached thereto may be seized, detained and removed by the said or any other member of the Garda Síochána without a warrant.

(6) A person who contravenes *subsection (3) or (4) (a)* shall be guilty of an offence.

Further powers of
Garda Síochána.

11.—(1) A member of the Garda Síochána may, without warrant, arrest a person whom he has reasonable cause to believe to be contravening a provision of this Act at any place and may seize and remove any goods which he is selling or has in his possession for sale at the place.

(2) If a member of the Garda Síochána has reasonable cause to believe that a person is engaging in casual trading in contravention of this Act at any place he may require the person to remove himself and his goods from that place and, if the requisition is not complied with, may without warrant arrest the person and seize and remove any goods which he has in his possession at the place for the purposes of casual trading.

(3) References in this section to goods include references to the receptacle, vehicle (including a vehicle used for towing) or stand in or on which the goods are exposed or carried and all utensils, boxes and other articles (including money) which are on or in such receptacle, vehicle or stand for the purposes of the trading and any draught animal attached thereto or left at the place where the receptacle, vehicle or stand is for the purpose of moving it.

Disposal of goods
seized by Garda
Síochána.

12.—(1) Whenever any goods are seized and removed under this Act by a member of the Garda Síochána, a Superintendent may in the case of perishable goods not less than 12 hours and in the case of any other goods not less than 3 days after the seizure cause the goods to be sold and shall out of the proceeds of such sale defray all expenses incurred in the seizure, removal, storage and sale of the goods and shall pay the surplus of such proceeds to the person who at the time of the seizure was the owner of the goods.

(2) Whenever any such goods as aforesaid include any article intended for human food or drink and such article is at any time before the sale thereof under this section unfit in the opinion of the Superintendent for human consumption, the Superintendent may cause such article to be destroyed.

(3) If, before any such goods as aforesaid are sold under this section, any person satisfies the Superintendent that he is the owner of such goods and pays to the Superintendent all expenses incurred in the seizure, removal, storage and any intended or attempted sale of the goods, the Superintendent shall hand over such goods to such person.

(4) (a) In this section “a Superintendent” means a Superintendent of the Garda Síochána.

(b) References in this section to goods include references to every receptacle, vehicle, stand, utensil, article, and animal seized and removed under this Act with the goods.

Registers of
licences.

13.—(1) A local authority shall establish and maintain a register (which shall be known as the Register of Casual Trading Licences and referred to subsequently in this section as “the register”) for the functional area of the authority of the casual trading licences granted by it under this Act containing such particulars (including particulars in relation to the revocation of such licences) as the Minister considers appropriate and specifies to the authority.

(2) A local authority may amend an entry in or delete an entry from the register.

(3) The register may be established and maintained in a form that is not legible if it is capable of being converted into a legible form.

Penalties.

14.—(1) A person guilty of an offence under *section 3* shall be liable—

(a) on summary conviction—

(i) in the case of a first offence, to a fine not exceeding £50,

(ii) in the case of a second offence, to a fine not exceeding £250,

(iii) in the case of a third or subsequent offence to a fine not exceeding £1,000, or

(b) on conviction on indictment, to a fine not exceeding £10,000 together with, in the case of a continuing offence, a fine not exceeding £500 for each day or part of a day on which the offence is continued after the first such day or to imprisonment for a term not exceeding 6 months or to both the fine or fines and the imprisonment.

(2) A person guilty of an offence under this Act (other than *section 3*) shall be liable on summary conviction to a fine not exceeding £1,000.

(3) A summary offence under this Act may be prosecuted by the local authority in whose functional area the offence is alleged to have been committed or by another local authority with whom an agreement exists for the exercise by the latter authority of the powers and functions under this section of the former authority.

(4) Where an offence under this Act is committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any person who, being a director, manager or secretary of such body, or a person who was purporting to act in any such capacity, that person as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he were guilty of the first-mentioned offence.

Annotations:

Editorial Notes:

E6 A fine of £50 converted (1.01.1999) to €63.49. This translates into a class E fine, not exceeding €500, as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 8(2) and table ref. no. 2, S.I. No. 662 of 2010.

A fine of £250 converted (1.01.1999) to €317.43. This translates into a class E fine, not exceeding €500, as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 8(2) and table ref. no. 2, S.I. No. 662 of 2010.

A fine of £1,000 converted (1.01.1999) to €1,269.74. This translates into a class C fine, not exceeding €2,500, as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 6(2) and table ref. no. 2, S.I. No. 662 of 2010.

A fine of £10,000 converted (1.01.1999) to €12,697.38. This is multiplied by 1.75 to €22,220.41 as provided (4.01.2011) by *Fines Act 2010* (8/2010), s. 9(1) and table ref. no. 1, S.I. No. 662 of 2010.

A fine of £500 converted (1.01.1999) to €634.87. This translates into a class D fine, not exceeding €1,000, as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 7(2) and table ref. no. 2, S.I. No. 662 of 2010.

Laying of regulations.

15.—Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Amendment of Occasional Trading Act, 1979.

16.—(1) The Occasional Trading Act, 1979, is hereby amended—

(a) in section 2, by the substitution of the following subsection for subsection (3):

“(3) The Minister may, by regulations, amend (whether by the addition, deletion or alteration of classes) the classes of selling specified in subsection (2) and that subsection shall have effect in accordance with any such regulations.”,

(b) in section 4, by the insertion of the following subsection after subsection (13):

“(14) Upon the grant of an occasional trading permit, or as soon as may be thereafter, the Minister shall notify the Minister for Social Welfare in writing of the name and address of the person to whom the permit was granted and the conditions (if any) contained in the permit, including the duration thereof.”, and

(c) in section 9—

(i) by the substitution of the following subsection for subsections (1), (2) and (3):

“(1) A person guilty of an offence under section 3 (1) of this Act shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000, or

(b) on conviction on indictment, to a fine not exceeding £10,000 together with, in the case of a continuing offence, a fine not exceeding £500 for each day or part of a day on which the offence is continued after the first such day or to imprisonment for a term not exceeding 6 months or to both the fine or fines and the imprisonment.”, and

(ii) in subsection (4), by the substitution of “£1,000” for “£500”.

(2) Regulations under subsection (3) of section 2 of the Occasional Trading Act, 1979, in force immediately before the commencement of this section, shall continue in force after such commencement as if made under the said subsection (3), as inserted by this section, and may be amended or revoked accordingly.

Repeal and transitional provision.

17.—(1) The following are hereby repealed:

(a) the Act of 1980, and

(b) section 6 of the Dublin Corporation (Markets & c.) Act, 1901.

(2) *Subsection (1) (a)* shall not, during the currency of a casual trading licence or a casual trading permit in force immediately before the commencement of this section, apply in relation to the licence or permit or the holder thereof and the carrying on of casual trading in accordance with the licence or permit shall be deemed not to be in contravention of this Act, and the Act of 1980 shall, notwithstanding *subsection (1) (a)*, continue to apply during such currency in relation to the licence or permit and in relation to the holder thereof.

(3) *Subsection (1) (a)* shall not affect the amendments effected by section 7 (3) or section 17 of the Act of 1980.

Short title and commencement.

18.—(1) This Act may be cited as the Casual Trading Act, 1995.

(2) This Act shall come into operation on such day or days as, by order or orders made by the Minister, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different

purposes and different provisions and for the repeal of different provisions of the enactment specified in *section 17 (1) (a)*.

Annotations:

Editorial Notes:

E7 Power pursuant to subs. (2) exercised (16.10.1995, 1.05.1996) by *Casual Trading Act 1995 (Commencement) Order 1995* (S.I. No. 267 of 1995).

3. The 16th day of October, 1995, is hereby fixed as the day on which sections 6 and 17 (1) (b) of the Act shall come into operation.

4. The 1st day of May, 1996, is hereby fixed as the day on which the Act (other than the said sections 6 and 17 (1) (b)) shall come into operation.

ACTS REFERRED TO

Auctioneers and House Agents Acts, 1947 to 1973	
Casual Trading Act, 1980	1980, No. 43
County Management Acts, 1940 to 1994	
Dublin Corporation (Markets & c.) Act, 1901	1901, c. cv.
Housing Act, 1966	1966, No. 21
Local Government (No. 2) Act, 1960	1960, No. 40
Local Government (Planning and Development) Acts, 1963 to 1993	
Occasional Trading Act, 1979	1979, No. 35
Public Health (Ireland) Act, 1878	1878, c. 52
Roads Act, 1993	1993, No. 14