

**Responses to BIS and Scottish Government Consultation on
Modernising Street Trading and Pedlars Legislation - Other responses
N to Z**

NABMA AND RETAIL MARKETS ALLIANCE.....	2
NATIONAL MARKET TRADERS FEDERATION.....	7
NORTH TYNESIDE TOWN CENTRE.....	10
PAUL MAUNDERS.....	11
POOLE TOWN CENTRE	12
SHARPE PRITCHARD.....	13
SMITH , CLIVE (IMMITTO LTD)	17
STEVEN MCGOWAN.....	19
SUNDANCE FAIRTRADE	21

NABMA AND RETAIL MARKETS ALLIANCE

Street trading and pedlary laws: A joint consultation on modernising Street Trading and Pedlar Legislation, and on draft guidance on the current regime.

I am responding on behalf of the National Association of British Market Authorities (NABMA) to the consultation on the above mentioned issues.

NABMA represents local authorities, and a number of private operators, responsible for the provision of markets throughout the United Kingdom.

The problems of unlawful street trading and ineffective pedlar legislation have prompted efforts by NABMA over a number of years to have the issues addressed by government. In this respect we have been indebted to the efforts of Dr Brian Iddon MP who has campaigned on NABMA's behalf to raise the profile of these issues.

NABMA welcomes the research that has been produced by Durham University. This is the first substantive piece of work that has been produced and it provides a helpful background in highlighting the various matters that need to be addressed.

There is concern by some NABMA members that the findings do not accurately convey the size of the problems encountered by a number of local authorities. NABMA believes that problems have normally arisen in larger town centres and those town centres that have special attractions at particular times of the year.

The research acknowledges that a number of local authorities have already enacted private legislation to deal with the problems of pedlars operating in town centres. Such action was only prompted because of the very serious nature of the problems and because there was no other way of taking effective action.

At the time the Durham research was commissioned a number of other local authorities were also considering private legislation.

In order to save the resources of local authorities and prevent a large amount of parliamentary time being taken up on private legislation Dr Brian Iddon sought to pursue private member legislation and there was overwhelming support from local authorities and members of all political parties for the action he was taking.

Against this background NABMA wishes to emphasise that unlawful street trading and ineffective pedlar legislation remain major concerns and the government is encouraged to take positive action in response to this consultation process.

Turning to the particular areas highlighted in the consultation:

(a) Ways of making street trading and pedlary regulatory regime more proportionate and effective.

The current street trading provisions are to be found in Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The provisions are adoptive. These provisions, while providing a reasonably effective framework for street trading activities, do not provide effective enforcement remedies. NABMA has consistently argued that anyone found to be acting in contravention of street trading legislation should be subject to having their goods confiscated on the spot. Such provisions are already available in London and have also been utilised by local authorities enacting private legislation to deal with the problems of illegal pedlars.

The Durham University Research highlights the "varied" understanding of pedlars rights. This is a major concern of NABMA and primarily stems from the out of date definition of a pedlar which has caused the courts considerable problems in interpretation.

A revised definition of a pedlar is a priority and if the government is convinced that pedlars are to continue then a much more simplified definition is required possibly along the lines:

The term pedlar means a person who goes from town to town carrying to sell or exposing for sale any goods or merchandise.

It is accepted that genuine pedlars can contribute to the "character, liveliness and consumer choice in town centres" but the same characteristics also apply to street trading and NABMA is greatly concerned that under current arrangements pedlars enjoy significant benefits over street traders.

NABMA has always taken the view that the exemption of pedlars from the 1982 legislation is wrong. The Durham Research confirms NABMA's own finding that "Police forces would prefer not to issue certificates".

The vast majority of pedlars deal in sales as opposed to services. In this respect it is right that pedlars should fall within the provisions of the street trading legislation and the responsibility for licensing

should reside with local authorities. This would provide consistency in the way licensing arrangements are applied.

Giving responsibility to local authorities would also enable a much more equitable fee structure to be implemented.

The Durham Research highlights that street trading licences are issued with "an average price of approximately £1000". Daily licences "average £40".

Against this background the current fee paid by pedlars of £12.25 is totally unsustainable taking into account that many pedlars will organise their visits to correspond to the busiest trading days to make maximum profit.

(b) Providing local authorities with additional enforcement options in respect of illegal street trading.

NABMA has consistently argued that the seizure of goods on the spot would provide a much more effective means of dealing with the problems of unlawful street trading and pedlars. There is already precedent for this in London and elsewhere. The evidence collected by NABMA suggests that such action is effective.

(c) Updating the Pedlars Act 1871 to modernise the certification scheme and the definition of a pedlar.

Reference has already been made to the need to prioritise a revised definition of a pedlar.

The 1871 Act is in need of such substantial revision that NABMA would advocate its repeal with appropriate provision being made in the 1982 Act. There is no reason that supplementary provisions cannot be added to the 1982 Act to deal with the position of pedlars.

NABMA would propose the following arrangements:

- (1) Licensing responsibility for pedlars to be transferred to local authorities.
- (2) Pedlars to be limited to the area of the local authority to which they apply.

This second recommendation is probably more controversial but in reality it should not present significant problems to pedlars.

The current licensing arrangements are totally inadequate and do not provide any sort of assurances regarding the fitness or standing of an applicant to be a pedlar. There are no proper arrangements for the review or renewal of certificates and there is no central record of pedlars.

NABMA does not accept that introducing licensing arrangements of this kind will inhibit pedlars activities.

Many markets are operated on the basis that people can come and trade on a "casual" basis. This means they turn up on the day and provided there is space they can do so. It is a simple process and enables market traders to visit different markets.

With the provision of online information and application arrangements there is no reason why a person wanting to obtain a pedlars licence in a particular town should not be able to do so in an expeditious way.

NABMA believes it is important that local authorities are able to control the number of pedlars certificates issued on a particular day and operating licensing arrangements in this way will enable this to be done effectively.

There is already provision for the issue of daily street trading licences and therefore the issue of daily or periodic pedlar licences would simply be an extension of what already exists.

It is also right that the process of considering applications for pedlars certificates should be a meaningful one. The current application form, in Schedule 2 of the 1871 Act, contains sufficient information to enable a proper assessment of a person's suitability.

Local authorities already have the street licensing procedure which can be adapted as appropriate and, more importantly, they have the infrastructure to deal with any disputes regarding the refusal of any application.

(d) Consider introducing a means by which local authorities might exert proportionate limits on certified pedlars activity in designated areas.

Local authorities should be able to determine a number of pedlars that can operate in a designated area. This will assist in providing balance between street trading activities and the impact of pedlar activities. This can be done effectively by operating the licensing arrangements as described in the last section.

(e) Options for revoking the Pedlar Acts and providing for adequate regulation of itinerant traders within the street trading regime.

NABMA strongly believes that the licensing of pedlars should be transferred to local authorities and supplementary provisions should be incorporated within the 1982 Act to make provision for this to happen.

- (1) Local authorities have the experience and infrastructure to effectively deal with licensing applications.
- (2) Street trading and pedlar activities have a number of similar characteristics and there is a need to preserve consistency and balance in the provision of such activities.
- (3) Fees must be equitable and reviewed periodically and local authorities are best placed to do this.
- (4) Making provision for stronger enforcement action by seizure of goods will assist in effectively controlling all aspects of street trading and pedlar activity for the benefit of licensed individuals.

(f) Draft guidance on the application of the current regime in England and Wales for enforcement officers, street traders and pedlars looking at what constitutes acceptable street trading and pedlar practice.

This is long overdue. The inadequate definition of a pedlar has been a source of concern for many years and led many local authorities to neglect enforcement action because of the uncertainty of the outcome and the level of resources required to take such action.

While NABMA advocates that the responsibility for licensing both street traders and pedlars should reside with individual local authorities guidance on criteria, process and fee levels would also assist in providing a consistent approach throughout the country.

I hope these comments are helpful. If you need any further clarification please contact me.

Graham Wilson
Chief Executive
NABMA

NATIONAL MARKET TRADERS FEDERATION

Dear Mr Dennison,

Thank you for your email and link to the above consultation document. The National Market Traders' Federation welcomes the opportunity to comment on the proposals.

The National Market Traders' Federation is a trade association that represents almost 33,000 members some of whom will be licensed street traders. Illegal street trading is a nuisance common to many town and city centres across the UK and one which has a detrimental effect on the public's perception of licensed street traders and legitimate pedlars. The problem can also have a detrimental impact on street markets as well.

Please find attached to this email the Federation's response to the consultation.

Once again I would thank you for the opportunity to participate in the consultation.

Regards
John Perriton
Field Support Manager
National Market Traders' Federation
Hampton House
Hawshaw Lane
Hoyland
Barnsley
S74 0HA

Response to BIS Consultation on Street Trading and Pedlar Laws

- Q 1 Agreed
- Q 2 Consideration should be given to preventing a Pedlar from constantly patrolling in a limited area (i.e. within a 50 yard distance). The NMTF has received complaints in the past about Pedlars engaging in this practice.
- Q 3 Agreed – without any limitation in place a Pedlar could use a trolley of such a size that it could be a nuisance or an obstruction with an attendant risk of injury to third parties.
- Q 4 Size should be limited to something that could theoretically be carried by a person travelling on foot.
- Q 5 Agreed because the provision of a contact number for the issuing authority would enable speedy verification of details.
- Q 6 No comment
- Q 7 Agreed – access to a central registry would benefit all parties, Pedlars and enforcement officers, as there should be a fast turnaround if a question arose.
- Q 8 The NMTF agrees that the information on the database is adequate.
- Q 9 The NMTF has no view on this.
- Q10 Agree
- Q11 Agree
- Q12 Agree – There is a need for an effective and consistent licensing and enforcement regime. A central database accessible by licensing officers would enable information to be shared and acted upon. Local Authority licensing

officers would also have the required enforcement knowledge to deal with infringement of the regulations.

- Q13 Agree – provided there is clarity.
- Q14 It would be imperative that local authorities participate as described in Para 81. Given an optional regime the opportunity to have ‘joined up’ enforcement across the UK would be lost. Failure by a local authority to adopt any pedlary provisions in a future amended LG(MP)A 82 could provide ‘safe havens’ for illegal street traders.
- Q15 Agree – this option would be viable. Local authorities already have a licensing and enforcement function under the Licensing Act 2003 and legislation governing private hire and hackney carriage licensing. The issuing of Pedlars certificates would be a logical extension of those duties.
- Q16 No comment
- Q17 This would not be an appropriate course of action. A certification scheme is acceptable to legitimate pedlars. The preceding paragraphs in the consultation document have demonstrated that a national registration scheme would allow the vetting of applicants and provide data sharing and enforcement benefits. Para 85 proposes de-regulation of pedlary. Without a structured regime there could be a ‘free for all’. Designating a maximum number of pedlars at a given time would I suspect be almost impossible to enforce. There is also a danger that the presence of ‘opportunist’ illegal street traders could be detrimental to legitimate pedlars and street traders.
- Q18 Option D is the logical option to adopt.
- Q19 Agree - the consultation document has already identified the benefits of this scheme at Paras 90 &93
- Q20 The new powers will strengthen the ability of officers to effectively police town centres where illegal street traders are seen to be a nuisance. At present there is no clear idea of what constitutes a pedlar or more importantly what does not! Clear guidelines and powers will, provided they are acted upon, improve town and city centres that are currently plagued by illegal street traders masquerading as pedlars.
- Q21 No comment
- Q22 Agree – the proposed levels of £100 to £300 are sufficient to provide a deterrent for illegal street traders.
- Q23 Agree
- Q24 Agree
- Q25 Agree – especially with regard to seasonal commodities e.g. gift-wrap at Christmas. Some local authority market operators do not allow casual traders onto their markets selling seasonal lines e.g. Easter eggs, flowers, (Valentines day, mothers day) unless they have traded at the market for a qualifying period. This is to ensure that permanent traders are not disadvantaged.
- Q26 Agree, - but with the proviso outlined in response to Q25 above.
- Q27 No
- Q28 The NMTF does not oppose the change of body for the hearing of appeals as outlined in Para 108.
- Q29 No comment
- Q30 With regard to the checklist in the Good Practice Guide should it not include the observation that any trolley must be as envisaged in the original Act that a pedlar carried their goods as defined in the unlawful pedlary column?

- Q31 It is agreed that the draft guidance does meet the needs of the target audience. It is this organisations experience that enforcement officials often fail to understand the distinction between pedlary and street trading. One case (not documented involved a trader who set up a market stall in a street on a daily basis claiming to be a pedlar. Nothing was done at that time because in the view of the local authority and the police it could not be disproven that the trader **was not** a pedlar. The guidance as drafted is clear in its definition.
- Q32 No comment
- Q33 No comment

NORTH TYNESIDE TOWN CENTRE

It is imperative that local authorities are given adequate powers to deal with unlicensed street trading. We are confronted on a daily basis with traders selling 'smelly balloons', wooden roses etc etc. With Christmas approaching we look forward to the annual rash of Christmas wrapping paper and dodgy perfume sellers.

In this day and age it is simply unacceptable that trading can be allowed to take place in this manner, bringing our beleaguered town centres into further disrepute and leaving the (albeit greedy and gullible) members of the public with little or no effective redress from the sellers of such dubious merchandise. Legitimate, rate paying shop keepers are quite properly annoyed at this unfair and unregulated competition.

The Pedlars Act is an anachronism belonging to the Victorian era and has no place in the 21st century. It is now bad law which legalises undesirable practices and should be repealed forthwith.

John Fleet
Town Centres Manager
North Tyneside Council
Howard House
Saville Street
North Shields
NE30 1NT
T. 0191 643 6419 F. 0191 643 2016
www.tynetown.co.uk for details of over 1600 town centre shops and businesses in North Tyneside

Unless otherwise stated, opinions, conclusions and other information expressed in this message are personal, and not those of North Tyneside Council.

PAUL MAUNDERS

Here's an idea:

There should be a central website (e.g. direct.gov.uk/pedlars) where members of the public can verify a Pedlar's certificate. After searching for a certificate number, the website should show the Pedlar's name and photo, along with the name and contact details for the local Police station who issued the certificate and any other relevant information.

The purpose of the website would be to re-assure members of the public that a Pedlar is legally permitted to carry out his trade.

Many households now have access to the Internet, and an increasing number have the Internet available on their mobile phone. If a member of the public was interested in purchasing something from a Pedlar, but wanted to check their legitimacy, they could ask the Pedlar to come back in 10 minutes to give them a chance to look up their details online.

Regards,

Paul Maunders

POOLE TOWN CENTRE

Hello

As a Town Centre Manager I fully support the proposals.

Having more local (but fair) enforcement and licensing can help deal with the following:

- 1) Preventing a plague of pedlars during public events
- 2) Prevent blocking our already narrow streets with carts
- 3) Prevent pedlars selling the same goods as the shop they are sited next too.
- 4) Save local authority officers and Police officers a lot of wasted time dealing with complaints about Pedlars.
- 5) Pedlars are killing street markets - because markets stall holders see no point in paying the local authority if they can operate as a Pedlar in the same location for free

At the moment Pedlars have the free run of our High St and this is totally wrong in today's modern world.

How do Pedlars pay business rates?

I have to pay business rates for my street market, if pedlars were regulated more locally then business rates could apply to their activity in the same way as the street market trading.

Kind Regards

Richard

Richard Randle-Jones BA Hons

Town Centre Manager

SHARPE PRITCHARD

Dear Sirs,

Attached is Sharpe Pritchard's response to BIS' consultation document *Street Trading & Pedlar Laws: A joint consultation on modernising Street Trading and Pedlar Legislation, and on draft guidance on the current regime.*

Regards,

Emyr Thomas

Emyr Thomas
Solicitor

Sharpe Pritchard
Solicitors and Parliamentary Agents
Elizabeth House
Fulwood Place
London WC1V 6HG
Tel: 020 7405 4600
Web: www.sharpepritchard.co.uk

Sharpe Pritchard

Response to Department for Business Innovation & Skills' report *Street Trading & Pedlar Laws: A joint consultation on modernising Street Trading and Pedlar Legislation, and on draft guidance on the current regime.*

Introduction

1. Sharpe Pritchard are a firm of solicitors and parliamentary agents. We have acted as parliamentary agents for the promoters of a number of private bills related to street trading in recent years, including 7 Bills currently before Parliament. We restrict our comments to those sections of the report which concern private legislation. We would emphasise that the following comments are ours alone.

Questions 1 to 4

2. The questions listed in the consultation document mainly touch on policy issues and are best answered by those directly affected. We would make one comment on questions 1 to 4, and that is that the emphasis seems to be on keeping a regime that allows trading on the street (rather than house to house). Those who have promoted and are promoting private legislation have taken the view that only house to house trading should be allowed. The evidence that they have provided has focused on the difficulties in enforcement and their conclusions have been that the most effective solution is the house to house restriction. We note that that option has not been put forward in the report.

General comments: private legislation

3. In paragraph 98, the report says –

“... it is clear that there are traders holding pedlars certificates who are taking advantage of the uncertainties in the current regime, and that local authorities faced with these problems feel they have little alternative but to seek to tackle these traders by [promoting legislation and in doing so] they restrict the trading activities of law abiding pedlars”.
4. We understand that the Bills' promoters' experiences are that there are few pedlars who trade lawfully in their areas. The persistent abuse of the pedlars' certificate by some traders, and the ineffectiveness and cost of enforcement action are a substantial part of the reason why the promoters of private Bills seek the additional powers contained in the Bills, and our experience is that this outweighs any impact on "genuine pedlars," if any operate in their areas.
5. In paragraphs 101 and 102, the report says –

“If the Government were to amend the current regime we would be minded to also consider providing for a system whereby a local authority could implement restrictions on pedlar activities under specific conditions ... we would be wary of providing powers whereby general restrictions on pedlary could be introduced in

any given area ... we envisage that restrictions would generally take the form of a limit on numbers as opposed to seeking to limit modes of trading (e.g. trading from door to door) or completely banning pedlars, and that any new regulation would set out the circumstances and the conditions under which a local authority could apply restrictions".

6. Subject to our general comment in paragraph 2, we make no comment on the suggested approach in paragraphs 101 to 104 (local restrictions) save to query how local authorities would be expected to explain the arrangements that will be in place at the various events in line with the following –

"... it would be important that restrictions were properly communicated to pedlars a reasonable time in advance of them taking effect in order that pedlars can properly plan their activities and have time to apply for any licence".

7. This seems both onerous and impractical, especially in the light of the fact that the report states that "there are approximately 4,000 pedlars in the UK". Moreover, the peripatetic nature of pedlary would suggest that making contact would be difficult.

8. Paragraph 105 provides –

"To the extent that any new provisions had the same effect as provisions in private Acts of Parliament ... the Government would seek to repeal those Acts in consultation with the local authorities concerned".

9. First, we would assume that the reference to "those Acts" should be to "those provisions". Secondly, it is not clear what is meant by "the same effect". If this means that provisions in existing legislation which restrict pedlars actions to house to house would only be repealed if there were an identical provision in national legislation, then that would of course be acceptable. But it is not clear if that is what is meant, or whether it means that any change on the pedlars legislation would necessarily entail repeal of provisions in the Acts, which may well not be acceptable to those Councils which have private Acts.

Draft Guidance

10. We next turn briefly to the Draft Guidance appended to the report. Paragraph 8.5 of the Draft Guidance states –

It is unlikely, for example, that a full sized supermarket stock cage would be considered a reasonable means of aiding the constant movement inherent in a certified pedlar's permitted activities.

11. This seems something of an understatement. As mentioned elsewhere in the Draft Guidance, it was summarised in *Chichester DC v Wood* that a pedlar "is entitled to have some *small means* of assisting his transport of goods, such as a trolley". [Emphasis added]
12. Paragraph 9.2 of the Draft Guidance states that the private Bills currently progressing through Parliament "will have substantially the same effect on pedlars in their areas". Since the consultation started, differences have emerged

between a number of these provisions. We would suggest that if and when these Bills are enacted, paragraph 9.2 of the Draft Guidance be amended to take account of these differences.

Final

13. We are pleased that the government next intends to "publish a further consultation and a final stage impact assessment, setting out the costs and benefit of any future action". We hope that time could be found to discuss any proposals with authorities who currently enjoy the protection that their private Acts afford them, and also with those authorities currently promoting their own legislation.

Sharpe Pritchard
12 February 2010

SMITH , CLIVE (IMMITTO LTD)

I refer to the current BIS consultation on STREET TRADING AND PEDLAR LAWS.

In particular to the providing local authorities with additional enforcement options in respect of illegal street trading.

Immitto Ltd represents Stealth Mark, a US patented technology which has specifically been developed to deal with Counterfeiting, Substitution, Tampering, Diversion and Asset Protection; this technology has been introduced to UK police forces for asset protection and their drive on acquisitive burglary. In initial trials a 50% reduction in burglary crime was sustained; importantly a conviction ensued of a prolific burglar and due to the strength of the technology, the stolen goods were able to be identified and returned to the rightful owner who was extremely happy. This technology has been fully vetted by ACPO and awarded the Secured by Design accreditation.

For your reference I have enclosed a copy of the technology in the form of a PowerPoint presentation, along with a press release of a successful conviction from the technology.

I believe the interest and use of this technology can provide a solution for two main aspects of the problem:

1. **PROBLEM 1:** Local authority enforcement officers felt that the lack of standardisation and the inadequacy of the information provided on some certificates meant that verifying valid certificates was difficult and time-consuming. Pedlars held the view that updating and modernising the certificate would offer them increased protection from enforcement officers failing to recognise valid certificates and minimise the time required to verify certificates.

SOLUTION 1: The Stealth Mark technology provides the ability to mark the certificates and the identity cards with a unique code which can be verified through the readers as an on the spot verification. This, therefore, also acts to protect against identity theft/false identity.

1. **PROBLEM 2:** Counterfeit products and the management of verifying the genuine article.

SOLUTION 2: We are now working with branded manufacturers specifically to provide Stealth Mark particles to the genuine articles packaging and labels, this therefore will enable ability of on the spot checks with Stealth Mark readers, providing further clamp down on rogue illegal trading of counterfeit products.

I therefore, would wish to submit for involvement in the consultation process our technology and remain available to visit and demonstrate to Deba Hussain or Roger Dennison of the Consumer and Competition Policy

Directorate, Department for Business, Innovation & Skills, Bay 416, 1 Victoria Street, London SW1H 0ET.

Acknowledgement and safe receipt of this email and the attached presentation would be kindly appreciated and an indication of how we may take this forward prior to your review period ending 29th January 2010.

Yours sincerely

Clive Smith
immitto ltd
Commercialising Technology

STEVEN MCGOWAN

Stephen J. McGowan MA(Hons) LLB DipLP MIOI FSSP ABU
Flat 3/1,86 Waverley Street, Shawlands, Glasgow, G41 2DY
FIRST CLASS
Walter Drummond-Murray
Criminal Law and Licensing Division
Scottish Government
GW 15, St Andrew's House
Regent Road
Edinburgh
EH1 3DG
5 February 2010

Dear Sir

STREET TRADING AND PEDLAR LAWS

I write in connection with the above report, issued jointly by BERR (then BIS) and the Scottish Government. I would like to add a number of observations from the Scottish perspective.

1 The Scottish Perspective

This report considers the abolishment or reform of the Pedlars Act 1871. In Scotland, the natural place for the regulation of pedlars would be as a form of licensable activity under the Civic Government (Scotland) Act 1982 ("the 1982 Act"). If this report leads to new legislation it should be borne in mind, from the Scottish perspective, there is already a Bill before the Parliament, the Criminal Justice and Licensing Bill (CJLB), which seeks to amend the licensing provisions of the 1982 Act.

It seems to me that any provision which "implants" the pedlar certificate as a pedlar licence might be achieved through an amendment to that Bill, timescales permitting. Section 44 of the 1982 Act allows new forms of activity to be licensable and has been used on at least 4 occasions to introduce new forms of licence to the Scottish civic system, the most recent of which is the licensing of taxi offices. If the CJLB is too far advanced for an amendment then the additional activity of peddling could be introduced by secondary legislation.

It should also be noted that the EU Services Directive may have a substantial impact on the 1982 Act and any new pedlar legislation or amending provision should have regard to that aim of the Directive.

2 The Issuing Authority

Currently, local police forces are empowered to issue pedlar's certificates. In my experience, this is a duty that they would rather wash their hands of. Local councils in Scotland are empowered under the 1982 Act to licence a wide range of activities and in my view they are best placed to be the authority which, moving forward, should issue pedlar's "licences". There has been a concern regarding enforcement or renewal due to the itinerant nature of how a pedlar makes his money; but I would point you to the provisions of s.32(2) of the 1982 Act where we already have precedent for a

civic licence for an itinerant metal dealer, which has force throughout Scotland.

3 The Pedlar Certificate

My view is that the Pedlar Act 1871 should be abolished and the activity licensed, from the Scottish perspective, under the 1982 Act. The test for the suitability of applicants and grounds for refusal of a pedlar's licence should be simply those already in place under the 1982 Act, which are sufficient to guide the licensing authority that the applicant is "fit and proper". The actual certificate should, in this day and age, be a photographic ID badge and the computerisation of records, together with the FOI rules, should mean that a national database could be achieved.

Yours sincerely

-.-----

Stephen McGowan

Member of the Law Society of Scotland Licensing Committee

Author, "Licensing and Gambling Law in Scotland" (2009)

SUNDANCE FAIRTRADE

Sirs,

I am aware of pending amendments to the 1871 act re pedlars. I own a shop in Lincoln High Street (Sundance Fair Trade, 200 High Street Lincoln).

Last year there was an organised gang of pedlars operating in the High Street in Lincoln. They consisted of 6 individuals large trolleys selling cheap pashmina shawls. I observed them on many occasions remaining in the High Street in the same position for hours, in prime locations and paying the paltry sum of £12 per year for their pedlars certificates.

The problem became so bad that I complained to the police, the Local Council and to the local newspaper. The matter was published on the front page of the Lincolnshire Echo in November of last year.

Many times I was told by the police that they could not do anything. However one police officer W.P.C. Jane Pickworth, in conjunction with Mick Lake of Lincoln Business Improvement Group and Kevin Barron of the Lincoln City Council managed to reduce the number of pedlars to 2 (a combination of expired or bogus pedlars certificates meant that the individuals involved were moved on).

The law as it stands is being systematically abused. Pedlars often remain in one spot for hours in clear violation of the law. They often operate from large trolleys taking up positions in prime spots where it is difficult for the public or emergency vehicles to pass them. Many of them have no public liability insurance. In the instance of the pedlars in Lincoln who were all part of one gang they often made threatening gestures to my shop staff and also to other shops.

The pedlars seem to sell the same goods throughout the U.K. These include cheap shawls of questionable quality with little or no labelling. Also woolly hats, gloves and sunglasses. They do not seem to operate a system of refunds if the customer objects to the quality of their purchase. The fact that their signage is often identical in each city lends credence to the belief that they are operating within one gang. I know from personal experience that the pashmina shawls they sell are of Chinese origin. We also sell pashmina shawls (authentic ones). Their shawls are often offered to me overseas for 70p. They usually sell them for £5. Usually the pedlars are working for one central agency. I have heard that they are paid 50p for each one they sell which leaves £3.80 profit per shawl. As they sell something like 100 to 200 shawls per day and operate in many cities in the U.K. it can be clearly seen that these are not one off Del Boy types but part of an organisation making very large unregulated or audited profits.

We respectfully suggest that if the pedlars are allowed to operate certain things should change

1. The fee of £12 a year for a pedlars certificate is derisory and an insult to honest traders in shops and markets paying fair market rents.
2. There should be a much more stringent way of identifying the pedlar, perhaps an identity card linked to a central licensing authority. This way the pedlar could be checked against a national database when renewing the

card. Thus if there are complaints etc these would be available to interested parties.

3. There should be a much greater scrutiny of their activities including who they actually work for. Thus if they are working for one employer that employer should be responsible for a number of obligations e.g. income tax, v.a.t. and health and immigration regulations. (in our experience many of the pedlars are not legally allowed to work in the U.K.

4. Pedlars should be required to withdraw by the Local Council Licensing Authorities or the police if they are found to be violating their pedlars certificates e.g. standing in one prime spot for hours without moving.

5. Pedlars should be given a clear understanding of their duties to the public, what they can and cannot do. They should be required to have public liability insurance.

6. Many pedlars are also claiming off the benefits system. If a pedlar applies for a pedlars certificate their identity should be checked against the benefits system database.

I do hope that legislation is coming soon. It is long overdue and urgently needed.

Sincerely,

Les Dalton

Managing Partner

Sundance Fair Trade

Lincoln.