



## **Consultation Response form for England and Wales ONLY**

### **Consultation on Street Trading and Pedlary Laws – Compliance with the requirements of the European Services Directive**

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is **15 February 2013**.

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Please return completed forms to:

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If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group from the list below.

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government

<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input checked="" type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

Below we set out a variety of questions in relation to our draft set of regulations attached at Annex A of the consultation document

We would like all consultees to fully consider our proposals and **explain the reasons for your answers as fully as possible.**

### **Repeal of the Pedlars Acts:**

**Question 1:** Do you agree with the proposed repeal of the Pedlars Acts 1871 and 1881 UK-wide?

x Yes

#### **Comments:**

The Pedlars Act is out of date and is used to bypass street trading regulations. Very few holders of pedlars certificates operate as pedlars. Most just street trade.
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**Question 1.1** If you are a police force:

(i) what is the approximate annual cost of administering the pedlar certification scheme?

(ii) what impacts would repeal of the Acts have in terms of cost, time and/ or other factors?

#### **Comments:**

N/A
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**Question 1.2:** If you are a pedlar: what do you consider are the impacts of repeal, both in terms of costs, time and/ or other factors?

## Comments

N/A

**Question 1.3:** Do you consider that repeal would have an impact on any other organisation, individual or group? If so, please provide details of that organisation etc and what you consider the impacts on them would be.

## Comments

N/A

**Question 2:** Do you agree with our proposed new definition of a pedlar for the purposes of the pedlar exemption from the “national” street trading regime in England and Wales?

XYes

**Please fully explain your reasons for agreeing or disagreeing with any element of the proposed definition.**

## Comments:

To limit the size of the stall and set out the length of time someone can stop and trade without a street trading consent is a positive step.

The proposed dimensions of the stall are too big. This matter has been carefully considered by a House of Lords Committee in respect of four recent Bills (now Acts) relating to Canterbury, Leeds, Nottingham and Reading Councils. The dimensions of any pedlars stall should align with the dimensions in these 4 local Acts.

The proposed return period of 3 hours is too short, the Bournemouth bill operates at 12 hours. Which appears to work well.

## Amendments to Schedule 4 to the LG(MP)A

**Question 3:** If you are a local authority, do you envisage that there might be circumstances in which you would be able to designate a street as a licence/ consent street in relation to established traders but not in relation to temporary traders?

☒ Yes

### Comments:

The high street in a busy town is under pressure from various parties, one of which is people who wish to trade on the street. For reasons of public safety, the control of the number and location of street traders will need to continue. Without some control it would be a free for all as traders would compete for the most preferential trading locations.

**Question 4:** Do you agree that only one photo needs to be submitted with street trading applications which are made electronically?

☒ Yes

### Comments:

Yes the image can be scanned and reused.

**Question 5:** Do you agree with the proposal to replace the mandatory refusal ground? If not, please explain why you do not think that the 1933 Act provides adequate protection and why the minimum age requirement of 17 needs to be retained. (see paragraph 1.32).

☒ Yes

### Comments:

Yes

**Question 5.1:** If you are a local authority, can you indicate the approximate number of applications you would expect to be made from those under 17 years of age?

**Comments:**

Not possible to calculate Thames Valley Police have issued all the certificates in the past.

**Question 6:** Would it be helpful for BIS to issue guidance on the circumstances in which the discretionary grounds in 3(6) (a), (d), (e) and (f) can be used? (see paragraphs 1.33 and 1.34 above).

X Yes

**Comments:**

Yes clear guidance would be helpful.

**Question 7:** Do you think there are any circumstances in which the existing paragraph 3(6)(b) ground could be used compatibly with the Directive and, if so, please give reasons. (see paragraphs 1.36 - 1.37).

X No

**Comments:**

No, however, we must not allow a trader to block the use of a site.

**Question 7.1:** Do you consider that it is necessary to insert a new replacement “suitability” refusal ground into paragraph 3(6)? (see paragraph 1.38)

X Yes

**Comments:**

Each application needs to be considered on its own merits. Location and operating times are the main concern. The location is unsuitable due to pavement width, road layout, and public safety etc.

**Question 7.2:** In relation to this new ground, can you tell us:

(i) In what circumstances you would use this ground and how often?

(ii) Whether this ground would produce costs on you as a local authority, or on you as a business and what these costs are likely to be?

☐ Yes

☐ No

**Comments:**

The location is unsuitable due to pavement width, road layout, and Public safety.  
An application located in the wrong place would attract objections and would cause the matter to be referred to committee for consideration. (increased costs)

**Question 7.3:** Would it be helpful for BIS to issue guidance on the circumstances in which this replacement ground could be used?

X Yes

**Comments:**

Yes clear guidance would be helpful

**Question 8:** Do you think there are any circumstances in which either of these grounds could be used compatibly with the Directive in relation to temporary traders? (see paragraphs 1.39 -1.42)

X No

**Comments:**

NO

**Question 8:1:** Do you think it would be preferable to pursue our proposed approach of expressly preventing the grounds from being used in relation to temporary traders or to repeal the grounds completely?

☐ Yes

**Comments:**

Yes

**Question 8.2:** Will local authorities continue to use these grounds in relation to established traders?

X Yes

**Comments:**

A street traders could for various reasons stop trading but wishes to block other traders for operating at that location, there must be a system which permits the authority to make best use of limited trading space in the town.



**Question 8.3:** Do you foresee any difficulties with our proposals to limit the circumstances in which these grounds could be used in relation to established traders?

x Yes

☐ No

**Comments:**

Existing traders should be able to re apply for an existing consent, they have built a customer base and have traded with no problems. How can it be right to refuse the consent.

**Question 9:** Do you foresee any problem resulting from the proposed repeal of paragraph 3(8) of Schedule 4 to the LG(MP)A? (see paragraph 1.43)

Yes

**Comments:**

Is BIS proposing that for each location there is an open application process which requires some form of determination by council. This process would be costly and on what grounds would we choose the street trader? Why should existing traders be expected to reapply for a consent they operate. The investment required in equipment such as catering vans, (£12000) can be high and needs time to be recouped. A yearly open renewal process would lead to less investment in both training and equipment.

**Question 9.1:** Do you agree with our assumption that those who may benefit from this provision are more likely to be UK nationals than nationals of other Member States?

x No

**Comments:**

In any area of high demand there will be winners and losers, both UK Nationals and EU Nationals.

**Question 10:** Do you foresee any problems with our proposal to give local authorities flexibility to grant licences for longer than 12 months or indefinitely? (see paragraphs 1.44 – 1.47)

X No

**Comments:**

No

**If you are a local authority can you further tell us**

**Question 10.1:** Whether lengthening the duration of licences would have a positive, negative or neutral impact on the ability of new street traders to obtain licences to trade in your licence streets?

☐ Yes

☐ No

**Comments:**

At present there is a high demand for street trading locations, the changing of the duration of a licence would have little impact, if an existing trader ceased trading, another would step in.

**Question 10.2:**

**(i) Whether you are likely to issue licences for more than a 12 month period or indefinitely?**

X Yes

(ii) If you are likely to issue licences for a defined period which is longer than 12 months, what period you are likely to choose?

**Comments:**

2 Years, however consideration should be given to the other proposed changes that will impact of the permitted period of time

**Question 11:** Would it be helpful for BIS to issue guidance as to how the PSR may affect a local authority's ability to use some or all of the revocation grounds contained in paragraphs 5(1)( a) to ( c) in relation to established traders/temporary traders? (see paragraphs 1.48 – 1.50)

X Yes

**Comments:**

Yes

**Question 11.1:** Do you think there are circumstances in which the paragraph 5(1)(d) ground could be used compatibly with the Directive in relation to temporary traders?

☐ Yes

☐ No

**Comments:**

The street trader is preventing others from using the site,

**Question 11.2:** (i) Do you think it would be preferable to pursue our proposed approach of expressly preventing that ground from being used in relation to temporary traders or to repeal the ground completely?

x No

(ii) Will local authorities continue to use that ground in relation to established traders?

X Yes

**Comments:**

In a Borough where there is a high demand for street trading locations, councils must be able to use locations fully, allowing someone to block a location. In most cases an applicant can apply for limited use, thus allowing others to use the spare capacity.

**Question 11.3:** Do you foresee any difficulties with our proposals to limit the circumstances in which that ground can be used in relation to established traders?

X Yes

**Comments:**

Yes see 11.2
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**Question 12:** Do you foresee any problems with our proposals -

To disapply regulation 19(5) of the PSR where a mandatory ground for refusal of the application exists; or

X No

To leave it to local authorities to decide whether to put arrangements in place to disapply the regulation in other circumstances, or to specify what conditions will automatically attach to a licence which is deemed to have been granted under regulation 19(5)? Please give reasons for your views (see paragraphs 1.51 – 1.53)

X Yes

**Comments:**

An existing trader will have in most cases been approved for that location, the trader will have a number of standard conditions attached to the consent.
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**Question 13:** Do you foresee any problems with our proposals to allow local authorities to relax the prohibition in paragraph 7(7) in its entirety where appropriate? (see paragraphs 1.54 -1.57)

X No

**Comments:**

No

**Question 14:** Do you foresee any problems with our proposals to amend paragraph 10(1)(d)? (See paragraph 1.59)

x No

**Comments:**

No

**Question 15:** Please can local authorities tell us about any other local Acts regulating street trading which are not listed at Annex B of this document (or any Acts listed in Annex B which have in fact been repealed).

**Comments:**

Reading Borough Council recently attained Royal Assent. Our parliamentary agent has contacted BIS suggesting possible changes

**Question 15.1:** Please can local authorities tell us-

(i) whether having screened your local street trading Acts for compliance with the Directive, amendments /repeals need to be made to that legislation;

(ii) if such amendments/ repeals are needed whether you wish us to include them in our regulations.

**Comments:**

See Question 15

**Question 16: Please can local authorities tell us-**

- (i) what consequential amendments are needed to the provisions listed in Annex C as a result of the repeal of the Pedlars Acts (and provide appropriately drafted provisions);
- (ii) whether any consequential amendments are needed to other provisions of local Acts as a result of the repeal of the Pedlars Acts (and, if so, provide appropriately drafted provisions);
- (iii) if any of the provisions listed in Annex C are no longer in force.

**Comments:**

See Question 15

**Question 17: Can local authorities tell us-**

- (i) what consequential amendments are required to the provisions of local Acts listed above at paragraph 1.73 as a result of our proposed amendments to Schedule 4 to the LG(MP)A, and provide appropriately drafted provisions?
- (ii) whether (and, if so, what) consequential amendments are required to any other provisions of local Acts as a result of our proposed amendments to Schedule 4 to the LG(MP)A (and again provide appropriately drafted provisions)?

**Comments:**

N/A

**Do you have any other comments that might aid the consultation process as a whole? Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.**

**Comments:**

The proposed changes appear to favour newcomers at the cost of existing traders.

The proposed changes do not appear to understand the pressure placed on a busy town centre which is under constant pressure to supply space to traffic, pedestrians, buskers, A boards, Street performers, trade displays chuggers, etc.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☐

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☐ Yes

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