

CASUAL TRADING ACT 1995

Bye-laws in relation to the Control, Regulation, Supervision and Administration
of Casual Trading

Kilkenny County Council

The Council of the County of Kilkenny pursuant to the powers conferred on them by Section 6 of the Casual Trading Act 1995 hereby makes the following Bye-Laws in respect of the area comprising the Administrative County of Kilkenny.

1. Citation

These Bye-laws may be cited as the Kilkenny County Council Casual Trading Act 1995 Bye-laws 2002.

2. Commencement

These Bye-laws shall come into operation on the 1st day of September 2002 or in the event of an appeal on the date of final confirmation by the District Court or Circuit Court whichever is applicable.

3. Definitions

"The Act" means the Casual Trading Act 1995.

"Authorised Officer" means the person(s) appointed under Section 10 of the Act to be an Authorised Officer.

"Casual Trading" has the meaning assigned to it under Section 2 of the Act.

"Casual Trading Area" means the lands designated as an area, as per these bye-laws and the schedule attached hereto, where casual trading may be carried on.

"Casual Trading Licence" means a licence granted by the Council pursuant to Section 4 of the Act.

"The Council" means the County of the County of Kilkenny.

"Licence Holder" means the person to whom a casual trading licence is issued in accordance with the Act and shall include his/her authorised servants or agents.

"Selling" includes agreeing or offering to sell or displaying for sale, or inviting an offer to buy.

"Stall" means any moveable or mobile structure used for the purpose of casual trading.

"Trading Place" means a part of the Casual Trading Area as defined on the maps set out in the schedule hereto.

4. General

(a) Casual trading shall only be carried on at the locations designated for that purpose in the Schedule to these Bye-Laws or for a specified event or events at such other locations as may be approved by the Council in a licence issued pursuant to Section 4(1)(a)(iii) of the Act.

(b) A person shall not engage in casual trading unless he/she holds a Casual Trading Licence from the Council that is for the time being in force and the casual trading is in accordance with the licence.

(c) Casual trading shall be confined to the trading place at the designated Casual Trading Area in accordance with the licence issued and stalls are to be wholly within the trading places in the Casual Trading Area. The type of stalls used must be approved by the Council.

(d) No goods or articles shall overhang a stall or be deposited on the ground except within the trading place.

(e) The licence holder shall only trade in the goods specified in the casual trading licence.

(f) A suitable receptacle for refuse, agreed with the Council, must be provided by the licence holder and must be kept at all times of trading within the trading place.

(g) Litter must not be allowed to accumulate in the vicinity of the trading place during casual trading hours and at the end of the trading the trading place must be cleaned up and all refuse removed and properly disposed of by the licence holder.

(h) Stalls and all other articles must be removed after the hours of trading specified in the licence.

(i) The Council reserves the right to remove stalls found on the casual trading area after trading hours and/or goods or other articles left outside the trading place at any time. These items will be stored by the Council and will only be returned to the licence holder on the payment of the Council's costs in relation to the administration, removal and storage of these items.

(j) Licence holders engaged in the sale of foodstuffs shall comply with the requirements of the Food Hygiene Regulations for the time being in force and hold an appropriate licence from the Health Board.

(k) A licence holder trading in a casual trading area shall display the Casual Trading licence number relating to the trading, in such a position as to be clearly visible and easily legible to members of the public.

(l) A licence holder trading in a casual trading area shall not be permitted to use a loud speaker or public address system and shall refrain from causing nuisance or disturbance.

(m) Casual trading shall take place only during the hours specified in a casual trading licence. In the absence of being so specified -- between the hours of 8.00 a.m. and 6.00 p.m. (Casual Trading by Mobile Fast Food Outlets in the Casual Trading Area at Castlecomer shall be restricted so that casual trading shall cease and all equipment, stalls, articles, connected therewith be removed no later than 12.30 a.m.)

- (n) An applicant for a casual trading licence shall pay a licence fee as set out in the schedule attached hereto.
- (o) The allocation of a trading place by the Council shall not confer upon the licence holder any tenancy or right to occupy or to transfer said trading place.
- (p) Licence holders shall ensure that no obstruction is caused or allowed to be caused to the owners or occupiers of premises and their invitees in the vicinity of the Casual Trading area.
- (q) No licence holder or any other person shall interfere with or obstruct any officer, servant or agent of the Council engaged in the carrying out of any works of maintenance on any part of the casual trading area even where such work is carried out during trading hours.
- (r) The Council may grant more than one casual trading licence in respect of one trading place within a Casual Trading Area.
- (s) The Council shall not be responsible for any property belonging to any person wherever deposited or left in any part of the casual trading area nor for any loss, damage or injury caused by the negligence of any licence holder, his agents, employers or customers.

5. Authorised Officers

- (a) The Council shall appoint Authorised Officers for the purposes of managing and controlling its Casual Trading Areas.
- (b) An Authorised Officer may:
- (i) enter, inspect and examine any place where he has reasonable cause to believe casual trading is being engaged in.
- (ii) require any person whom he has reasonable cause to believe to be engaging in casual trading:-
- to produce, if it is not being displayed, a casual trading licence authorising such trading and to permit the officer or member of the Garda Síochána to examine the licence, and
- 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 these Bye-laws 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.

(c) An authorised officer who proposes to perform a power or function conferred on him by paragraph (b) 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.

(d) 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 these Bye-laws.

(e) 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 these Bye-Laws.

(f) A person shall be deemed not to have failed or refused to comply with a requirement of an authorised officer under these Bye-laws to produce a casual trading licence if he gives to the officer his name and address and if he is the servant or agent of another person, the name and address of that other person.

6. Penalties

Penalties for infringement of these Bye-laws will be the penalties as set out in Section 14 of the Casual Trading Act 1995 or by any amendment thereto.

7. The Kilkenny County Council Casual Trading Act 1995 Bye-laws are hereby repealed.

SCHEDULE

to

KILKENNY COUNTY COUNCIL

CASUAL TRADING ACT 1995 BYE-LAWS 2002

Part II

(a) The following are the fees in respect of Casual Trading Licences for the County of Kilkenny:-

An applicant for a Casual Trading Licence in a casual trading area shall pay a licence fee of €500 per annum except where casual trading takes place on more than one day per week then the licence fee shall be €500 plus €125 for each additional days casual trading per week. The maximum fee for a Casual Trading Licence will be €1,250 per Casual Trading Area.

(b) An applicant for a Casual Trading Licence to trade at locations specified in the licence for a specified event or events pursuant to Section 4(1)(a)(iii) of the Act shall pay a licence fee of €25 per day.

SCHEDULE

to

KILKENNY COUNTY COUNCIL CASUAL TRADING ACT 1995

BYE-LAWS 2002

Part I

The lands as set out below and as delineated on the maps attached hereto are hereby designated as the Casual Trading Areas by the Council for the County of Kilkenny. The number of trading places indicated below for each Casual Trading Area shall be the maximum number of trading places for that Casual Trading Area and the location of each trading place shall be as indicated on the maps attached hereto.

| <u>Town/Village</u> | <u>Location</u> | <u>Number of Trading Places in Designated Areas</u> | <u>Maps attached Numbered</u> |
|---------------------|--------------------------------|--|-------------------------------|
| Graigenamanagh | Boat Slip Area | 15 trading places | 1 |
| Thomastown | Mill Street | 1 trading place | 2 |
| Inistioge | Near Telephone Kiosk & Church | 1 trading place | 3 |
| Hugginstown | In Village | 1 trading place | 4 |
| Glenmore | Lay-by opposite Church carpark | 1 trading place | 5 |
| Castlecomer | The Square | 4 trading places (to accommodate weekly & monthly market. The same area to accommodate 2 places for Mobile Fast food outlets. Overlap to be accommodated by different trading hours). | 6 |
| Kells | Kilkenny Road | 1 trading place | 7 |
| Kilmanagh | Callan Road | 1 trading place | 8 |
| Gowran | Fairgreen | 1 trading place | 9 |

*** Note (for information only)**

Section 4(11) of the Casual Trading Act, 1995, provides that the local authority concerned shall notify the Minister for Social Welfare of the name and address of a person to whom a casual trading licence as granted and the conditions of the licence and section 4(2A) of the Casual Trading Act, 1995 (inserted by Section 141 of the Finance Act, 1996 (No. 9 of 1996)) provides that the local authority concerned shall notify the Revenue Commissioners of the name, address and tax reference number of a person to whom a casual trading licence was granted and the conditions of the licence. Section 13 of the Casual Trading Act, 1995 also provides that a local authority may establish and maintain the Register of Casual Trading Licences on computer. In such circumstances, personal data kept in the register is subject to the requirements of the Data Protection Act, 1988 (No. 25 of 1988 (including an individual's right of access to and verification of data, where appropriate).

SCHEDULE

TO

KILKENNY COUNTY COUNCIL CASUAL TRADING ACT 1995

BYE-LAWS

PART 11

- (a) The following are the fees in respect of Casual Trading Licences for the County of Kilkenny:-

An applicant for a Casual Trading Licence in a casual trading area shall pay a licence fee of €500 per annum except where casual trading takes place on more than one day per week then the licence fee shall be €500 plus €125 for each additional days casual trading per week. The maximum fee for a Casual Trading Licence will be €1,250 per Casual Trading Area.

- (b) An applicant for a Casual Trading Licence to trade at locations specified in the licence for a Casual Trading Licence to trade at locations specified in the licence for a specified event or Events pursuant to Section 4(1)(a)(iii) of the Act shall pay a licence fee of €25 per day.

