

COMHAIRLE BUIRGE CHILL CHAINNIGH
KILKENNY BOROUGH COUNCIL



CASUAL TRADING BYE-LAWS, 2013

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PART 1

Bye-Laws 2013

Kilkenny Borough Council in exercise of its powers under Section 6 of the Casual Trading Act 1995 and Section 19 of the Local Government Act 2001 hereby make the following Bye-Laws in relation to the control, regulation, supervision and administration of Casual Trading in the administrative area of the Borough of Kilkenny.

Citation:

These Bye-Laws may be cited as the Kilkenny Borough Council Casual Trading Bye-Laws 2013.

Commencement:

The provision of these Bye-Laws shall come into effect on 1st day of November, 2013. In the event of an appeal, the Bye-Laws shall come into effect on the date of the final confirmation of the District Court or Circuit Court whichever is applicable.

Definitions:

In these Bye-Laws, the following definitions shall apply:-

<i>“the Acts”</i>	means the Casual Trading Act 1995 and Local Government Act 2001
<i>“Kilkenny Borough Council”</i>	means the administrative body for Kilkenny City as set out in Sections 10 & 11 and schedule 5 of the Local Government Act 2001.
<i>“Casual Trading”</i>	Has the meaning assigned to it in Section 2 of the Act.
<i>“Casual Trading Area”</i>	Means the lands designated as an area, as per these bye-laws and the schedule attached hereto, which casual trading may take place,

within the administrative area of the Borough of Kilkenny.

<i>“Stall”</i>	Shall include any wheeled or moveable stall or box, barrow, cart, trailer, caravan or other vehicle or both or other stand or conveyance used for casual trading.
<i>“Goods”</i>	shall include all provisions or marketable commodities.
<i>“sell”, “Selling” or “sale”</i>	Includes agreeing to offer to sell or displaying for sale or inviting an offer to buy.
<i>“Licence”</i>	Means licence under Section 4 of The Casual Trading Act, 1995 and for the time being in force.
<i>“Casual Trader/Licence Holder”</i>	Means any person licensed to carry out casual trading pursuant to “the Act” and these bye-laws and shall include his/her servants or agents, if authorised in writing in accordance with these bye-laws.
<i>“Trading Bay”</i>	Means the maximum single area, numbered on the Schedule Map attached to these bye-laws, that may be occupied in a Casual Trading Area by a person engaged in casual trading.
<i>“Vehicle”</i>	Means and includes every means of conveyance, whether mechanically propelled or not, of persons, market produce or any goods or article.
<i>“Authorised Officer”</i>	means a person appointed by the Local Authority under Section 10 of the Casual Trading Act 1995 and Section 19 of the Local Government Act 2001.

Exemptions:

In these bye-laws, in addition to the classes of selling specified in Section 2 of The Act, casual trading does not include:

- (a) The selling of newspapers, periodicals, magazines or other printed matter or pious or religious objects at or in the immediate vicinity of a church or place of worship on days on which service or other religious ceremonies take place therein.

- (b) Selling of fish by the person whom, or member of the crew by which the fish were caught.

Designation:

Kilkenny Borough Council hereby designates the areas indicated on Schedule One to these bye-laws and more particularly defined on the maps attached to Schedule One as the lands on which casual trading may be carried out on (in these bye-laws referred to as “the casual trading area”).

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

Where an event, approved by Kilkenny Borough Council, (e.g. Savour Kilkenny Festival, Christmas Market), requires the use of the designated casual trading area, then the licence holders shall re-locate to the Gravel Walk for the period of the approved event. Suitable advance notice will be given to licence holders to ensure minimum disruption.

PART 2 - General

1. A person shall not engage in casual trading in the casual trading area unless:-
 - (i) He/she holds a General Casual Trading Licence from Kilkenny Borough Council that is for the time being in force or alternatively
 - (ii) He/She holds an Event Casual Trading Licence for a specified event and the casual trading is carried out in accordance with the licence.

2. A person engaged in casual trading:-
 - (i) shall not use or cause to be used for the purpose of Casual Trading any stall, the dimensions of which shall cause to be obstructed in any way the free passage to or from the immediate approaches thereto.
 - (ii) Shall not obstruct or cause to be obstructed in any way the entrance to any premises in the vicinity of the casual trading.
 - (iii) Shall not obstruct or cause to be obstructed in any way a public road, footpath or public right of way.
 - (iv) Shall not conduct trading in a manner that causes or is likely to cause offence.

3. No person shall use the Casual Trading Area for the purpose of sale of any goods within half an hour of the time of the commencement of the market or allow any goods belonging to him or in his charge to be in the Casual Trading Area more than half an hour after the time fixed from the closing of the Market. Any goods so left may be removed by the Borough Council or its agents and the person leaving such goods, shall be liable to pay such charges as Kilkenny Borough Council may determine from time to time.

4. The maximum area that may be occupied in the casual trading area by a person engaged in casual trading shall be the maximum area of the casual trading space the subject matter of the casual trading licence granted by Kilkenny Borough Council.

5. The direction that trading will be allowed, within the casual trading space/bay shall be as indicated on maps attached to Schedule One or as determined by an Authorised Officer appointed for the purpose of regulating casual trading.
6.
 - (i) The allocation of a bay, in the Casual Trading area, shall be a matter for the Council. Individual trading spaces shall be allocated by the Council by such methods that it may, at its discretion, decide. This shall not exclude allocation by lot.
 - (ii) The Council may, in its absolute discretion, permit a bay, allocated under a casual trading licence to be temporarily used by any other trader when not in use by the trader to whom it was allocated.
 - (iii) No trading shall take place between the hours of 1.00 a.m. and 8.00 a.m.
7. No broadcasting or speech or music from a mechanical or electronic amplification system shall take place from any stall or any vehicle and no loud playing of radios or music reproduction appliances shall take place at any stall, save with the expressed permission of Kilkenny Borough Council.
8. A person engaged in Casual Trading:-
 - (i) shall not cause or suffer any fowl or feathered game to be plucked at or about his/her stall
 - (ii) shall not cause or suffer any fish to be trimmed, gutted or cleaned at or about his/her stall unless authorised by Kilkenny Borough Council.

Food, prepared or unprepared, shall not be displayed, stored or kept in any other manner except and in accordance with the Food Hygiene Regulations, or any further regulations that may be made in that regard and applicants for a Casual Trading Licence relating to the sale of food must produce evidence of compliance with such regulations.

9. The stall holder shall not permit any person other than his employees and assistants to use the said stall and the stallholder shall not employ any person who because of his age is prohibited from working.
10. The stall holder shall not display goods beyond the boundaries of his stall either on the ground or hanging over the sides of the stall, or deposit or cause to be deposited any goods or articles on the ground except on the portion of the ground within the trading bay.
11. The Council shall not be held responsible for any property belonging to any person whatsoever deposited or left at any place while Casual Trading, nor for any loss, damage or injury caused by the negligence of any trader, their agents, employees or customers.
12. All generators, used in conjunction with Casual Trading stalls, shall conform to acceptable noise levels and a manufacturer's certificate will be required to confirm specification.
13. Trading vehicles, stalls, media for display, goods, etc. shall only be allowed in the Designated Casual Trading Areas during the hours covered by the licence. There shall be no overnight parking. No trader shall park any vehicle or object in the designated trading area so as to cause an obstruction on the public roadways, footpaths or parking areas in the vicinity of the Designated Casual Trading Areas.
14. A trader shall not trade in, park vehicle(s) in, deposit refuse in or in any way interfere with, any other trading bay(s) in the trading area or hinder any other person in the proper use of the Designated Casual Trading Areas.
15. Each trader 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 Designated Casual Trading Areas.
16. In the event of non-compliance with any of these regulations by the holder of a trading licence or by his/her servant or agent, Kilkenny Borough Council may terminate the trading licence without notice.

17. Any existing Licence granted under the Kilkenny Borough Council Casual Trading Bye Laws 2003 shall be deemed to be a valid Casual Trading Licence for the remainder of the period specified in such Licence at the location specified in Part 3, Schedule One.
18. These Bye-laws shall be known as the Kilkenny Borough Council Casual Trading Bye-Laws 2013.
19. A person engaged in casual trading shall indemnify the Council against any claim whatsoever by any person for damages for personal injuries, loss or damage caused by any act or omission of the said person holding a licence or his/her servants or agents in and about the carrying on of casual trading.
20. Applications for licences must be accompanied by evidence of a current valid policy of insurance with a recognised insurance company and covering all activities associated with the purposes for which the Casual Trading Licence is to issue including all risks and perils to a minimum of €6,350,000 for any one incident, extending to provide an indemnity to the Council in respect of claims arising from the negligence of the Trader. Notice of termination of a policy shall render the said Casual Trading Licence null, void and of no effect and in which event the licence holder including servants and agents of the applicant shall forthwith cease to trade and render the area vacant and returned to the control of Kilkenny Borough Council.

LITTER

21. A person carrying on casual trading shall keep the area in which he/she is casual trading in a clean and tidy condition and for that purpose shall:-
- (i) cause the stall to be properly cleansed and removed immediately after the sale of goods for the day.
 - (ii) As often as is necessary and, when directed by the Council or its servants or agents, cause all refuse arising from his trade or business to be placed in a suitable and sufficient receptacle to be provided by him/her in close connection with such stall.
 - (iii) As often as is necessary cause the contents of any receptacle provided for the reception of refuse to be promptly removed, without creating a nuisance or obstruction, to any other person or persons.
22. Each trader shall be responsible for the management of all wastes arising from his/her trading and associated activities and shall remove all waste generated from his/her business or trade. All waste removed by traders from the Designated Casual Trading Area shall be disposed of in a manner which complies with the Waste Management Act 1996. Any trader found to be in breach of this bye-law shall be liable to prosecution under the Litter Pollution Act 1997 and shall be liable to have their Casual Trading Licence revoked.
23. Each trader who sells food or drink for immediate consumption shall comply with Section 15 of the Litter Pollution Act 1997 in that suitable waste receptacles shall be provided to prevent the creation of litter and the trader shall ensure that any litter caused by the operation of the outlet is removed from the vicinity within a reasonable distance.

LICENCE

24. (i) An application for a Casual Trading Licence shall be made not less than thirty days in advance of the first date on which trading is to take place.
- (ii) Only goods listed on the licence application may be sold from the stall of a casual trading licence holder.
- (iii) 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.
- (iv) The type of stall must be approved by the Council.
- (v) The allocation of a trading space/bay shall not confer upon the licence holder any tenancy or right to occupy or transfer said trading space/bay.
25. No stall trader will be entitled or allowed to trade without first having obtained a Casual Trading Licence from Kilkenny Borough Council.
- a) An application in writing for a Casual Trading Licence must be lodged with the Town Clerk at least thirty days prior to the intended commencement date of trading and shall be accompanied by the appropriate fee.
- b) A casual trading licence for stall trading shall be effective for a period of one year subject to compliance by the Stall Trader with the Bye-Laws and subject to paragraph (d) below.
- c) A register of Casual Trading Licences shall be retained by the Borough Council.
- d) A Casual Trading Licence may be revoked at any time by the Borough Council at its discretion, as provided for in the Casual Trading Act 1995.
26. A person carrying on casual trading shall display by a notice in the prescribed form the number of the casual trading licence:
- (a) The notice displayed pursuant to these bye-laws shall be painted or inscribed or printed and affixed on a durable material, and

- (b) shall be so displayed in a conspicuous position while casual trading as to be clearly visible and easily legible to members of the public at such place.
 - (c) Form No. 1 set out in the Schedule to these bye-laws shall be the prescribed form of the notice required to be displayed under this bye-law for casual trading not being casual trading at an event or events.
 - (d) Form No. 2 set out in the Schedule to these bye-laws shall be the prescribed form of the notice required to be displayed under this bye-law for casual trading at an event or events.
27. A Casual Trading Licence shall only be used by the person to whom the licence was issued or by such agent of such person as agreed in writing by the Council. The holder of a Casual Trading Licence shall be restricted to trading in the space/bay, allocated for that specific licence at any one time in the Borough of Kilkenny.
28. A person applying to the Council for a Casual Trading Licence shall furnish to the Council, the information requested in the form prescribed, together with such further information as the Council may request for the purposes of the exercise of its powers and functions under the Act and, if a person fails to comply with this Article, the Council may refuse to grant the person the licence.
29. The Council 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/she was the holder of a casual trading licence or an offence under the Act.
30. The licencing period in any year will be from 1st March for a period of 12 months.
31. Each stall trader shall obey all reasonable orders given to him/her by the Borough Council or its agent in accordance with the Casual Trading Act 1995 and shall conduct himself/herself in an orderly and proper manner.

32. The Borough Council will not be responsible for any property belonging to any person whatever deposited or left in any part of the trading area. The Borough Council shall not be responsible for any loss, damage, or injury caused by the negligence of any trader, his agents, employers or customers.
33. No person shall construct or hinder any other person in the proper use of the trading area or of any article provided by the Borough Council for use therein.
34. Stalls and goods shall only be parked in the trading area during the hours as specified in the above schedule. There shall be no overnight parking of stalls or goods.
35. If any trader fails to comply with the reasonable orders of the Borough Council or its agents, the stall and goods may be immediately removed and stored by the Borough Council or its agent, and the stall trader shall be liable for the costs incurred by the Borough Council.
36. Every person conveying goods to or from the Designated Areas, shall as often as necessary and without creating a nuisance or obstruction remove or cause to be removed from every avenue or passage in the areas and from the footway or roadway of the immediate approaches thereto all refuse arising from the loading or unloading or the conveyance of the goods by him upon or through the avenue, passage footway or roadway.
37. If the trading bay is not used for a continuous period of one month Kilkenny Borough Council may, at its discretion, serve notice on the licence holder that his/her licence may be revoked for the remainder of the licence period, and arrange to reallocate the bay in question.
38. When deciding on the renewal/issuing of annual casual trading licences, Kilkenny Borough Council may, at its discretion, take into account the usage of the licence by traders in the previous year.
39. Traders selling food for human consumption shall comply in all respects with the Food Hygiene Regulations 1950 – 1989, the

European Communities (Official Control of Foodstuffs) Regulations 1998 and the European Communities (Hygiene of Foodstuffs) Regulations 2000.

Authorised Officers:

40. The Council shall appoint an Authorised Officer or Officers for the purposes of the control, regulation, supervision and administration of Casual Trading.
41. A Casual Trader shall comply with all lawful requests and directions by an authorised officer or a member of the An Garda Síochána.
42. An Authorised Officer appointed by the Council may:-
 - a. enter, inspect and examine any place where he/she has reasonable cause to believe that casual trading is being carried out.
 - b. Require any person whom he/she 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
 - c. If he/she 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/her name and address and, if he/she is the servant or agent of another person, the name and address of the other person.
 - d. Make such examination and inquiry as may be necessary to ascertain whether the provisions of the Act or of these bye-laws are being complied with.
 - e. Require any person whom he/she has reasonable cause to believe to be engaging in casual trading in contravention of the Act to give such information as is in his/her power to give as to the ownership of any goods being sold in the course of such trading.

43. A person shall not obstruct or interfere with, or give false information to an Authorised Officer or member of An Garda Siochána in the performance of functions under these bye-laws.
44. Any person requested by an employee or agent of Kilkenny Borough Council acting in lawful pursuit of his/her duty, to leave the Designated Casual Trading Areas shall do so, peaceably and forthwith.
45. No trader nor any other person shall interfere with, interrupt or obstruct any employee or agent of Kilkenny Borough Council engaged in the carrying out of any works or maintenance on any part of the Designated Casual Trading Areas even when such work is carried out during trading hours.

Event Trading:

46. Kilkenny Borough Council reserves the right to award trading licences to traders for special events, festivals and fairs.
47. Applications for event licences shall be made not less than thirty days in advance of the date on which trading is to take place.
48. Kilkenny Borough Council reserves the right to limit the number of licences awarded for each event.
49. Kilkenny Borough Council reserves the right to allow trading to take place outside of the hours specified in Article 6(iii) for certain events.
50. Trading shall be carried out in accordance with specific conditions attached to the event licence and all conditions of such licence shall be strictly adhered to by the licensee.
51. All articles of these bye-laws shall apply to licensees licensed for event trading.

Fees:

53. (i) A Fee of €325 per annum shall be payable to the Council in respect of an application for the grant of a Casual Trading Licence for casual trading in the administrative area of Kilkenny Borough Council or as adopted by Kilkenny Borough Council from time to time.
- (ii) The fee for an Event Casual Trading Licence shall be as determined by Kilkenny Borough Council from time to time.
- (iii) Fees set out under this section shall be updated annually by the Council in accordance with the Consumer Price Index.

These fees shall be non-refundable in the event of revocation of a licence.

54. Kilkenny Borough Council reserves the right to include any condition, within reason, on a Casual Trading Licence.
55. Applications for Casual Trading Licences shall be made on the appropriate form addressed to the Senior Executive Officer, Kilkenny Borough Council, City Hall, High Street, Kilkenny.
56. The Council reserves the right to grant or refuse a Casual Trading Licence.

PENALTIES

57. Every person who shall offend against any of the foregoing bye-laws shall be liable on conviction to a fine not exceeding €12,679 in accordance with Section 3 of the Casual Trading Act 1995 and €1,269 (other than section 3) in accordance with the Casual Trading Act 1995 or such increased amounts which may be fixed by statute from time to time.

PART 3

Kilkenny Borough Council hereby designates the following Casual Trading Areas.

Schedule One

- Location:* The Parade, Kilkenny. The area to contain twenty (20) individual marked bays as outlined on the attached map, and one Special Casual Trading Area.
- Times:* Each Thursday from 9.00 am to 4.00 pm
- Products for sale:* Food, fruit, vegetables, flowers and hand made craft items only.
- Fee for licence:* The licence fee shall be **€325** or as adopted by Kilkenny Borough Council from time to time.

The Borough Council may vary the location, number of trading bays, times, products for sale and fees referred to in this schedule to reflect decisions that are taken in the interest of the proper planning and development of the city.

These Bye-Laws shall be known as the Kilkenny Borough Council Casual Trading Bye-Laws, 2013 and shall come into operation on the 1st day of November, 2013.

Made and adopted under the Common Seal of Kilkenny Borough Council for the Borough of Kilkenny this 9th day of September, 2013.

Signed:

Mayor

Senior Executive Officer

Form No. 1

Form of Notice required to be displayed while engaging in Casual Trading.

KILKENNY BOROUGH COUNCIL

CASUAL TRADING ACT 1995

Kilkenny Borough Council has granted a Casual Trading Licence under Section 4 of the Casual Trading Act, 1995, and Section 19 of the Local Government Act 2001 authorising casual trading in the administrative area of Kilkenny Borough Council at:

BAY NO.: _____

Located at: _____

The Number of the Casual Trading Licence is: _____
(Insert number of the Licence)

The Casual Trading Licence expires on: _____
(Insert the date upon which the Casual Trading expires.)

Signed: _____
Senior Executive Officer.

Date: _____

Form No. 2

Form of Notice required to be displayed at an event or events specified in a Casual Trading Licence to which the public are admitted, whether subject to or free of charge, or at or in the immediate vicinity or the place where and on the day on which the event takes place.

KILKENNY BOROUGH COUNCIL

CASUAL TRADING ACT 1995

Kilkenny Borough Council has granted a Casual Trading Licence under Section 4 of the Casual Trading Act, 1995 and authorising casual trading at the event/events set out as follows:

Event(s): _____

(set out the event(s) and the location of such event(s))

Date of Event(s): _____

(set out the date(s) upon which casual trading is authorised under the Casual Trading Licence)

The Number of the Casual Trading Licence is: _____
(Insert number of the Licence)

Signed: _____
Senior Executive Officer.

Date: _____