

Report – Port Health and Environmental Services Committee

Street Trading: Repeal of Part III of the City of London (Various Powers) Act 1965

To be presented on Thursday, 20th June 2019

*To the Right Honourable The Lord Mayor, Aldermen and Commons
of the City of London in Common Council assembled.*

SUMMARY

It is unlawful under the City of London (Various Powers) Act 1965 (“the 1965 Act”) for a person to carry out street trading on a City walkway. However, the City Corporation’s powers of enforcement do not extend to seizure and forfeiture, which are available in respect of illegal street trading on a street under the City of London (Various Powers) Act 1987 (“the 1987 Act”), as amended by the City of London (Various Powers) Act 2013.

The City Corporation may, acting through the Court of Common Council, appoint a day for the repeal of Part III of the 1965 Act and advertise this date in the London Gazette and a newspaper circulating in the City. The effect of this will be to include City walkways within the street trading regime applied by the 1987 Act and will enable full enforcement including prosecution, seizure and forfeiture and the issuing of temporary street trading licences on City walkways.

RECOMMENDATION

The Court of Common Council is **recommended** to agree that Monday 22nd of July 2019 be appointed as the day from which the provisions of Part III of the 1965 Act are repealed and that this date is advertised in the London Gazette and a newspaper circulating in the City. This will allow for full enforcement action to be employed by the City Corporation henceforth.

MAIN REPORT

Background

1. Currently, Licensing Officers of the Department of Markets and Consumer Protection are authorised to enforce legislation in respect of street trading within the City of London under the provisions of the City of London (Various Powers) Act 1987.
2. It has recently come to light that there is a difficulty with enforcing the full provisions of the 1987 Act and with issuing temporary street trading licenses on City walkways, in that City walkways are not included within the definition of “street” for the purposes of the 1987 Act. The 1965 Act (the predecessor of the 1987 Act for the purposes of street trading and which, for the reasons set out

below continues to remain in force) does include City walkways within the definition of “street”.

3. As Part III of the 1965 Act continues in force until repealed, the definition of street trading set out in section 12 also continues. Therefore, it is possible to continue to prosecute for unlawful street trading on City Walkways by applying the provisions of the 1965 Act, but not to seize or apply for forfeiture, or to issue temporary street trading licenses, something that is essential to allow officers to continue to control the scourge of illegal street trading in the City.

Current Position

4. Section 25 (2) of the City of London (Various Powers) Act 1987 repeals Part III of the City of London (Various Powers) Act 1965 (street trading provisions) from such a date that the City Corporation may appoint. However, the City Corporation cannot appoint a date until the death of the last person entitled to the grant of a 1965 Act registration.
5. The 1965 Act remains in force until such an event has occurred and the City Corporation publishes the appointed date of the repeal of Part III of the 1965 Act.
6. Events have now arisen that there are no persons alive who are entitled to the grant of a 1965 Act licence, in that the last two people trading under a 1965 Act licence have surrendered their 1965 Act succession licences in exchange for 1987 Act licences.
7. The City Corporation after appointing a day under subsection (2) “*shall publish notice thereof in the London Gazette and in a newspaper circulating in the City*”
8. Advice has been obtained from the Comptroller and City Solicitor and the City Remembrancer on this matter.

Corporate & Strategic Implications

9. This proposal links to two Corporate Plan aims: ‘*Contribute to a flourishing society: people are safe and feel safe*’ and ‘*Shape outstanding environments: our spaces are secure, resilient and well-maintained*’.
10. The repeal of Part III of the 1965 Act links to the Markets and Consumer Protection Department’s Business Plan top-line objective ‘*The Licensing Team will undertake enforcement against illegal street traders, especially on and near City bridges.*’

Conclusion

11. There are no longer any persons alive who are entitled to the grant of a 1965 Act licence and to ensure the department’s Officers can effectively enforce the provisions of the City’s street trading legislation the date of Monday 22nd of July 2019 is to be appointed as the day from which the provisions of Part III of the 1965 Act are repealed.

All of which we submit to the judgement of this Honourable Court.

DATED this 21st day of May 2019.

SIGNED on behalf of the Committee.

Jeremy Lewis Simons
Chairman, Port Health and Environmental Services Committee