

Committee(s):	Date(s):
Streets and Walkways Port Health and Environmental Services Planning and Transportation	10 March 2014 11 March 2014 18 March 2014
Subject: City of London (Various Powers) Act 2013 London Local Authorities and Transport for London (No. 2) Act 2013	Public
Report of: The Remembrancer	For Information

Summary

This report sets out the main changes made to the City's street trading regime and its powers in relation to City Walkways following the passing of the City of London (Various Powers) Act 2013.

The Act provides the City Corporation with the power to issue temporary street trading licences so that commemorative and seasonal events will be able to include a street trading element if the City wishes. To provide a further amenity for residents, workers and visitors to the City, the Act provides for the City Corporation to be able to approve the setting up of ice cream stalls outside food premises. Powers of enforcement against illegal street trading and in relation to City Walkways have been strengthened.

The report also explains the effect of the London Local Authorities and Transport for London (No. 2) Act 2013. This Act provides minor additional powers for the Corporation in relation to highways.

Recommendation

Members are invited to note the contents of this report.

Main Report

Background

1. The only place where street trading has been permitted in the City for over a century is in Middlesex Street, as part of the "Petticoat Lane" Sunday market. There has been no desire for this to be changed radically, but there has been a wish to liberalise the regime so as to enable temporary street trading to take place in limited circumstances. In recent years there have also been problems with illegal street trading in the City of London, particularly from ice cream vans. In 2010 an injunction was obtained against one particular company to prevent it trading in the City, but this exercise was highly resource intensive. To be able to take more effective and immediate enforcement action, it was

clear that amendments were required to the City Corporation's legislation. A Bill was therefore drafted to provide for temporary street trading and strengthened enforcement powers. The opportunity was also taken to make other changes that were required to the street trading regime and legislation related to City Walkways.

2. The Bill was sponsored in the House of Commons by Mark Field MP and in the House of Lords by Lord Brooke of Sutton Mandeville. It received Royal Assent on 18 December 2013, following a relatively short passage through the House of Commons. The Bill had its First Reading in the House of Lords at the beginning of 2011. There was then a lengthy delay because of an objection by the Department for Business, Innovation and Skills to the provision for ice cream sales on the basis of a suggested conflict with the EU Services Directive. The City provided an opinion from leading Counsel in support of the measure, but it was not until June 2013 that the Department, after taking its own Counsel's advice, withdrew its objection.
3. During the Commons stages, a number of objections were made to the Bill by a small group of MPs who have objected over the last few years to all local authority Bills and in particular to those providing enhanced enforcement powers. The proposed strengthened enforcement powers included in the City's Bill were similar to those existing in Westminster and the rest of London. In response to the criticisms made by the MPs, amendments were put forward at Commons Committee stage. These amendments made relatively small changes to the legislative powers but were such as to enable the Bill to pass through its remaining stages without further objection.
4. The most significant of the changes was an increase in the burden of proof on a police officer or other authorised officer, so as to require that, where an officer is considering seizing goods, he must have reasonable grounds for believing that a person has committed a street trading offence, rather than simply reasonable suspicion that the person has committed an offence.

Powers exercisable by the City Corporation

5. The Act provides two principal new powers for the Corporation. First, the Corporation may now issue temporary street trading licences. Under the City of London (Various Powers) Act 1987, the only street trading permitted was in the part of Middlesex Street in the City and only on Sunday mornings. The new power enables street trading licences to be issued for trading for up to 21 days in any area of the City other than Middlesex Street. Where a temporary market is proposed, the Act provides for one person to be able to apply on behalf of a number of traders. Provision is made by the Act for charges for processing applications and for the recovery of expenses, and for the application procedure.
6. The second main new power provided by the Act is for the Corporation to be able to permit stalls to be set up for the sale of ice cream and similar confectionary outside food businesses. The Corporation's approval is required

for the design and location of the stall. The restriction to food premises will enable a high standard of hygiene to be maintained.

Enforcement

7. The Act increases the maximum penalty levels for street trading offences from level 2 (currently £500) to level 3 (currently £1,000), as applies in the rest of London. It will also be possible for fixed penalty notices to be issued for unauthorised street trading.
8. A new seizure power applies to goods being unlawfully sold, and to equipment and vehicles used by unlawful street traders. This will enable, for example, an ice cream van operating in the City to be seized. The van must be returned to the owner within 3 days unless the owner has been convicted of a previous street trading offence.
9. In response to suggestions made by MPs, the Bill was amended to provide a statutory requirement for training to be provided to any Corporation officer who is to be authorised to use these enforcement powers. This is currently being prepared for City Corporation staff and City of London Police officers.

Other changes

10. The Act changes the arrangements for fixing Middlesex Street traders' charges. The 1987 Act provided for charges to be the subject of a tariff imposed by by-laws. The by-law mechanism has proved cumbersome and so provision is now made for the imposition of charges following consultation with the traders.

City Walkways

11. The Act also contains two provisions in respect of the City Walkways. The statutory code relating to City Walkways is in Part 2 of the 1967 Act and provides for a Walkway to be created by formal resolution of the Corporation. The 1967 Act is amended so as to enable the Corporation to recover administrative and advertising costs incurred in complying with the necessary resolution requirements. This is similar to the provision for applications in respect of other rights of way.
12. Secondly, provision is made for parking on Walkways to be an offence in respect of which a Penalty Charge Notice may be issued. The enforcement regime for parking on City Walkways is now the same as the existing civil enforcement of the prohibition on parking on footpaths in the City and elsewhere, that is, through the issue of Penalty Charge Notices by Civil Enforcement Officers.

London Local Authorities and Transport for London (No. 2) Act 2013

13. This Private Act, introduced on behalf of all London boroughs and the City Corporation, also received Royal Assent on 18 December 2013. It faced

considerable opposition in Parliament and took some 6 years to pass all its Parliamentary stages. The Act will enable the City Corporation to take more effective enforcement action by means of civil traffic regulation (a penalty charge notice regime) on builders' skips that are not properly lit and covered when placed on paths or roads, in place of existing criminal offences; makes it an offence to interfere with a barrier placed on a highway by a traffic authority pursuant to a road traffic regulation order; and will enable the City Corporation to provide charging points for electrical vehicles on highways and in car parks or to grant permission for others to do so. Other provisions were included in the Bill on introduction, including powers to regulate pedicabs, but were strongly opposed and subsequently removed from the Bill.

Conclusion

14. The Markets and Consumer Protection Department, together with the Department of the Built Environment, are preparing a draft policy framework to be used in the exercise of the new street trading powers. Under the City of London (Various Powers) Act, the City Corporation must place on its website information about the Act and its policies as to enforcement of street trading laws. The draft policy will be submitted to your committee's next meeting for approval.

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