



DRAFT

COUNTY OF KERRY

(CASUAL TRADING) BYE-LAWS 2013

(KENMARE, CO. KERRY)

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Kerry County Council, in exercise of its powers under Section 6 of the Casual Trading Act, 1995, hereby makes the following Bye-Laws in relation to the control, regulation, supervision and administration of Casual Trading at The Square, Kenmare, Co. Kerry.

CITATION:

These Bye-Laws may be cited as the County of Kerry (Casual Trading) Bye-Laws 2013 (Kenmare, Co. Kerry). Kerry County Council (Casual Trading) Bye-Laws 1997 are hereby revoked in respect of Kenmare, Co. Kerry.

1. DEFINITIONS:

In these bye-laws the following definitions shall apply-

“The Act” means the Casual Trading Act, 1995.

“The Council” means the Council of the County of Kerry.

“Authorised Officer” means a person appointed under Section 10 of the Act to be an authorised officer.

“Casual Trading” means selling goods at a place (including a public road) to which the public have access as of right or at any other place that is a casual trading area.

“Casual Trading Area” means land standing designated by bye-laws under Section 6 of the Act as an area where casual trading may be carried on.

“Casual Trading Place /Space/Bay” means the maximum single area, numbered on the Map attached to these bye-laws that may be occupied in the Casual Trading Area by a person engaged in casual trading.

“Casual Trading Licence” means a licence granted under Section 4 of the Act.

“Casual Trader/Licence Holder” 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.

“Market Right” means a right conferred by franchise or statute to hold a fair or market, that is to say, a concourse of buyers and sellers to dispose of commodities.

“Vehicle” means and includes every means of conveyance, whether mechanically propelled or not, of persons, market produce or any goods or article.

“Stall” shall include any wheeled or moveable stall or box, barrow, cart, trailer, caravan, vehicle or conveyance used for casual trading.

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

2. EXEMPTIONS:

As specified in Section 2 of the Act, casual trading does not include:-

- (a) selling by auction (other than by Dutch auction) by the holder of a licence or permit for the time being in force under the Auctioneers and House Agents Act, 1947 to 1973
- (b) selling to a person at the place where he resides or carries on business
- (c) selling in respect of which it is shown by the seller –
 - (i) that any profits therefrom are for use for charitable purposes or for other purposes from which no private profit is derived, and
 - (ii) that no remuneration, emolument, gain or profit will accrue to the seller or his servants or agents therefrom.

3. DESIGNATION:

- 3.1 The Council hereby designates the area outlined on the map attached hereto at The Square, Kenmare, Co. Kerry as a place where Casual Trading may be carried on (in these Bye-Laws referred to as “the Casual Trading Area”).
- 3.2 Casual Trading in Kenmare shall be confined and restricted to the casual trading area.
- 3.3 Casual Trading in the casual trading area shall be conducted on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, of each week and confined to those days.

4. CASUAL TRADING LICENCE

- 4.1 As stated in Section 3 of the Act a person shall not engage in casual trading unless he is or is the servant or agent acting as such of a person who holds a casual trading licence, that is for the time being in force and the casual trading is in accordance with the licence.
- 4.2 Casual Trading Licences shall be issued by the Council.
- 4.3 An application for a casual trading licence shall be made to the Council not less than 30 days before the first day on which it is intended to engage in casual trading and shall be in the form prescribed by Regulations made by the Minister.
- 4.4 The licence period of a Casual Trading Licence shall be 12 months.
- 4.5 A Casual Trading Licence shall licence a named casual trader to engage in casual trading at a specified casual trading bay weekly on (a) specified day(s).
- 4.6 A licence fee shall be payable on the issue of a Casual Trading Licence.

4.7 The fee for a one day a week Casual Trading Licence shall be:

Specified Day	Fee
1 day per week	€200
2 days per week	€400
3 days per week	€600
4 days per week	€800
5 days per week	€1000
6 days per week	€1200

Application form should specify the weekday for which the licence is sought – cannot be interchangeable.

- 4.8 A licence fee shall not be refunded in the event of a licence being revoked.
- 4.9 Casual trading shall be conducted in accordance with the terms and conditions of a Casual Trading Licence and these Bye-Laws.
- 4.10 A licence cannot be transferred.
- 4.11 In the event of breach of these Bye-Laws or the terms and conditions of a Casual Trading Licence, the Council may revoke the licence.
- 4.12 Before deciding to revoke a licence, 21 days notice giving particulars of the breach and of the Council's intention to revoke the Licence shall be posted by ordinary post to the casual trader/licence holder. The Council shall have regard to any written submissions made by the casual trader/licence holder prior to deciding whether or not to revoke the licence.

5. CASUAL TRADING AREA

- 5.1 The Council shall allot a trading bay in the casual trading area to a casual trader/licence holder. The size of the bay is as indicated on the map of the casual trading area affixed to these bye-laws. The allocation of each bay shall be at the sole discretion of the Council to facilitate other road users (pedestrians, car parking, etc.).

Such allocation shall not create a tenancy, licence or other entitlement to the bay. Allocations may be changed or revoked at the discretion of the Council and shall not be transferable.

- 5.2 Where the number of applications for a casual trading licence is greater than the number of trading bays provided, the Council reserves the sole right to grant a licence having regard to the following scheme, for prioritising applications:-

- (a) Casual Traders who have exercised a right to sell goods at Kenmare continuously for over 3 years immediately preceding an application for a licence and whose licence has not been revoked. 20 marks

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| (b) | Casual Traders who have exercised to sell goods at Kenmare continuously for over 1 year but less than 3 years immediately preceding an application for a licence and whose licence has not been revoked. | 10 marks |
| (c) | Casual Traders proposing to sell goods, equipment or other articles, which have been grown, crafted or manufactured locally. | 10 marks |
| (d) | Casual Traders proposing to sell goods, equipment or other articles, for which another casual trading licence has not already been granted or another application has not been received by the Council immediately preceding receipt of an application for a licence. | 5 marks |
- 5.3 Trading shall take place between the hours of 8.30 a.m. and 6.30 p.m. only.
- 5.4 Casual Trading shall be confined to the trading bay in the casual trading area specified in a Casual Trading Licence and a trading stall shall be wholly within the trading bay.
- 5.5 One trading bay shall be allocated per casual trader/licence holder. Where there is capacity on a particular weekday consideration may be given to allocating a second adjoining bay. The fee for an additional bay shall be double the fee outlined in Regulation 4.7 for the casual trading licence.
- 5.6 The type of stall used shall be approved by the Council.
- 5.7 No stall shall be of such weight or be so loaded as to be capable of transmitting a bearing pressure in excess of 7kg / mm.sq. to any of its supports or the surface on which it is placed.
- 5.8 No stall shall exceed 2.75m in height (from ground level).
- 5.9 All generators used in conjunction with casual trading stalls shall conform to acceptable noise levels i.e. not to exceed 55db(A) – where db(A) means decibel level and a manufacturer’s certificate will be required to confirm specification.
- 5.10 Each casual trader/licence holder shall confine his/her stall and all his/her goods, equipment or other articles to his/her allocated trading bay. No goods or articles shall overhang the area outside the allocated trading bay.
- 5.11 Stalls and all other goods and articles must be removed by casual trader/licence holders from their allocated trading bay and from the casual trading area on the expiration of the trading day.
- 5.12 Stalls and articles shall not be left on or near a trading bay earlier than 30 minutes prior to commencement of a trading day and no later than 30 minutes after cessation of a trading day.
- 5.13 The Council shall be entitled to remove stalls, vehicles, equipment and articles left in the casual trading areas in breach of these Bye-Laws.

- 5.14 A casual trader/licence holder shall keep and maintain his/her casual trading bay in a clean and tidy condition, free from litter, waste disposal arrangements shall be the responsibility of the casual trader / licence holder.
- 5.15 Vehicles other than a vehicle required for casual trading shall not be parked in the casual trading area.
- 5.16 Vehicles shall not be left in the casual trading area over night.
- 5.17 A casual trader/licence holder shall not park a vehicle in a parking bay designated under the County of Kerry Traffic and Parking Bye-Laws 1986 (as amended) within 100m of the designated casual trading area.
- 5.18 These Bye-Laws shall not apply during the following dates:-
- On Fair Day (27th day of February: 15th day of April: 15th day of August: 15th day of December) in each year and if any of these days shall happen to fall upon a Sunday then such fair is to be held on the Monday following.

6. MANAGEMENT

- 6.1 A person applying to the Council for a casual trading licence shall furnish to the Council the information requested in the form of Licence Application prescribed pursuant to Section 4 of the Act together with such further information as the Council may request for the purpose of exercising its powers and functions under the Act. If a person fails to comply with this Bye-Law the Council may refuse to grant that person a Licence.
- 6.2 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.
- 6.3 The Council shall not be responsible for any property, goods or equipment of any kind deposited or left in any part of the casual trading area or any loss, damage or injury arising from the actions of casual trader/licence holders.
- 6.4 Casual trader/licence holders shall indemnify the Council against all claims arising from their conduct of casual trading in the casual trading area and furnish the Council with verification of current insurance indemnity cover in the amount of €6.4 million to the Council's satisfaction.
- 6.5 Casual trader/licence holders shall sell only the goods specified in their licence.
- 6.6 Casual trader/licence holders shall while trading clearly display their licence so as to be clearly legible to members of the public.
- 6.7 Casual trader/licence holders selling food shall comply with the relevant Food Hygiene Regulations and requirements of the Health Service Executive.
- 6.8 Speech and or music shall not be loudly broadcast from any mechanical or electrical amplification system or radio or music reproduction appliance at any trading bay.

- 6.9 Live animals shall not be exhibited for sale or sold in the casual trading area.
- 6.10 Casual trader/licence holders shall not obstruct traffic or pedestrians.
- 6.11 Casual trader/licence holders shall not obstruct or cause to be obstructed in any way a public road, footpath or public right of way.
- 6.12 Casual trader/licence holders shall not conduct trading in a manner that causes or is likely to cause offence.
- 6.13 The Council shall appoint persons to be Authorised Officers for the purpose of the Act and implementation of these Bye-Laws.
- 6.14 Casual trader/licence holders shall comply with all lawful requests and directions by an Authorised Officer or a member of An Garda Síochána.
- 6.15 Casual trader/licence holders shall be responsible for compliance with these Bye-Laws by their servants, agents, assistants and employees.
- 6.16 The Council reserves the right to grant or refuse a Casual Trading Licence.
- 6.17 Casual trader/licence holders shall produce, on request their current Casual Trading Licence to an Authorised Officer or a member of An Garda Síochána.

Made under the Official Seal of Kerry County Council

Dated this _____ day of _____ 2013

PRESENT when the Official Seal of Kerry Council was affixed hereto:-

Mayor or Nominated Employee

These Bye-Laws will come into effect on the _____