EXPLANATORY MEMORANDUM

PART 1

PRELIMINARY

Clause 1 deals with citation and commencement. It provides that the majority of the operative provisions of the Bill will come into operation two months after Royal Assent. Other clauses will come into force on a day or on days to be appointed by the London borough councils. The detailed procedure which must be followed by the councils when appointing a day for the commencement of the provisions of the Bill are contained in *Clause 3. Clause 2* sets out definitions of certain expressions used in the Bill.

PART 2

PENALTY CHARGES

Part 4 of the London Local Authorities Act 2007 sets out a regime, applicable throughout Greater London, which enables London borough councils to use a civil penalty charge procedure for the enforcement of a number of offences, which themselves were decriminalised by the 2007 Act. Part 4 of the 2007 Act was drafted in such a way that future enactments could decriminalise other offences and make them subject to the detailed procedures set out in Part 4.

Part 2 of the Bill has the effect of partially decriminalising certain existing offences and applying the provisions of Part 4 of the 2007 Act to them.

Clause 4 deals with interpretation of *Part 2*.

Clause 5 provides that *Schedule 1* to the Bill shall have effect and that the provisions of *Schedule 1* are penalty charge provisions for the purposes of section 61 of the 2007 Act, meaning that the detailed penalty charge procedures set out in Part 4 of the 2007 Act will apply to the offences mentioned in *Part 1* of *Schedule 1*.

Part 1 of *Schedule 1* has the effect of partially decriminalising littering offences in Greater London. The offence of littering is contained in Section 87 of the Environmental Protection Act 1990. Local authorities are already able to serve fixed penalty notices in respect of these offences, and are able to keep the receipts from such fixed penalties. If a person is offered the opportunity to pay a fixed penalty under the existing procedure, he can discharge any criminal liability by paying the penalty, or otherwise he can contest the proceedings in the magistrates' courts.

The effect of partially decriminalising the offence under *Schedule 1* and making it subject to Part 4 of the 2007 Act will be that councils will also be able to serve a penalty charge notice on the person who is suspected of dropping the litter. He then has a period of 28 days in which to pay the penalty charge (the amount of which will be reduced if he pays within 14 days). The recipient is also able to make representations to the council in respect of the penalty charge and if those representations are rejected, there is a right of appeal to an independent adjudicator. All of these general provisions

are set out in Part 4 of the 2007 Act. If after the appeals process is exhausted, or if no appeal is made at all and payment is still not received by the council, then provision is made in the 2007 Act enabling the council to take enforcement action through the County Court.

The grounds on which representations can be made against a penalty charge notice are specified in *Schedule 1* to the Bill in relation to each individual offence which is partially decriminalised. In the case of littering, the grounds for representations reflect the defences that are available in relation to the existing littering offence, namely that the littering was authorised by law or was done with the consent of the owner, occupier or other person having control of the land where the litter was deposited.

The provisions of *Schedule 1* do not have the effect of removing potential criminal liability for the various offences dealt with. The issue of "double jeopardy" is met in each case by providing that a penalty charge is not payable if criminal proceedings have instituted and that if a penalty charge is paid, no criminal liability can arise.

Part 2 of *Schedule 1* partially decriminalises offences under the Dogs (Fouling of Land) Act 1996. Although the whole of that Act was repealed by section 65 of and Part 5 of Schedule 2 to the Clean Neighbourhoods and Environment Act 2005, there were saving provisions in the relevant commencement order which meant that the 1996 Act could remain in force under certain circumstances. Under the 1996 Act, it is an offence for a person in charge of a dog to fail to remove faeces from designated land if the dog defecates on the land. *Clause 6* would partially decriminalise the offence and make it subject to the provisions of Part 4 of the London Local Authorities Act 2007. The grounds on which representations could be made against a penalty charge notice reflect the defences available under the 1996 Act, thus the provisions do not apply to registered blind persons and persons with other disabilities who require the assistance of trained dogs.

Part 3 of *Schedule 1* makes similar provision about failing to remove dog faeces, but this time in the context of the regime that replaces the Dogs (Fouling of Land) Act 1996, namely the dog control order provisions of the Clean Neighbourhoods and Environment Act 2005.

Part 4 of *Schedule 1* has the effect of partially decriminalising offences in relation to Dogs on Leads Orders made under the Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006. Dogs on Leads Orders make provision about the keeping of dogs on leads or on leads of maximum lengths prescribed in the order, during such times or periods as may be prescribed in the order.

Part 5 of *Schedule 1* partially decriminalises offences in relation to Dogs on Leads by Direction Orders. This type of dog control order may make provision about keeping a dog on a lead when directed to do so by an authorised officer of a borough council.

Part 6 of *Schedule 1* partially decriminalises offences in relation to Dogs Exclusion Orders. This type of order can make provision excluding dogs from land during times or periods as may be specified in the order.

Part 7 of *Schedule 1* partially decriminalises offences under Dogs (Specified Maximum) Orders. This type of order can make provision prescribing how many dogs may be taken on to certain land at one time by one person.

Part 8 of *Schedule 1* provides for the civil enforcement of contraventions of section 27 of the Road Traffic Act 1988, which enables Councils to designate roads in their area on which dogs must be kept on leads.

Clauses 5 and *6* make general provision about the procedure for penalty charge notices under Part 4 of the London Local Authorities Act 2007.

Clause 5 extends the powers of police community support officers and accredited persons under Schedule 4 and Schedule 5 to the Police Reform Act 2002. That Act has the effect of enabling them to serve penalty charge notices and fixed penalty notices in relation to a number of offences. *Clause 5* would have the effect of enabling them to serve penalty charge notices in respect of penalty charges which become payable under Part 4 of the London Local Authorities Act 2007 (therefore including penalty charges in relation to the various litter and dog related matters described in *Schedule 1*).

Clause 6 provides London borough councils, authorised officers of London borough councils, community support officers and accredited persons with powers to require a person on whom they intend to serve a penalty charge notice to give them his name and address, in cases where a penalty charge notice is to be served under section 61 of the London Local Authorities Act 2007. If the requirement is made in person by an authorised officer of a council, then he must show proof of his authorisation. It is an offence to fail to give a name and address or to give a false or inaccurate name or address in response to a requirement under *Clause 6.*

PART 3

PUBLIC HEALTH, ENVIRONMENTAL PROTECTION AND HIGHWAYS

Part 3 contains a number of miscellaneous provisions relating to public health, environmental protection and highways.

Clause 7 makes provision about street litter control notices. Street litter control notices are notices served under section 93 of the Environmental Protection Act 1990. They can be served by the principal litter authority (in London, the borough council) imposing requirements on occupiers of premises with a view to the prevention of accumulations of litter or refuse in and around any street or open land adjacent to any street. Under section 94 of the 1990 Act, the Secretary of State is given power to prescribe the descriptions of commercial or retail premises in respect of which a street litter control notice may be issued, amongst other things. The effect of *Clause 7* would be to extend the type of premises which the Secretary of State can prescribe under section 94 so that it includes all premises in Greater London except for dwellings. This will bring into the scope of the street litter control notice procedures public buildings and other buildings which are not commercial or retail premises. The amount of litter generated by smokers who are no longer able to smoke inside places of work is one of the reasons for this proposed alteration in the legislation in London.

Clause 8 makes provision about charges for public toilets. *Clause 8* has the effect of enabling London borough councils to make a charge for the use of urinals in public toilets. Under section 87 of the Public Health Act 1936, local authorities are given powers to provide sanitary conveniences in proper and convenient situations. Subsection (3)(c) of that section provides that the local authority may charge such fees for the use of any such conveniences, other than urinals, as they think fit. Subsection

(1) of *Clause 8* would have the effect of omitting the words "other than urinals" so far as section 87 applies in Greater London.

Subsection (2) of *Clause 8* amends the application of the Public Lavatories (Turnstiles) Act 1963 in Greater London. Section 1(1) of that Act provides that every turnstile in any part of a public lavatory or public sanitary convenience controlled or managed by a local authority or in any entrance or exit of such lavatory or convenience had to be removed six months after the 1963 Act obtained Royal Assent. It also provided that no turnstile should be provided in the future. Subsection (2) of *Clause 8* disapplies those provisions in Greater London.

Clause 9 alters provisions in the Highways Act 1980 which enable local authorities to give permissions for the use of objects, etc. on the highway. Part VIIA of the 1980 Act was inserted by the Local Government Miscellaneous Provisions Act 1982 and it enables the councils themselves to place objects or structures on, in or over a highway and also give permission to others to do so. Section 115E of the 1980 Act is the provision which enables the councils to give such permissions to others and section 115F enables the councils to place conditions on any permission given under section 115E. It provides that the councils can require the payment of such reasonable charges as they may determine. Subsection (2) of section 115F provides that except where the council are the owners of the sub-soil beneath the part of the highway in relation to which the permission is granted, the charges may not exceed the standard amount and the "standard amount" is defined in subsection (3) of section 115F. In turn that provides that in relation to permissions given to others to place objects on the highway, the charges that the council may make must not exceed their reasonable expenses in connection with granting the permission (in other words their administrative charges).

Clause 9 would allow London borough councils to take into account additional considerations when setting the level of charges in relation to cases where they have given their permission under section 115E(1)(b)(i), namely where they have given permission for the placing of objects on the highway where doing so will result in the production of income. A typical example of when this might happen is where the Council has given permission for a restaurant to place tables and chairs on the highway. *Clause 9* would enable the council, when setting the charges, to include in their calculations reasonable costs in the aggregate incurred in relation to the granting of permissions in the collection, removal and disposal of refuse or other services rendered to the holders of permissions, additional maintenance and repair of the highway, the cleansing of streets and reasonable administrative or other costs incurred in granting permissions.

Clause 10 puts on a statutory footing an existing scheme in London which is known as "Scores on the Doors". The scheme makes provision about the display of food hygiene documentation at premises which are subject to food hygiene inspections by the borough council. London borough councils are under a duty to inspect food business establishments for food hygiene and safety standards in pursuance of European regulations (Community Regulation 852/2004) and the Food Hygiene (England) Regulations 2006. *Clause 10* would apply to all food business establishments in London except those which are located in dwellings. Subsection (3) of *Clause 10* would provide a duty on the relevant food business operator who controls the establishment to make sure that the relevant food hygiene documents are displayed at the establishment in accordance with the requirements of *Clause 10.* "Food hygiene documents" is a term defined in subsection (19) and in summary means a certificate provided by the London borough council, together with a sticker representing the rating given by the council

to the premises in question. Under the voluntary scheme which is currently in operation, the sticker consists of a star rating, with the highest rating being five stars.

Subsections (4) to (10) of *Clause 10* make detailed provision about how and where the documentation should be displayed. The main thrust of the subsections is that where the premises are open for customers, then the documentation must be readable by customers outside the entrance to the premises. There are also provisions to cater for cases where the premises are not open at any time to customers and also for cases where the preparation or distribution of food is carried on in a smaller part of larger premises (for example, a delicatessen counter in a supermarket or a staff canteen in an office). Provision is also made for cases where there is no entrance to the premises, for example, a market stall or a hot dog van.

Subsection (11) of *Clause 10* provides for cases where the duty to display the food hygiene documents shall not apply and they include cases where there has been no relevant inspection of the premises since 1 January 2006, where there has not been an inspection in the last six years or the council has determined that the premises need not be the subject of a relevant inspection. In the latter case that might be because the premises are of such low risk that no inspections need to be carried out.

Subsection (13) of *Clause 10* provides that it is an offence for the food business operator to fail to comply with his duty to display the inspection documents and subsection (14) provides for defences against the offence. These include him not knowing and not reasonably being expected to know that the documents were not being displayed or that it was reasonable for him not to comply with the duty. Subsection (15) contains offences relating to matters such as the display of false documentation. All of the offences under subsections (13) and (15) will be, by virtue of subsection (18) fixed penalty offences under the London Local Authorities Act 2004. This will mean that the offender may be given the opportunity to discharge his criminal liability by the payment of a fixed penalty to the borough council.

PART 4

HOUSES IN MULTIPLE OCCUPATION: MANAGEMENT NOTICES

The Housing Act 2004 made comprehensive provision about a wide range of social housing matters, ensuring that local housing authorities retained some control over houses in multiple occupation ("HMOs") and in particular the standards to which HMOs were kept and their safety. However, the 2004 Act also removed pre-existing powers of local housing authorities to take action in cases where the management of HMOs fell below required standards. The effect of *Part 4* is to reinstate those powers in Greater London.

Section 234 of the 2004 Act enables the Secretary of State to make regulations that impose duties on persons who manage HMOs. The Management of Houses in Multiple Occupation (England) Regulations 2006 have been made and those regulations make provisions requiring managers of HMOs to provide information about himself to occupiers of the HMO, to take safety measures, to maintain water supply and drainage, to supply and maintain gas and electricity, to maintain common parts, fixtures, fittings and appliances, to maintain living accommodation and to provide waste disposal facilities. Failure to comply with the duties is an offence under section 234(3) of the 2004 Act.

Clause 11 makes provision about the interpretation of *Part 4* and includes definitions of "HMO" (a house in multiple occupation as defined by sections 254–259 of the 2004 Act), "management notice" (i.e. a notice under *Clause 12*(1)) and "specified premises" (i.e. premises specified in a management notice).

Clause 12 provides local housing authorities (which in Greater London, means the London borough councils) with a power to serve on the manager of an HMO a management notice, if the authority are of the opinion that the condition of the HMO is defective in consequence of a failure to comply with a duty imposed under the management regulations. A management notice is a notice requiring the person on whom it is served to take such remedial action as is specified in the notice. Subsection 12(3) provides that the local housing authority must serve a copy of the notice on every other person who to their knowledge has a relevant interest in the specified premises (i.e. a freeholder, lessee or mortgagee) or is an occupier of the specified premises.

Clause 13 sets out the information that must be contained in a management notice. It must specify the nature of the failure of management and the HMO in respect of which it arose, the nature of the remedial action required, the date when the remedial action is to be started and the period within which it is to be completed (or the periods within which each part of it is to be completed). It may not require that remedial action should be started any earlier than 28 days after the date of service of the notice. The notice must also contain information about the right of appeal against the notice (see *Schedule 2*).

Clause 14 deals with the time when a management notice becomes operative and provides a general rule that a management notice will become operative at the end of the period of 21 days beginning on the day on which it is served (which is also the period for appealing against the notice under *Schedule 2*). If such an appeal is made, then the notice will not become operative until the appeal has been determined and the notice is confirmed.

Clause 15 introduces *Schedule 2* which makes detailed provision about appeals against management notices. The person on whom the management notice is served, or the freeholder, lessee or mortgagee of the premises may appeal to a residential property tribunal against the notice. General provisions about residential property tribunals can be found in Part 7 of the Housing Act 2004. Section 229(1) of that Act provides that any jurisdiction conferred on a residential property tribunal by any enactment is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977.

Paragraph 1(2) of *Schedule 2* sets out the grounds on which an appeal may be made and they include that the condition of the premises did not justify the making of the requirement in the notice, that the local housing authority refused unreasonably to approve the taking of alternative remedial action, that the remedial action required is unreasonable in character or extent or is unnecessary, that the date specified for the beginning of the remedial action or the time within which it must be taken is not reasonable or sufficient or that some other person is responsible for the state of affairs calling for the taking of the remedial action.

Paragraph 3 of *Schedule 2* sets out the time limits for making an appeal, namely 21 days from the date on which the notice or the copy of the notice was served under *Clause 12*. The tribunal can allow for later appeals if there is a good reason.

Paragraph 4 of *Schedule 2* provides that an appeal shall be by way of a re-hearing and sets out the powers of the tribunal, namely that they can confirm, quash or vary the management notice.

Paragraph 5 of *Schedule 2* makes provision about cases where the grounds of the appeal were that some other person was responsible for the state of affairs calling for the taking of the remedial action specified in the management notice. It provides that the tribunal can vary the notice so as to require the action to be taken by any owner of the premises.

Paragraph 6 of *Schedule 2* makes further provision about the "operative time" for the notice, already dealt with in *Clause 14*. It has the effect of extending the operative time in cases where a further appeal is made from the residential property tribunal to the lands tribunal. Such appeals can be made under Section 231 of the Housing Act 2004.

Clause 16 introduces *Schedule 3* to the Bill. *Schedule 3* makes provision about the taking of remedial action by the local housing authority and the recovery of expenses in doing so.

Part 1 of *Schedule 3* makes provision about the taking of remedial action by the local housing authority by agreement.

Paragraph 1 of *Schedule 3* enables the local housing authority to take any action which is required to be taken under the terms of a management notice, by agreement with the person on whom the management notice has been served. Paragraph 1 also gives the local housing authority all the rights which the recipient of the notice would have against any occupying tenant of and any other person having an interest in, the premises or any part of the premises.

Paragraph 2 of *Schedule 3* provides that any action taken by the local housing authority under paragraph 1 is to be taken at the expense of the person on whom the management notice was served.

Part 2 of *Schedule 3* makes provision enabling the local housing authority to take action without agreement in cases where either the management notice is not complied with or reasonable progress has not been made towards compliance with the management notice. Sub-paragraph 3(5) enables any person authorised in writing by the local housing authority to enter the premises for the purposes of the taking of the action, so long as the right is exercised at a reasonable time.

Paragraph 4 of *Schedule 3* makes further requirements about the serving of notices before the local housing authority can enter premises under paragraph 3. The notice must be served on the person on whom the management notice was originally served and a copy must be served on any other person who is an occupier of the premises.

Paragraph 5 of *Schedule 3* makes provision for offences in relation to the obstruction of the local housing authority using their default powers and paragraph 6 makes provision allowing the local housing authority to recover their expenses in taking action in default.

Part 3 of *Schedule 3* deals with the recovery of expenses by the local housing authority. Paragraph 8 (1) provides that the expenses are recoverable from the person on whom the management notice was served, but also makes special provision for cases where

that person receives the rent of the premises as agent or trustee for another person, in which case the expenses are also recoverable from that person.

Provision is made in paragraphs 9 and 10 about the service of demands for recoverable expenses and in relation to interest.

Paragraph 11 enables appeals to be made to residential property tribunals in respect of demands for the recovery of expenses.

Paragraph 12 enables the local housing authority to serve recovery notices on occupiers of the premises concerned if they are tenants or licensees of the person on whom the demand was served under paragraph 9. A recovery notice has the effect of transferring to the authority the right to recover, receive and give a discharge for the rent until the expenses recoverable by them have been paid.

Paragraph 13 provides that expenses recoverable by the local housing authority, together with interest, are to be a charge on the premises to which the management notice relates.

Finally, paragraph 14 makes provision in relation to cases where the local housing authority have been unable to recover their expenses and a person is making a profit out of the premises which would not have been obtainable if the number of persons living in the premises was limited to that appropriate for the premises in their state before the remedial action had been taken by the authority. In such a case, the local housing authority may make an application to the residential property tribunal for an order that the person making the profit should make such payments to the local housing authority as the tribunal considers to be just.

Clause 17 provides that a management notice that has become operative is a local land charge.

Clause 18 provides savings for rights arising from breaches of covenants or contracts entered into by tenants. It ensures that owners are able to obtain remedies in respect of such breaches in cases where management notices have been served.

Clause 19 makes provision as to what should happen in cases where a management notice has been served and other action has been taken in respect of the HMO under separate provisions of the Housing Act 2004 (namely enforcement action under section 5 or 7 (duty and powers to take enforcement action in relation to hazards)) or management orders under Chapter 1 or 2 of Part 4 of the 2004 Act). In cases where such action has been taken then the management notice, if operative, ceases to have effect and is to be treated as from that time as if it had not been served or made. Furthermore, in cases where under section 308 of the Housing Act 1985 (which relates to cases where the owner has redevelopment proposals for the premises) the local housing authority have approved proposals for the redevelopment of land, no action is to be taken under Part 4 for so long as the redevelopment is being proceeded with in accordance with the proposals and within time limits specified by the local housing authority.

Clause 20 applies a number of miscellaneous provisions contained in the 2004 Act to management notices. These relate to provisions about consultation with fire and rescue authorities, power to charge for enforcement action and recovery of such charges, powers of entry for survey or examination and service of documents.

PART 5

HOUSING: POWERS OF ENTRY, ETC.

Part 5 makes provision about powers of investigation and enforcement under the Housing Act 2004.

Clause 21 amends section 239 of the Housing Act 2004 in its application to London. Section 239 sets out the powers of local housing authorities to enter premises where they consider that a survey or examination of the premises is necessary. Certain conditions must be met before the powers are exercised. The first is that the survey or examination is necessary in order to carry out an inspection to determine whether a hazard exists on the premises or otherwise to determine whether any functions under Parts 1 to 4 of the 2004 Act should be exercised. The second is that the premises are subject to an improvement notice or prohibition order under the 2004 Act and the third is that a management order is in force in relation to the premises under Part 4 of the 2004 Act. The powers can also be used if there is an "official complaint" from a justice of the peace, that there is a hazard at the premises or that the premises form part of what should be a slum clearance area. Finally, by virtue of *Clause 20* of the Bill, the powers would also be available for investigations as to whether a management notice is required to be served under *Part 4* of the Bill.

Subsection (5) of section 239 provides that before entering premises under these powers, the person authorised to enter the premises ("the authorised person") must give at least 24 hours notice of his intention to do so on the owner of the premises (if known) and to the occupier (if any) in all cases. A recent case in the residential property tribunal has confirmed that that has to be the case, even if the occupier has invited an authorised person onto the property.

Subsection (2) of *Clause 21* would remove the need to serve notice of entry on the owner except in cases where there is no occupier. Subsection (2) would have the effect of removing the need to give notice at all where any delay in entering the premises is likely to give rise to unnecessary and imminent risk to the safety or health of the occupiers of the premises and subsection (4) would enable an authorised person to enter premises to carry out a survey or inspection if invited to do so by the occupier.

Clause 22 amends section 243 of the Housing Act 2004 in its application to London. That section deals with authorisations for enforcement purposes under the 2004 Act. It provides that any authorisation for individual officers to exercise certain powers on a case by case basis (including the powers of entry mentioned above) must be given by an officer of the local housing authority who is at least a deputy chief officer of the authority. The amendment would also enable such authorisation to be given to a person who reports directly to a deputy chief officer.

PART 6

LICENSING

Part 6 deals with various miscellaneous licensing regimes applicable in Greater London.

Clause 23 makes provision about premises in London which have the benefit of a premises licence under the Licensing Act 2003, which in turn has the effect of

permitting regulated entertainment at the premises. Before the coming into force of the 2003 Act, there were special provisions in London for the licensing of public entertainment (including public music and dancing) in Schedule 12 to the London Government Act 1963. Schedule 12 was repealed by the 2003 Act, and replaced by provisions which require a licence (a "premises licence") to be obtained for "regulated entertainment" (which includes public music and dancing).

Under Schedule 12 to the 1963 Act, councils in London had a wide discretion when it came to imposing conditions on entertainment licences. Some London borough councils had standard conditions that would be imposed on all premises, sometimes with exceptions, and in some cases, those standard conditions would have the effect of prohibiting entertainment that involved nudity or partial nudity.

The transitional provisions of the 2003 Act allowed the councils to carry over such conditions onto premises licences that were "grandfathered" over to the new licensing regime. However, during the transitional period and since, premises which did not have the benefit of a 1963 Act licence have been the subject of applications for variations of the conditions of their 2003 Act premises licences, the effect of which would allow them for the first time, to include regulated entertainment. The issue that *Clause 23* is intended to address arises from a view, taken early on when the 2003 Act came into force by some councils, that they were unable to impose conditions on premises licences prohibiting nudity. It transpires that the view was wrong, particularly in the light of revised government guidance.

The effect of *Clause 23* would be to enable a borough council, as licensing authority, to impose, on notice, a new condition on existing premises licences that authorise regulated entertainment. The new condition could have the effect of prohibiting nudity or partial nudity. The clause would have effect only in relation to those premises that did not have a 1963 Act licence before the transitional period, but have during and since then, had their licences varied so that regulated entertainment can be provided. The clause includes a provision enabling the licence holder to appeal against the notice to the magistrates' court.

Clause 24 amends the City of Westminster Act 1996 which provides Westminster City Council with enhanced enforcement powers in relation to unlicensed sex establishments. The first amendment is a minor typographical amendment and the second amends section 8 of the 1996 Act, which relates to the service of notices. Under section 8, if notices under the Act are to be served by post, then they have to be served by registered post or the recorded delivery service. The amendments would enable notices to be served by ordinary post.

Clause 25 makes provision about the management of street markets in Greater London. There are a number of different ways in which markets can be established in London, including by Royal Charter, by Act of Parliament and under provisions of the Food Act 1984. *Clause 23*, however, applies to markets consisting of a concourse of pitches and stalls established by the borough council under the existing local street trading legislation by the granting of temporary licences or individual street trading licences to traders on a particular street or streets. A number of markets in London, including large, long established markets and also more recently farmers markets and other speciality markets have been established using this procedure. In every London borough except for the City of Westminster and the City of London, street trading is governed by the London Local Authorities Act 1990 and in the City of Westminster it

is governed by the City of Westminster Act 1999. *Clause 25* will not apply in relation to the City of London.

Clause 25 will have the effect of enabling a London borough council to enter into contractual arrangements with a person (to be known as the "market manager") enabling the market manager to carry out certain activities over which it is considered that there is doubt as to whether he could without statutory authority.

Subsection (1) provides the general power for the council to make arrangements with any person to manage a market and subsection (3) lists some activities which could be carried out by the market manager including publicity for the market, arranging the making of applications to the council for street trading licences and temporary licences for use at the market and collecting fees and charges on behalf of the Council.

Subsection (4) provides that arrangements may not make provision in relation to "reserved statutory functions" which include granting, renewing, revoking and varying street trading licences, prescribing standard conditions for street trading licences and charging fees. Subsection (5) provides that the council may account for any costs incurred by them in making the arrangements in the fees and charges that may be made in respect of licences granted by them.

Clause 26 makes further provision about street trading, but in relation to the sale of vehicles over the internet. Under the existing street trading legislation in London, "street trading" is defined, broadly speaking, as meaning the selling or the exposure or offer for sale of any article and the supplying of or offering to supply any service in a street for gain or reward (whether or not the gain or reward accrues to the person actually carrying out the trading). Under that definition it is unclear whether the sale of motor vehicles on the internet, where the vehicle is kept on the highway, is included and the effect of *Clause 26* will be to ensure that it is.

Clauses 27 to *29* deal with street trading in the City of Westminster. Westminster City Council have their own private legislation, namely the City of Westminster Act 1999 which deals with street trading in the City.

Clause 27 contains a number of amendments to the 1999 Act. The first amendment of substance is in subsection (3) and that replicates in Westminster the effect of the amendments which are made by *Clause 26* (internet vehicle trading) in respect of the rest of London (except for the City of London).

Taken together, subsections (4) to (16) introduce a series of amendments which will enable authorised officers of the City Council to seize certain types of street trading equipment in cases where they couldn't do so under the present legislation, and to dispose of it summarily in certain cases.

Westminster City Council officers already have power to seize items used in unlawful street trading where the items are required for evidential purposes, or where the items are subject to forfeiture by the courts. On a street trading prosecution, if there is a conviction, the magistrates' court can order the forfeiture of any goods seized in relation to the offence. Authorised officers cannot exercise their powers of seizure unless they suspect that a street trading offence has been committed. City Council officers use the powers regularly in the West End in relation to unlawful sales of hotdogs and other hot food from portable stands. Each evening portable stands are brought into the West End by van and are unloaded together before being taken off

by individual sellers to strategic locations, where the trading takes place. City Council officers are unable to seize the hotdog trolleys until the vending begins. Additional powers are contained in subsection (5) of *Clause 27*. They would enable City Council officers to seize receptacles which are in a street and which the officers have reasonable cause to suspect are intended to be used in connection with a street trading offence. Officers would also be able to seize any vehicle used to transport the receptacles to the place where they were found in the street.

Subsections (7) onwards introduce a new procedure for dealing with receptacles used in unlawful street trading of refreshments when they have been seized. This would include receptacles seized under the new powers mentioned above introduced by subsection (5). Under the current system, where the council seize items under section 27 of the 1999 Act, they either have to return them to the person from whom they were seized, if certain circumstances arise, or they can be disposed of if there is a conviction and the court orders the items to be forfeited. The council can also apply to the magistrates' court for a disposal order if the court is satisfied that the council has made reasonable efforts to ascertain the identity of the owner of the objects seized but failed.

Westminster City Council seize very large numbers of hot dog trolleys in the West End and because of the procedures that they have to go through, they have to store the trolleys for long periods at considerable expense. In nearly all cases, the trolleys are eventually disposed of by the council because either the person from whom the trolley was seized does not contest the criminal proceedings, or the council is unable to find out who the owner of the trolley is.

The effect of subsections (5) to (16) will be to enable the council to dispose of hot dog trolleys and other receptacles for the sale of refreshments without the need to go to court either to secure a prosecution or obtain a disposal order. Safeguards are included in the clauses to ensure that if the person from whom the receptacle is seized wishes there to be a court hearing, then he can secure it. This is achieved by including a requirement on the officer who seizes the item to give the person from whom it was seized a notice. The notice can be completed by the recipient and returned to the council, and if it is done so within the time stated on the notice and contains all the necessary information (including the name and address of the person from whom the item was seized) and states that the recipient requires the council to seek a disposal order from the magistrates' court, then the council would be under an obligation to seek such an order. At the magistrates' court hearing, the recipient of the notice would have the opportunity to contest the proceedings.

If the notice is not completed and returned to the council in the correct manner and within the specified time, then the council will be able to dispose of the item in question and cover their costs of doing so from the recipient, if they are able to identify and find him. The powers of summary disposal would also be available to the council if when seizing the item they served a fixed penalty notice on the person from whom the item was seized. If the fixed penalty is paid within the required timescale, then the council would be able to dispose of the item.

Clause 28 introduces *Schedule 4* which in turn makes minor and consequential amendments to the City of Westminster Act 1999, consequential upon the amendments made in *Clause 25.*

Clause 29 introduces *Schedule 5* to the Bill which is a Keeling Schedule setting out the whole of the City of Westminster Act 1999 as amended by previous enactments and by the Bill.

Clauses 30, 31, 32 and *33* make similar provision in the London Borough of Camden as *Clause 27* does in Westminster in relation to the seizure and disposal of receptacles used for the purposes of unlawful street trading of refreshments.

Clause 30 provides for interpretation of the Camden provisions and *Clause 31* makes similar provision to *Clause 27(7)* about the seizure of receptacles before street trading commences. *Clauses 32* and *33* make similar provision to *Clause 27(5)* to *(16)* about the giving of notices and the disposal of seized items.

PART 7

MISCELLANEOUS AND SUPPLEMENTAL

Part 7 contains miscellaneous and supplemental provisions.

Clause 34 contains provisions correcting two small errors in the London Local Authorities Act 2007. Subsection (1) corrects a reference in section 25(3) (powers to require a removal of waste unlawfully deposited). The reference to "waste regulation authority" is corrected so that it reads "waste collection authority". The second alteration is in respect of section 24(4) (littering from vehicles). That subsection makes an amendment to section 87 of the Environment and Protection Act 1990. The subsection did not take account of amendments recently made to section 87 by the Clean Neighbourhoods and Environment Act 2005.

Clause 35 provides for an offence of obstructing an authorised officer acting in the exercise of his powers under the Bill, and a maximum punishment for such an offence is a fine not exceeding level 3 on the standard scale, on summary conviction.

Clause 36 makes provision about the requirements for proof, in court proceedings, of the fact that a borough council has passed a resolution under the Bill. The clause provides that it shall be presumed, unless the contrary is proved, that the resolution was duly passed and that any requirements relating to it were properly complied with.

Clause 37 makes provision about the liability of directors and other officers of bodies corporate in relation to offences committed under the Bill.

EUROPEAN CONVENTION ON HUMAN RIGHTS

In the view of the Westminster City Council the provisions of the London Local Authorities Bill are compatible with the Convention Rights.

London Local Authorities Bill

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A

B I L L

To confer further powers upon local authorities in London; and for related purposes.

WHEREAS—

(1) It is expedient that further and better provision should be made for the improvement and development of local government services in London and for the benefit of persons residing therein and that the powers of London borough councils and the Common Council of the City of London (hereinafter referred to as "London borough councils") should be extended and amended as provided in this Act:

(2) It is expedient that further provision be made in London about the use of penalty charges in the enforcement of certain legislation:

(3) It is expedient that the range of premises in London in respect of which street litter control notices can be served should be extended:

(4) It is expedient that London borough councils should be able to charge for the use of public urinals and install turnstiles in public conveniences:

(5) It is expedient that London borough councils should be able to make increased charges when giving permissions for the execution of works and use of objects on the highway, if the execution of works and use of objects produces income:

(6) It is expedient that food business operators should be under a duty to display food hygiene inspection documentation at food business establishments in London:

(7) It is expedient that London borough councils in their capacity as local housing authorities should be able to require remedial action to be taken in respect of houses in multiple occupation in cases where there has been a failure to comply with the relevant management regulations for such houses:

(8) It is expedient that the powers of entry enjoyed by housing authorities in London should be altered:

(9) It is expedient that the law relating to sex establishments in London should be altered:

(10) It is expedient that London borough councils should have powers to make arrangements with third parties about the management of street markets:

(11) It is expedient that the law relating to street trading in London should be altered to clarify that internet sales of vehicles that are kept on the street fall within its scope:

(12) It is expedient that the law relating to street trading in the City of Westminster and the London Borough of Camden should be altered in relation to the seizure and disposal of receptacles used or about to be used for unlawful street trading:

(13) It is expedient that the other provisions contained in this Act should be enacted:

(14) The objects of this Act cannot be attained without the authority of Parliament:

(15) In relation to the promotion of the Bill for this Act the Westminster City Council have complied with the requirements of section 239 of the Local Government Act 1972 (c. 70) and the other participating London borough councils have complied with the requirements of section 87 of the Local Government Act 1985 (c. 51):

(16) In relation to the promotion of the Bill the London borough councils have acted through their representation in London Councils, a statutory joint committee whose membership is made up from members of all the London borough councils.

May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART 1

Preliminary

1 Citation, commencement and extent

(1) This Act may be cited as the London Local Authorities Act 2008.

(2) This Act and the London Local Authorities Acts 1990 to 2007 may be cited together as the London Local Authorities Acts 1990 to 2008.

(3) This Act, except—

(a) **section 9** (charges for permitting the use of objects, etc. on the highway);

(b) **section 10** (display of food hygiene documents); and

(c) **section 23** (Licensing Act 2003 applications: regulated entertainment involving nudity, etc.).

shall come into operation at the end of the period of two months beginning with the date on which it is passed.

(4) **Sections 9, 10** and **23** shall come into operation on the appointed day.

(5) This Act shall not have effect in the London Borough of Hounslow.

2 General interpretation

In this Act, except where the context otherwise requires—

"the Act of 2007" means the London Local Authorities Act 2007 (c. ii);

"authorised officer", in relation to a borough council, means—

(a) any employee of the council;

(b) any other person by whom, in pursuance of arrangements made with the council, any functions under this Act fall to be discharged; or

(c) any employee of any such person,

who is authorised in writing by the council to act in relation to the relevant provision of this Act;

"borough council" means London borough council (except for Hounslow London Borough Council) and includes the Common Council of the City of London in its capacity as a local authority and "borough" and "council" shall be construed accordingly.

3 Appointed day

(1) For the purposes of the provisions mentioned in **section 1**(3)(a) to (c), "the appointed day" means such day as may be fixed in relation to a borough by resolution of the borough council, subject to and in accordance with the provisions of this section.

(2) Different days may be fixed under this section for the purpose of the application of different provisions of this Act to a borough.

(3) The borough council shall cause to be published in a local newspaper circulating in the borough and in the London Gazette notice—

(a) of the passing of any such resolution and of a day fixed by them; and

(b) of the general effect of the provisions of this Act coming into operation on that day,

and the day so fixed shall not be earlier than the expiration of one month from the publication of the notice in the London Gazette.

(4) A document certified by the officer appointed for that purpose by the borough council to be a true reproduction of a page or part of a page of any such newspaper or London Gazette—
   (a) bearing the date of its publication; and
   (b) containing any such notice,
shall be evidence of the publication of the notice and of the date of publication.

PART 2

Penalty Charges

4 Penalty charges for littering and dog related activities

(1) **Schedule 1** shall have effect.

(2) The provisions of **Schedule 1** are penalty charge provisions for the purposes of section 61 of the Act of 2007 (penalty charges).

(3) **Schedule 1** makes provision for civil enforcement in Greater London in relation to—
   (a) littering;
   (b) failure to remove dog faeces;
   (c) keeping dogs on leads;
   (d) allowing dogs onto land from which they are excluded; and
   (e) taking more than a specified number of dogs onto land.

5 Powers exercisable by police civilians and accredited persons

(1) Where a designation applies paragraph 1 of Schedule 4 to the Police Reform Act 2002 (c. 30) (community support officers' powers to issue fixed penalty notices) to any person, that person shall have the power of a borough council to serve a penalty charge notice where he has reason to believe that a penalty charge is payable to the borough council by virtue of a penalty charge provision within the meaning of section 61(7) of the Act of 2007.

(2) An accredited person whose accreditation specifies that paragraph 1 of Schedule 5 to the Police Reform Act 2002 (accredited persons' powers to issue fixed penalty notices) applies to him shall have the power of a borough council to serve a penalty charge notice where he has reason to believe that a penalty charge is payable to the borough council by virtue of a penalty charge provision within the meaning of section 61(7) of the Act of 2007.

6 Power to require name and address

(1) If a borough council, a community support officer or an accredited person proposes to serve on a person a penalty charge notice under section 61(2) of the Act of 2007, the council, community support officer or accredited person may require the person to give them his name and address. 5

(2) Where a requirement of the borough council under subsection (1) is made in person then—
  (a) it must be made by an authorised officer of the council; and
  (b) the authorised officer must, if required to do so, show proof of his authorisation. 10

(3) A person commits an offence if—
  (a) he fails to give his name and address when required to do so under subsection (1), or
  (b) he gives a false or inaccurate name or address in response to a requirement under that subsection. 15

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART 3

Public Health, Environmental Protection and Highways

7 Street litter control notices 20

(1) In addition to his powers under section 94(1) of the Environmental Protection Act 1990 (c. 43) (street litter: supplementary provisions), the Secretary of State may prescribe descriptions of additional premises in respect of which a street litter control notice may be issued.

(2) The additional premises, descriptions of which may be prescribed by virtue of subsection (1), are all premises in the area of a borough council except dwellings. 25

8 Charges for public toilets and use of turnstiles

(1) Section 87(2) of the Public Health Act 1936 (c. 27) (provision of public conveniences) shall apply in the area of a borough council as if, in subsection (3)(c), the words, "other than urinals," were omitted. 30

(2) Section 1 of the Public Lavatories (Turnstiles) Act 1963 (c. 32) (abolition of turnstiles) shall not apply in respect of a public lavatory or public sanitary convenience controlled or managed by a borough council.

9 Charges for permitting the use of objects, etc. on the highway 35

(1) This section shall apply in the area of a borough council on and after the appointed day.

(2) In relation to a relevant permission, "the standard amount" in section 115F(2) of the 1980 Act (power to impose conditions on permissions for execution of works and use of objects, etc. on the highway) means such amount as may be sufficient in the aggregate taking one year with another to cover the reasonable costs of the council, not otherwise recovered, of—

(a) the collection, removal and disposal of refuse or other services rendered by the council to the holders of relevant permissions so far as is attributable to permitted activities; and

(b) additional maintenance and repair of the highway so far as that additional maintenance and repair is attributable to permitted activities; and

(c) the cleansing of streets in which permitted activities take place so far as that cleansing is attributable to permitted activities; and

(d) any reasonable administrative or other costs incurred in connection with the administration of Part VIIA of the 1980 Act in relation to relevant permissions; and

(e) the cost of enforcing—

(i) the provisions of Part VIIA of the 1980 Act so far as it relates to permitted activities; or

(ii) section 130 of the 1980 Act (protection of public rights) in relation to activities which are capable of being authorised by a relevant permission but are not;

(iii) the law in relation to obstruction of the highway in relation to activities which are capable of being authorised by a relevant permission but are not.

(3) Section 115F(3) of the 1980 Act shall not apply in the area of a borough council in relation to a relevant permission.

(4) In this section—

"the 1980 Act" means the Highways Act 1980 (c. 66);

"permitted activities" means activities carried out under the authority of a relevant permission;

"relevant permission" means a permission under section 115E(1)(b)(i) of the 1980 Act (permission to use objects, etc. on, in or over the highway resulting in the production of income).

10 Display of food hygiene documents

(1) This section shall apply in the area of a borough council on and after the appointed day.

(2) This section applies in respect of any relevant establishment in the area of a borough council except a relevant establishment which is or forms part of a dwelling.

(3) It is the duty of the food business operator who controls a relevant establishment to which this section applies to make sure that the relevant food hygiene documents are displayed at that establishment in accordance with the requirements of this section.

(4) The most recent food hygiene documents provided by the borough council in

respect of a relevant establishment to which this section applies shall be displayed in accordance with this section.

(5) In cases not falling within subsection (6), (7) or (8), the most recent food hygiene documents shall be displayed—
  (a) at or near an entrance to the premises for customers; and
  (b) in a place where the documents are capable of being read by customers before they enter the establishment when it is open for business.

(6) If the establishment is one at which food is provided to customers but customers are not permitted or invited to enter the establishment, or the establishment is incapable of being entered by customers, the documents must be displayed at a place at the establishment where they are capable of being read by customers.

(7) If the provision of food to customers is carried on at an establishment and the place at which the food is provided ("the outlet") forms a part of larger premises at which other activities are carried out, then the documents may, with the agreement of the council, be displayed at the outlet or at the entrance to the outlet (if there is one): otherwise subsection (5) shall apply.

(8) If the establishment is never open to customers, then the documents shall be displayed at or near an entrance to the premises which is for the use of visitors to the premises.

(9) In the case of an establishment which falls within subsection (5) or an outlet as mentioned in subsection (7) that in either case has an entrance for customers, the food hygiene documents shall be displayed—
  (a) on a window that forms part of the entrance; or
  (b) on an exterior window that is adjacent to the entrance; or
  (c) inside the establishment or outlet but capable of being read through such a window; or
  (d) if there is no such window, at some other place at or near the entrance.

(10) If an establishment has more than one entrance for customers, the food hygiene documents shall be displayed at the entrance which is most frequently used by customers.

(11) Subsection (4) does not apply in respect of a relevant establishment if—
  (a) it has not been subject to a relevant intervention since 1st January 2006; or
  (b) it has not been subject to a relevant intervention during the period of 6 years ending on the date in question; or
  (c) it has not been subject to a relevant intervention for a longer period than that mentioned in paragraph (b) because the council has determined that it need not be the subject of a relevant intervention.

(12) A person who fails to comply with the duty in subsection (3) commits an offence.

(13) It is a defence for a person charged with an offence under subsection (12) to show—

(a) that he did not know, and could not reasonably have been expected to know, that food hygiene documents complying with the requirements of this section were not being displayed in accordance with the requirements of this section; or

(b) that on other grounds it was reasonable for him not to comply with the duty.

(14) If a person charged with an offence under subsection (12) relies on a defence in subsection (13), and evidence is adduced which is sufficient to raise an issue with respect to that defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

(15) A person commits an offence if—

(a) he displays a false document which purports to comply with subsection (4); or

(b) without lawful excuse he alters, defaces or removes from display a food hygiene document.

(16) A person guilty of an offence under subsection (12) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(17) A person guilty of an offence under subsection (15) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(18) Schedule 2 to the London Local Authorities Act 2004 (c. i) is amended by the insertion, in the appropriate place, of the following entry into the table of offences in respect of which a fixed penalty notice can be given under section 15 (Fixed penalty offences) of that Act—

"16	London Local Authorities Act 2008	10(12)	Failure to comply with duty to display food hygiene document
17		10(15)(a)	Display of false food hygiene document
18		10(15)(b)	Unlawful alteration, defacement or removal from display of food hygiene document"

(19) In this section—

"food business operator" means a food business operator to whom Community Regulation 852—2004 applies;

"food hygiene documents" in respect of a relevant establishment, means a certificate and a sticker or similar device provided by the borough council setting out in such form as the council shall determine—

(a) a representation of the food hygiene standards at the premises based upon a relevant intervention or relevant interventions; and

(b) such other information as the council shall determine;

"the Hygiene Regulations" means any regulations made by the Secretary of State or any Community regulations that in either case make provision for the inspection of relevant establishments by a borough council or by an individual on behalf of a borough council and include—

(a) the Food Hygiene (England) Regulations 2006 (S. I. 2006/14); and

(b) Community Regulation 852/2004;

"official control" means an official control for the purposes of Community Regulation 852/2004 and therefore includes an inspection, monitoring, surveillance, verification, an audit and sampling;

"relevant establishment" means any unit of a food business under the control of a food business operator that carries out any of the stages of production, processing and distribution of food;

"relevant intervention" means an intervention that is—

(a) an official control; or

(b) any other kind of intervention as may be described by the Secretary of State or the Food Standards Agency in a code of practice issued under the Food Safety Act 1990 (c. 16) or the Hygiene Regulations.

PART 4

Houses in Multiple Occupation: Management Notices

11 Interpretation of Part 4

In this Part—

"the 2004 Act" means the Housing Act 2004 (c. 34);

"HMO" means a house in multiple occupation as defined by sections 254 to 259 of the 2004 Act;

"lessee", "owner and "tenant" have the same meanings as in section 262 of the 2004 Act;

"local housing authority" means a borough council acting in its capacity as such;

"management notice" means a notice under **section 12**(1);

"specified premises", in relation to a management notice, means premises specified in the notice, in accordance with **section 13**, as premises in relation to which remedial action is to be taken.

12 Power to require remedial action to remedy a failure to comply with management duties

(1) If in the opinion of the local housing authority the condition of an HMO in their area is defective in consequence of a failure to comply with any duty imposed by regulations under section 234 of the 2004 Act, the authority may serve on the person managing the HMO a management notice under this section in respect of the failure.

(2) A management notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the failure concerned as is specified in the notice in accordance with **section 13**.

(3) Where the authority serves a management notice under subsection (1) they must serve a copy of the notice on every other person who, to their knowledge—
   (a) has a relevant interest in the specified premises; or
   (b) is an occupier of the specified premises.

(4) In subsection (3)(a), "relevant interest" means an interest as a freeholder, lessee or mortgagee of the specified premises.

(5) References in this section to the person managing an HMO have the same meaning as in section 263 of the 2004 Act.

13 Contents of management notices

(1) A management notice under **section 12** must comply with the following provisions of this section.

(2) The notice must specify, in relation to the failure (or each of the failures) to which it relates—
   (a) the nature of the failure and the HMO in respect of which it arose;
   (b) the HMO in relation to which remedial action is to be taken in respect of the failure and the nature of that remedial action;
   (c) the date when the remedial action is to be started (see subsection (3)); and
   (d) the period within which the remedial action is to be completed or the periods within which each part of it is to be completed.

(3) The notice may not require any remedial action to be started earlier than the 28th day after that on which the notice is served.

(4) The notice must contain information about—
   (a) the right of appeal against the notice under **Schedule 2**; and
   (b) the period within which an appeal may be made.

14 Operation of management notices

(1) This section deals with the time when a management notice becomes operative.

(2) The general rule is that a management notice becomes operative at the end of the period of 21 days beginning with the day on which it is served under **section 12**(1) (which is the period for appealing against the notice under **Schedule 2**).

(3) The general rule is subject to subsection (4).

(4) If an appeal against the notice is made under **Schedule 2**, the notice does not become operative until such time (if any) as is the operative time for the purposes of this subsection under paragraph 6 of that Schedule (time when notice is confirmed on appeal, period for further appeal expires or suspension ends).

(5) If no appeal against a management notice is made under that Schedule within the period for appealing against it, the notice is final and conclusive as to matters which could have been raised on an appeal.

15 Appeal against notice under section 12

Schedule 2 shall have effect. 5

16 Taking of remedial action by local housing authority and recovery of expenses

Schedule 3 shall have effect.

17 Effect of management notices as local land charges

A management notice that has become operative is a local land charge. 10

18 Savings for rights arising from breach of covenant etc.

(1) Nothing in this Part affects any remedy of an owner for breach of any covenant or contract entered into by a tenant in connection with any premises which are specified premises in relation to a management notice.

(2) If an owner is obliged to take possession of any premises in order to comply with a management notice, the taking of possession does not affect his right to take advantage of any such breach which occurred before he took possession. 15

(3) No action taken under this Part affects any remedy available to the tenant of any premises against his landlord (whether at common law or otherwise).

19 Effect of other enforcement and management orders under the 2004 Act and redevelopment proposals 20

(1) Subsection (2) applies if—
  (a) a management notice has been served under this Part; and
  (b) either—
    (i) enforcement action of the kind mentioned in section 5(2) or 7(2) of the 2004 Act (duty and powers to take enforcement action in relation to hazards) is taken in relation to the subject matter of the management notice; or 25
    (ii) a management order under Chapter 1 or 2 of Part 4 of the 2004 Act (additional control provisions in relation to residential accommodation) comes into force in relation to the specified premises. 30

(2) The management notice—
  (a) if operative at the time when the enforcement action is taken or the management order comes into force, ceases to have effect at that time, and; 35
  (b) otherwise is to be treated as from that time as if it had not been served or made.

(3) Subsection (2)(a) does not affect any right acquired or liability (civil or criminal) incurred before the management notice ceases to have effect.

(4) Subsection (5) applies where, under section 308 of the Housing Act 1985 (c. 68) (owner's re-development proposals), the local housing authority have approved proposals for the re-development of land.

(5) No action is to be taken under this Part in relation to the land if, and so long as, the re-development is being proceeded with (subject to any variation or extension approved by the authority)—
  (a) in accordance with the proposals; and
  (b) within the time limits specified by the local housing authority.

20 Application of provisions of the 2004 Act to management notices

(1) The following modifications to Part 1 of the 2004 Act (housing conditions) shall apply in the area of a borough council.

(2) In section 10 (consultation with fire and rescue authorities in certain cases)—
  (a) at the end of subsection (1)(b) insert "or intend to serve a management notice under section 12 of the London Local Authorities Act 2008";
  (b) in subsection (2), after "in question" insert "or serving the management notice".

(3) In section 49 (power to charge for certain enforcement action)—
  (a) at the end of subsection (1)(f) insert—
    "; or
      (fa) serving a management notice under section 12 of the London Local Authorities Act 2008.";
  (b) in subsection (2), after "hazard awareness notice" insert "or a management notice".

(4) In section 50(2) (recovery of charge under section 49), after paragraph (b) insert—
    "; or
      (ba) a management notice under section 12 of the London Local Authorities Act 2008,".

(5) In section 239 (powers of entry) after subsection (2) insert—
    "(2A) Subsection (3) also applies where the local housing authority consider that a survey or examination of any premises is necessary in order to determine whether a management notice under section 12 of the London Local Authorities Act 2008 is required to be served.".

(6) In section 240(2)(b) (warrant to authorise entry), after paragraph (ii) insert—
    "; or
      (iii) which are specified premises (within the meaning of Part 4 of the London Local Authorities Act 2008) in relation to a management notice under section 12 of that Act".

(7) In section 246(5) (service of documents), after "Parts 1 to 4 or this Part" insert "or Part 4 of the London Local Authorities Act 2008".

PART 5

Housing: Powers of Entry, etc.

21 Housing Act 2004: powers of entry

(1) Section 239 of the Housing Act 2004 (c. 34) (powers of entry) shall apply in the area of a borough council as follows.

(2) In subsection (5)—
  (a) omit paragraph (a);
  (b) in paragraph (b), after "occupier" insert "of the premises";
  (c) after paragraph (b), insert—
  ", and
    (ba) if there is no occupier, to the owner of the premises (if known).".

(3) In subsection (6)—
  (a) after "consider that" insert "—(a)";
  (b) at the end insert—
    "; or
    (b) any delay in entering the premises for any purpose authorised by this section (except in a case where the power to enter arises solely out of the condition in subsection (1)(c) being met) is likely to give rise to unnecessary and imminent risk to the safety or health of the occupiers of the premises.".

(4) After subsection (7) insert—

"(7A) A person authorised by the local housing authority may enter premises for the purpose of carrying out a survey or examination of the premises without giving prior notice as mentioned in subsection (5) if—
  (a) the occupier of the premises has invited the local housing authority or an authorised person or the proper officer onto the premises for that purpose or agreed that an authorised person or proper officer of the local housing authority may enter the premises for that purpose; and
  (b) the power of entry is exercised at a reasonable time and in compliance with any conditions of the invitation or agreement.".

22 Housing Act 2004: authorisation for enforcement purposes, etc.

(1) Section 243 of the Housing Act 2004 (authorisation for enforcement purposes) shall apply in the area of a borough council as follows.

(2) After subsection (3) insert—

"(3A) For the purposes of this section a person is also an "appropriate officer" of a local housing authority in relation to an authorisation given by the authority if—
  (a) he is an officer of the authority whose duties of his post consist of or include duties relating to the exercise of the functions of the authority in connection with which the authorisation is given; and

(b) he has been designated as an appropriate person by a person who fulfils the requirements of subsection (3)(a) and (b) and remains so designated; and

(c) he reports directly to, or is accountable to a person who fulfils those requirements, as respects duties so relating.". 5

PART 6

Licensing

Miscellaneous

23 Licensing Act 2003 applications: regulated entertainment involving nudity, etc. 10

(1) This section shall apply in the area of a borough council on and after the appointed day.

(2) This section applies in relation to any premises in the area of a borough council in respect of which—

(a) no 1963 Act licence was in force immediately before the new licence date; and 15

(b) a premises licence was granted under paragraph 4 of Schedule 8 to the 2003 Act; and

(c) at the same time as the application was made for the premises licence under paragraph 2 of that Schedule, or at any time after that date and before the date on which this section comes into force in the borough, an application was granted under section 34 of the 2003 Act for a variation of the licence which authorised the provision of specified regulated entertainment; and 20

(d) on the date on which this Act was passed the premises licence remained in force and it authorised the provision of specified regulated entertainment. 25

(3) No later than the date on which expires the period of 6 months beginning with the appointed day, a borough council may serve a notice under subsection (5) on the holder of the premises licence in respect of the premises to which this section applies. 30

(4) A notice under subsection (5) may only be served by a borough council if they consider doing so would promote one or more of the licensing objectives within the meaning of section 4(1) of the 2003 Act.

(5) A notice under this subsection is a notice stating that as from the date specified in it the premises licence will be subject to a condition reproducing or having similar effect to condition set out in subsection (6), specifying the terms of the condition. 35

(6) The condition is that any dancing or other performance that involves nudity or partial nudity is prohibited at all times or at times prescribed in the condition. 40

(7) The date specified in the notice shall be no sooner than the date on which expires the period of 56 days beginning with the date on which the notice was served.

(8) Subject to subsection (9), the condition whose terms were specified in the notice under subsection (5) shall come into effect on the date specified in the notice and the borough council shall as soon as reasonably practicable after that date issue a replacement premises licence to the holder of the licence.

(9) If the holder of the licence appeals under subsection (10) against the notice, the condition shall not come into effect until the appeal is withdrawn or determined.

(10) The holder of a premises licence may appeal against a notice under subsection (5).

(11) An appeal under subsection (10) must be made to the magistrates' court for the petty sessions area (or any such area) in which the premises concerned are situated.

(12) An appeal under subsection (10) must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates' court within the period of 21 days beginning with the day on which the notice under subsection (5) was served.

(13) On an appeal under subsection (10), a magistrates' court may—

(a) dismiss the appeal;

(b) substitute for the condition specified in the notice appealed against any other condition which could have been made by the licensing authority; or

(c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court,

and may make such order as to costs as it thinks fit.

(14) In this section—

"a 1963 Act licence" means a music and dancing licence granted under paragraph 1 of Schedule 12 to the London Government Act 1963 (c. 33);

"the 2003 Act" means the Licensing Act 2003 (c. 17);

"the new licence date" means the second appointed day as defined in paragraph 1(2) of the 2003 Act, namely 24th November 2005;

"premises licence" has the same meaning as in the Act of 2003 (see section 11 of that Act);

"specified regulated entertainment" means entertainment of a description falling within paragraphs 2(e) to (h) of Schedule 1 to the 2003 Act.

24 Amendment of City of Westminster Act 1996

(1) The City of Westminster Act 1996 (c. viii) (which makes provision about the closure of unlawful sex establishments) is amended as follows.

(2) In section 3(2)(a) for "section 4(5)(a)" substitute "section 4(6)(a)".

(3) In section 8(1)(c) and (d) for "by sending it in a prepaid registered letter, or by the recorded delivery service" substitute "by post".

(4) In section 8(2)(b)(i) for "in a prepaid registered letter, or by the recorded delivery service and is not returned to the authority sending it" substitute "by post".

25 Management of street markets

(1) Where there is a relevant market or there are proposals for there to be a relevant market within the area of a borough council, the council may make arrangements with any person to manage the relevant market in accordance with this section.

(2) A person with whom arrangements are made under subsection (1) is a "market manager" for the purposes of this section.

(3) The arrangements which may be made under subsection (1) include arrangements enabling a market manager—

(a) to publicise the market;

(b) to arrange for the making of applications to the borough council for street trading licences and temporary licences for use at the market;

(c) to collect fees and charges on behalf of the borough council in respect of the market.

(4) Arrangements under subsection (1) may not make provision to enable a market manager to exercise any of the reserved statutory functions.

(5) The council may take into consideration any reasonable expenditure incurred by them (including payments made to a market manager) in making arrangements or under arrangements made under this section when setting the levels of fees and charges payable to them under section 32 of the 1990 Act (fees and charges) and section 22 of the 1999 Act (fees and charges).

(6) In this section—

"the Act of 1990" means the London Local Authorities Act 1990 (c. vii);

"the Act of 1999" means the City of Westminster Act 1999 (c. i);

"relevant market" means—

(a) a concourse of traders, two or more of whom are holders of a street trading licence or a temporary licence; or

(b) a concourse of two or more traders who trade under the authority of a single temporary licence;

the "reserved statutory functions" are the functions of—

(a) determining applications for the grant of street trading licences or temporary licences under section 25 of the Act of 1990 or sections 11 to 14 of the Act of 1999;

(b) renewing street trading licences under section 25 of the Act of 1990;

(c) making regulations prescribing standard conditions under section 27(3) of the Act of 1990 or section 10 of the Act of 1999;

(d) revoking street trading licences under section 28(1) of the Act of 1990 or section 15 of the Act of 1999;

(e) varying street trading licences under section 28(2) of the Act of 1990 or section 16 of the Act of 1999;

(f) charging fees for the renewal of a street trading licence under section 32(1) of the Act of 1990;

(g) charging fees for the variation of a street trading licence or its conditions under section 32(1) of the Act of 1990 or section 22(1) of the Act of 1999;

(h) recovering charges from street trading licence holders under section 32(2) of the Act of 1990 or section 22(2) of the Act of 1999;

"street trading licence" and "temporary licence" mean a street trading licence or a temporary licence within the meanings given by—

(a) section 21(1) of the Act of 1990; or

(b) section 2 of the Act of 1999,

as the case may be.

26 Street trading: vehicles and the internet

(1) Section 21 of the London Local Authorities Act 1990 (c. ii) shall apply in the area of a borough council as follows.

(2) In subsection (1), in the definition of "street trading", for "subsections (1A)" substitute "subsections (1AA) and (1A)".

(3) After subsection (1) insert the following subsection—

"(1AA) In this Part of this Act "street trading" shall also include the selling or exposure or offer for sale of any motor vehicle in the course of a business if the vehicle is—

(a) exposed or offered for sale on the internet; and

(b) kept on a street during the period when it is so exposed or offered for sale.".

City of Westminster Act 1999

27 Street trading in the City of Westminster

(1) The City of Westminster Act 1999(c. i) is amended as follows.

(2) In section 2 (interpretation), in the definition of "street trading", for "subsection (2)" substitute "subsections (1A) and (2)".

(3) After section 2(1) insert the following subsection—

"(1A) In this Act "street trading" shall also include the selling or exposure or offer for sale of any motor vehicle if the vehicle is—

(a) exposed or offered for sale on the internet; and

(b) kept on a street during the period when it is so exposed or offered for sale.".

(4) Renumber subsections (5) and (6) of section 27 (unlicensed street trading) as subsections (1) and (2) of a new section, headed "27A Seizure".

(5) After subsection (2) in the new section 27A insert—

"(3) An authorised officer or constable may also seize any receptacle or

equipment (other than a motor vehicle) which—

(a) is in a street; and

(b) he has reasonable cause to suspect is intended to be used in connection with an offence under section 27 (unlicensed street trading) of this Act involving the sale, offer for sale, display, or exposing for sale of refreshments.". 5

(6) Renumber subsection (7) of section 27 as subsection (4) of new section 27A.

(7) After new section 27A insert the following new section—

"27B Seizure: notices

(1) This section applies in relation to any receptacle used in the sale, offer for sale, display, or exposing for sale of refreshments (in this section referred to as a "relevant item"). 10

(2) An authorised officer or a constable—

(a) may give a notice under this section to the person from whom a relevant item was seized under subsection (1) or (2) of section 27A (seizure) of this Act (but no such notice may be given under this paragraph in respect of a motor vehicle); 15

(b) shall give a notice under this section to the person from whom a relevant item was seized under subsection (3) or (4) of that section, 20

and any such notice must be given as soon as reasonably practicable after the item was seized.

(3) A notice under this section shall be in such form as the council may prescribe, and shall —

(a) explain that unless the recipient of the notice completes it in accordance with subsection (4) below and then returns it to the council in accordance with subsection (5) below, the council may dispose of the relevant item in question in accordance with section 27D (disposal of seized objects by council) of this Act; and 25 30

(b) set out—

(i) the address to which the completed notice should be returned;

(ii) the date by which it must be returned (which must be no earlier than the date on which expires the period of 14 days beginning with the date on which the notice was given under subsection (2) above). 35

(4) A notice under this section is completed by writing, in the appropriate place on the notice—

(a) the name and full postal address of the recipient of the notice under subsection (2) above; and 40

(b) (in the case of a notice given in accordance with subsection (2)(a) above) confirmation that that person—

(i) intends to contest any criminal proceedings brought in respect of the alleged offence in respect of which the item in question was seized; or 45

(ii) if not, that he requires the council to make a complaint for a disposal order under section 27I (disposal orders) of this Act in respect of the relevant item in question; and

(c) (in the case of a notice given in accordance with subsection (2)(b) above) confirmation that that person requires the council to make a complaint for a disposal order under the said section 27I in respect of the relevant item in question; and

(d) the signature of that person; and

(e) the date on which it was signed.

(5) A notice under this section, once completed, is returned by delivering it or sending it by post to the address set out on the notice as mentioned in subsection (3)(b)(i) above on or before the date as mentioned in that subsection.

(6) If a notice given in accordance with subsection (2)(b) above is completed and returned in accordance with subsections (4) and (5) above the council must, no later than the date on which expires the period of 28 days beginning with the date on which the notice was received by them—

(a) make a complaint to the magistrates' court for a disposal order under section 27I (disposal orders) of this Act in respect of the relevant item in question; or

(b) return the relevant item in question to the person whose name and address are written on the returned notice,

unless, before the expiry of that period, an information has been laid and not withdrawn in respect of any alleged offence in respect of which the item was seized.".

(8) For subsection (8)(a) of section 27 substitute the following as subsection (1) of a new section, headed "27C Return of seized items"—

"(1) The provisions of this section shall have effect where any item is seized under subsection (1) of section 27A (seizure) of this Act or is seized and retained because it is required for evidential purposes under subsection (2) of that section and references in those provisions to proceedings are to proceedings in respect of the alleged offence in relation to which the item is seized.".

(9) Renumber paragraphs (b) to (h) of section 27(8) as subsections (2) to (8) of the new section 27C.

(10) After new section 27C insert the following new section—

"27D Disposal of seized objects by council

(1) The council may, in such manner as they think fit, dispose of—

(a) any relevant item (within the meaning of section 27B (seizure: notices) of this Act) seized under subsection (1) or (2) of section 27A (seizure) of this Act if in respect of the alleged offence in question—

(i) a fixed penalty is paid in accordance with section 16 of the London Local Authorities Act 2004 (c. i) before the expiry of the period mentioned in subsection (2) of that section; and

(ii) the fixed penalty notice contained or was accompanied by written notice that the recipient could require the council on or before the time when the fixed penalty was paid to make a complaint for a disposal order under section 27I (disposal orders) of this Act in respect of the relevant item in question; and

(iii) no such requirement was made of the council on or before that time; or

(b) any such relevant item seized under subsection (1), (2), (3) or (4) of the said section 27A if a notice was given under section 27B (seizure: notices) as soon as reasonably practicable after the article or thing was seized and the notice was not completed and returned to the council in accordance with subsections (4) and (5) of that section.

(2) The council may recover their costs of disposing of a relevant item under subsection (1) above from the person from whom the object was seized.

(3) Where a requirement of the sort mentioned under subsection (1)(a)(ii) was made on or before the time when the fixed penalty was paid, the council must make a complaint for a disposal order under section 27I (disposal orders) of this Act in respect of the relevant item in question.".

(11) Renumber subsections (9), (10)(a) and (10)(b) of section 27 as subsections (1), (2) and (3) of a new section, headed "27E Forfeiture of seized items by court".

(12) Renumber subsections (11)(a), (b) and (c) and (12) of section 27 as subsections (1) to (4) of a new section, headed "27F Compensation" and—

(a) renumber subsections (11)(a)(i) and (ii) as subsections (1)(a) and (b); and

(b) renumber subsections (11)(a)(ii)(A) and (B) as subsections (1)(b)(i) and (ii).

(13) After paragraph (b)(ii) of new section 27F as numbered by subsection (12) insert—

"(iii) (in the case of a relevant item (within the meaning of section 27B (seizure: notices) of this Act) seized under subsection (3) of section 27A (seizure) of this Act) the council has failed to comply with subsection (5) of section 27B (seizure: notices) of this Act.".

(14) Renumber section 27A (seizure of perishable items) as section 27G.

(15) Renumber section 27B (motor vehicles) as section 27H.

(16) Renumber section 27C (disposal orders) as section 27I.

28 Minor and consequential amendments

Schedule 4 (which makes minor and consequential amendments to the City of Westminster Act 1999(c. i) has effect. 5

29 Keeling Schedule

The City of Westminster Act 1999 as amended by the London Local Authorities Act 2004(c. i), the London Local Authorities Act 2007 (c. ii) and this Act is set out in **Schedule 5**. 10

Street trading in the London Borough of Camden

30 Interpretation of Camden provisions

In **sections 31** to **33**—

"the Act of 1990" means the London Local Authorities Act 1990 (c. vii);

"the Borough" means the London Borough of Camden; 15

"the Council" means Camden London Borough Council;

"street" has the same meaning as in Part III of the Act of 1990.

31 Seizure of certain objects

An authorised officer of the Council or a constable may in the Borough seize any receptacle or equipment (other than a motor vehicle) which— 20

(a) is in a street; and

(b) he has reasonable cause to suspect is intended to be used in connection with an offence under section 38 (unlicensed street trading) of the Act of 1990 involving the sale, offer for sale, display, or exposing for sale of refreshments. 25

32 Seizure: notices

(1) This section applies in relation to any receptacle used in the Borough in the sale, offer for sale, display, or exposing for sale of refreshments (in this section referred to as a "relevant item").

(2) An authorised officer of the Council or a constable— 30

(a) may give a notice under this section to the person from whom a relevant item was seized under subsection (4) or (4A) of section 38 (unlicensed street trading) of the Act of 1990 (but no such notice may be given under this paragraph in respect of a motor vehicle);

(b) shall give a notice under this section to the person from whom a relevant item was seized under **section 31**, 35

and any such notice must be given as soon as reasonably practicable after the item was seized.

(3) A notice under this section shall be in such form as the Council may prescribe, and shall —

(a) explain that unless the recipient of the notice completes it in accordance with subsection (4) and then returns it to the Council in accordance with subsection (5), the Council may dispose of the relevant item in question in accordance with **section 33**; and

(b) set out—

(i) the address to which the completed notice should be returned;

(ii) the date by which it must be returned (which must be no earlier than the date on which expires the period of 14 days beginning with the date on which the notice was given under subsection (2) above.

(4) A notice under this section is completed by writing, in the appropriate place on the notice—

(a) the name and full postal address of the recipient of the notice under subsection (2); and

(b) (in the case of a notice given in accordance with subsection (2)(a)) confirmation that that person—

(i) intends to contest any criminal proceedings brought in respect of the alleged offence in respect of which the item in question was seized; or

(ii) if not, to require the council to make a complaint for a disposal order under section 38C of the Act of 1990 (disposal orders) in respect of the relevant item in question; and

(c) (in the case of a notice given in accordance with subsection (2)(b) above) confirmation that that person requires the council to make a complaint for a disposal order under the said section 38C in respect of the relevant item in question; and

(d) the signature of that person; and

(e) the date on which it was signed.

(5) A notice under this section, once completed, is returned by delivering it or sending it by post to the address set out on the notice as mentioned in subsection (3)(b)(i) on or before the date as mentioned in that subsection.

(6) If a notice given in accordance with subsection (2)(b) is completed and returned in accordance with subsections (4) and (5) the Council must, no later than the date on which expires the period of 28 days beginning with the date on which the notice was received by them—

(a) make a complaint to the magistrates' court for a disposal order under the said section 38C of the Act of 1990 in respect of the relevant item in question; or

(b) return the relevant item in question to the person whose name and address are written on the returned notice,

unless, before the expiry of that period, an information has been laid and not withdrawn in respect of any alleged offence in respect of which the item was seized.

(7) Any person who, in completing a notice under subsection (4) makes a statement which he knows to be false in a material particular shall be guilty of an offence

and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

33 Disposal of seized objects by Council

(1) The Council may, in such manner as they think fit, dispose of—

(a) any relevant item (within the meaning of **section 32**) seized under subsection (4) or (4A) of section 38 of the Act of 1990 (unlicensed street trading) if—

(i) in respect of the alleged offence in question, a fixed penalty is paid in accordance with section 16 of the London Local Authorities Act 2004 (c. i) before the expiry of the period mentioned in subsection (2) of that section; and

(ii) the fixed penalty notice contained or was accompanied by written notice that the recipient could require the council on or before the time when the fixed penalty was paid to make a complaint for a disposal order under section 38C of the Act of 1990 (disposal orders) in respect of the relevant item in question; and

(iii) no such requirement was made of the council on or before that time; or

(b) any such relevant item seized under the said subsection (4) or (4A) or under **section 31** if a notice was given under **section 32** as soon as reasonably practicable after the article or thing was seized and the notice was not completed and returned to the Council in accordance with subsections (4) and (5) of that section.

(2) The Council may recover their costs of disposing of a relevant item under subsection (1) above from the person from whom the object was seized.

(3) Where a requirement of the sort mentioned under subsection (1)(a)(ii) was made on or before the time when the fixed penalty was paid, the Council must make a complaint for a disposal order under section 38C of the Act of 1990 (disposal orders) in respect of the relevant item in question.

(4) In addition to the alternative requirements as set out in subsection (8)(a)(ii)(A) and (B) of the said section 38, one of which must be satisfied before compensation may be recovered under that subsection, the following alternative requirement is added in relation to the Council—

"(C) (in the case of a relevant item (within the meaning of **section 32** (seizure: notices) of the London Local Authorities Act 2008) seized under **section 31** of that Act) the council has failed to comply with subsection (6) of the said **section 32**.".

(5) Section 38C of the Act of 1990 (disposal orders) shall apply as respects the Council as though—

(a) in subsection (1) the following paragraph were inserted after paragraph (b)—

"; or

(ba) a relevant item under subsection (3) of section 33 of the London Local Authorities Act 2008,";

(b) in subsection (2) for "and vehicles" there were substituted ", vehicles and items".

PART 7

Miscellaneous and Supplemental

34 Minor amendments to London Local Authorities Act 2007, etc.

(1) In section 24(4) of the Act of 2007 (littering from vehicles), for "subsection (2)" substitute "subsection (4A)".

(2) In subsection (3A) of section 59 of the Environmental Protection Act 1990 (c. 43) (as inserted by section 25 (3) of the Act of 2007 (powers to require removal of waste unlawfully deposited)) for "waste control authority" substitute "waste collection authority".

35 Obstruction of authorised officer

Any person who intentionally obstructs any authorised officer acting in the exercise of his powers under this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

36 Proof of resolution

In any proceedings which require proof of the passing of a resolution under this Act it shall be presumed, unless the contrary is proved, that the said resolution was duly passed and that any requirements relating to the passing of the resolution and the giving of any notices or information before or after the passing of the resolution were properly complied with.

37 Liability of directors, etc.

(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.

(2) Where the affairs of the body corporate are managed by its members, subsection (1) above shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

SCHEDULES

SCHEDULE 1

Section 4

PENALTY CHARGE PROVISIONS

PART 1

LITTERING

1 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 in respect of a person, if the person throws down, drops or otherwise deposits any litter in any place to which section 87 of the 1990 Act (offence of leaving litter) applies and leaves it.

2 No penalty charge is payable in respect of a person under paragraph 1 where the depositing of the litter is—

(a) authorised by law;

(b) done by or with the consent of the owner, occupier or other person having control of the place where it was deposited;

(c) the subject of criminal proceedings;

(d) the subject of a fixed penalty notice issued under section 88 of the 1990 Act (fixed penalty notices for leaving litter).

3 Section 87(4B) of the 1990 Act applies in relation to the giving of consent under subsection (2)(b) in the case of lakes, ponds and watercourses as it does in relation to the giving of such consent under section 87(4A)(b) of that Act.

4 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 by the person who deposited the litter in question.

5 The person mentioned in paragraph 4 is the appropriate recipient for the purposes of the said section 61.

6 For the purposes of section 62(1) of the Act of 2007 (representations and appeals) the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this Part of this Schedule are—

(a) that the recipient was not the person who deposited the litter in question;

(b) that no litter was deposited in any place to which section 87 of the 1990 Act applies and left;

(c) that any one or more of sub-paragraphs 2(a) to (d) applies;

(d) that the penalty charge exceeded the amount applicable in the circumstances of the case.

7 Where the ground mentioned in sub-paragraph 6(a) is relied on in any representations made under the said section 62(1), those representations must include a statement of the name and address of the person who deposited the litter in question (if that information is in the recipient's possession).

8 A person shall not be liable to prosecution for an offence under section 87 of the 1990 Act or liable to pay a fixed penalty under section 88 of that Act if, in relation to the conduct constituting the offence that person has paid a penalty charge under Part 4 of the Act of 2007.

9 In this Part of this Schedule "the 1990 Act" means the Environmental Protection Act 1990 (c. 43).

PART 2

DOGS (FOULING OF LAND) ACT 1996

10 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 in respect of a dog, if—

(a) the dog defecates at any time on designated land (within the meaning of section 2(1) of the 1996 Act); and

(b) the person who is in charge of the dog at that time fails to remove the faeces from the land forthwith.

11 No penalty charge is payable in respect of a failure to remove faeces under paragraph 10 where—

(a) there is a reasonable excuse for the failure;

(b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to the failure;

(c) the conduct constituting the failure is the subject of criminal proceedings;

(d) the subject of a fixed penalty notice issued under section 4 of the 1996 Act (fixed penalty notices).

12 Nothing in this Part of this Schedule applies to a person—

(a) registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 (c. 29);

(b) who has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog—

(i) trained by Dogs for the Disabled (registered charity number 700454), Support Dogs (registered charity number 1088281) or Canine Partners for Independence (registered charity number 803680); and

(ii) upon which he relies for assistance.

13 Section 3(4) of the 1996 Act applies for the purposes of this Part of this Schedule as it applies for the purposes of section 3 of the 1996 Act.

14 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 by the person who was in charge of the dog at the time in question and failed to remove the faeces from the land.

15 The person mentioned in paragraph 14 is the appropriate recipient for the purposes of the said section 61.

16 For the purposes of section 62(1) of the Act of 2007 (representations and appeals) the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this Part of this Schedule are—

(a) that the recipient was not the person who was in charge of the dog at the time in question;
(b) that the dog in question did not defecate on designated land;
(c) that the recipient did not fail to remove the faeces from the land forthwith;
(d) that any one or more of sub-paragraphs 11(a) to (d) applies in respect of the failure in question;
(e) that the recipient, at the time of the alleged failure, fell within sub-paragraph 12(b)(i) or (ii);
(f) that the penalty charge exceeded the amount applicable in the circumstances of the case.

17 Where the ground mentioned in sub-paragraph 16(a) is relied on in any representations made under the said section 62(1), those representations must include a statement of the name and address of the person who was in charge of the dog at the time in question (if that information is in the recipient's possession).

18 A person shall not be liable to prosecution for an offence under section 3 of the 1996 Act or liable to pay a fixed penalty under section 4 of that Act if, in relation to the conduct constituting the offence that person has paid a penalty charge under Part 4 of the Act of 2007.

19 In this Part of this Schedule "the 1996 Act" means the Dogs (Fouling of Land) Act 1996 (c. 20).

PART 3

FOULING OF LAND BY DOGS ORDERS

20 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 in respect of a dog, if—
(a) the dog deposits faeces on land to which a Fouling of Land by Dogs Order applies; and
(b) the person who is in charge of the dog at that time fails to remove the faeces from the land at any time, or at any time during certain periods prescribed in the order.

21 No penalty charge is payable in respect of a failure to remove faeces under paragraph 20 where—
(a) there is a reasonable excuse for the failure;
(b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to the failure;
(c) the conduct constituting the failure is the subject of criminal proceedings;
(d) the subject of a fixed penalty notice issued under section 59 of the Clean Neighbourhoods and Environment Act 2005 (c. 16) (fixed penalty notices).

22 Nothing in this Part of this Schedule applies to a person—
(a) registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 (c. 29);

(b) who has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog—

(i) trained by Dogs for the Disabled (registered charity number 700454), Support Dogs (registered charity number 1088281) or Canine Partners for Independence (registered charity number 803680); and

(ii) upon which he relies for assistance.

23 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 by the person who was in charge of the dog at the time in question and failed to remove the faeces from the land.

24 The person mentioned in paragraph 23 is the appropriate recipient for the purposes of the said section 61.

25 For the purposes of section 62(1) of the Act of 2007 (representations and appeals) the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this Part of this Schedule are—

(a) that the recipient was not the person who was in charge of the dog at the time in question;

(b) that the dog in question did not deposit faeces on land to which a Fouling of Land by Dogs Order applied;

(c) that the recipient did not fail to remove the faeces from the land at any time, or at any time during certain periods prescribed in the order;

(d) that any one or more of sub-paragraphs 21(a) to (d) applies in respect of the failure in question;

(e) that the recipient, at the time of the alleged failure, fell within sub-paragraph 22(a) or (b);

(f) that the penalty charge exceeded the amount applicable in the circumstances of the case.

26 Where the ground mentioned in sub-paragraph 25(a) is relied on in any representations made under the said section 62(1), those representations must include a statement of the name and address of the person who was in charge of the dog at the time in question (if that information is in the recipient's possession).

27 A person shall not be liable to prosecution for an offence under paragraph 1 of Schedule 1 to the 2006 regulations or liable to pay a fixed penalty under section 59 of the Clean Neighbourhoods and Environment Act 2005 if, in relation to the conduct constituting the offence that person has paid a penalty charge under Part 4 of the Act of 2007.

28 In this Part of this Schedule—

"the 2006 regulations" means the Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 (S.I. 2006/1059) as may be modified or replaced;

"Fouling of Land by Dogs Order" means an order of that description under Schedule 1 to the 2006 regulations.

PART 4

DOGS ON LEADS ORDERS

29 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 in respect of a dog if, on land to which a Dogs on Leads Order applies, a dog is not kept on a lead or on a lead of a maximum length prescribed in the order, during such times or periods as may be so prescribed.

30 No penalty charge is payable in respect of a failure to keep a dog on a lead under paragraph 29 where—

(a) there is a reasonable excuse for the failure;

(b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to the failure;

(c) the conduct constituting the failure is the subject of criminal proceedings;

(d) the subject of a fixed penalty notice issued under section 59 of the Clean Neighbourhoods and Environment Act 2005 (c. 16) (fixed penalty notices).

31 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 by the person who was in charge of the dog at the time in question and failed to keep the dog on the lead.

32 The person mentioned in paragraph 31 is the appropriate recipient for the purposes of the said section 61.

33 For the purposes of section 62(1) of the Act of 2007 (representations and appeals) the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this Part of this Schedule are—

(a) that the recipient was not the person who was in charge of the dog at the time in question;

(b) that the dog in question was not on land to which a Dogs on Leads Order applied;

(c) that the recipient did not fail to keep the dog on a lead or on a lead of a maximum length prescribed in the order, as the case may be during such times or periods as were prescribed by the order;

(d) that any one or more of sub-paragraphs 30(a) to (d) applies in respect of the failure in question;

(e) that the penalty charge exceeded the amount applicable in the circumstances of the case.

34 Where the ground mentioned in sub-paragraph 33(a) is relied on in any representations made under the said section 62(1), those representations must include a statement of the name and address of the person who was in charge of the dog at the time in question (if that information is in the recipient's possession).

35 A person shall not be liable to prosecution for an offence under paragraph 1 of Schedule 2 to the 2006 regulations or liable to pay a fixed penalty under section 59 of the Clean Neighbourhoods and Environment Act 2005 if, in relation to the conduct constituting the offence that person has paid a penalty charge under Part 4 of the Act of 2007.

36 In this Part of this Schedule—

"the 2006 regulations" has the same meaning as in Part 3 of this Schedule;

"Dogs on Leads Order" means an order of that description under Schedule 2 to the 2006 regulations.

Part 5

Dogs on Leads by Direction Orders

37 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 in respect of a dog if, on land to which a Dogs on Leads by Direction Order applies, a dog is not put and thereafter kept on a lead or on a lead of a maximum length prescribed in the order, during such times or periods as may be so prescribed, when directed to do so by an authorised officer of a borough council.

38 No penalty charge is payable in respect of a failure to keep a dog on a lead under paragraph 37 where—

(a) there is a reasonable excuse for the failure;

(b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to the failure;

(c) the conduct constituting the failure is the subject of criminal proceedings;

(d) the subject of a fixed penalty notice issued under section 59 of the Clean Neighbourhoods and Environment Act 2005 (c. 16) (fixed penalty notices).

39 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 by the person who was in charge of the dog at the time in question and failed to put or keep the dog on the lead.

40 The person mentioned in paragraph 39 is the appropriate recipient for the purposes of the said section 61.

41 For the purposes of section 62(1) of the Act of 2007 (representations and appeals) the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this Part of this Schedule are—

(a) that the recipient was not the person who was in charge of the dog at the time in question;

(b) that the dog in question was not on land to which a Dogs on Leads by Direction Order applied;

(c) that the recipient did not fail to put or keep the dog on a lead or on a lead of a maximum length prescribed in the order, as the case may be during such times or periods as were prescribed by the order;

(d) that any one or more of sub-paragraphs 38(a) to (d) applies in respect of the failure in question;

(e) that the penalty charge exceeded the amount applicable in the circumstances of the case.

42 Where the ground mentioned in sub-paragraph 41(a) is relied on in any representations made under the said section 62(1), those representations must include a statement of the name and address of the person who was in charge of the dog at the time in question (if that information is in the recipient's possession).

43 A person shall not be liable to prosecution for an offence under paragraph 1 of Schedule 3 to the 2006 regulations or liable to pay a fixed penalty under section 59 of the Clean Neighbourhoods and Environment Act 2005 if, in relation to the conduct constituting the offence that person has paid a penalty charge under Part 4 of the Act of 2007.

44 In this Part of this Schedule—

"the 2006 regulations" has the same meaning as in Part 3 of this Schedule;

"Dogs on Leads by Direction Order" means an order of that description under Schedule 3 to the 2006 regulations.

PART 6

DOGS EXCLUSION ORDERS

45 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 in respect of a dog if the dog is taken onto or permitted to enter or remain on land to which a Dogs Exclusion Order applies during such times or periods as may be specified in the order.

46 No penalty charge is payable in respect of a failure to keep a dog on a lead under paragraph 45 where—

(a) there is a reasonable excuse for taking the dog onto or permitting it to remain on the land;

(b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to the person in question doing so;

(c) the conduct in question is the subject of criminal proceedings;

(d) the subject of a fixed penalty notice issued under section 59 of the Clean Neighbourhoods and Environment Act 2005 (c. 16) (fixed penalty notices).

47 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 by the person who was in charge of the dog at the time in question.

48 The person mentioned in paragraph 47 is the appropriate recipient for the purposes of the said section 61.

49 For the purposes of section 62(1) of the Act of 2007 (representations and appeals) the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this Part of this Schedule are—

(a) that the recipient was not the person who was in charge of the dog at the time in question;

(b) that the dog in question was not on land to which a Dogs Exclusion Order applied;

(c) that any one or more of sub-paragraphs 46(a) to (d) applies in respect of the incident in question;

(d) that the penalty charge exceeded the amount applicable in the circumstances of the case.

50 Where the ground mentioned in sub-paragraph 49(a) is relied on in any representations made under the said section 62(1), those representations must include a statement of the name and address of the person who was in charge of the dog at the time in question (if that information is in the recipient's possession).

51 A person shall not be liable to prosecution for an offence under paragraph 1 of Schedule 4 to the 2006 regulations or liable to pay a fixed penalty under section 59 of the Clean Neighbourhoods and Environment Act 2005 if, in relation to the conduct constituting the offence that person has paid a penalty charge under Part 4 of the Act of 2007.

52 In this Part of this Schedule—

"the 2006 regulations" has the same meaning as in Part 3 of this Schedule;

"Dogs Exclusion Order" means an order of that description under Schedule 4 to the 2006 regulations.

Part 7

Dogs (Specified Maximum) Orders

53 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 if a person being in charge of more than one dog takes more than the maximum number of dogs specified in a Dogs (Specified Maximum) Order onto land to which the order applies.

54 No penalty charge is payable in respect of the taking of dogs onto land under paragraph 53 where—

(a) there is a reasonable excuse for taking more than the specified number of dogs onto the land;

(b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to the person in question doing so;

(c) the conduct in question is the subject of criminal proceedings;

(d) the subject of a fixed penalty notice issued under section 59 of the Clean Neighbourhoods and Environment Act 2005 (c. 16) (fixed penalty notices).

55 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 by the person who was in charge of the dogs at the time in question.

56 The person mentioned in paragraph 55 is the appropriate recipient for the purposes of the said section 61.

57 For the purposes of section 62(1) of the Act of 2007 (representations and appeals) the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this Part of this Schedule are—

(a) that the recipient was not the person who was in charge of the dogs at the time in question;

(b) that the dogs in question were not on land to which a Dogs (Specified Maximum) Order applied;

(c) that the number of dogs in respect of which the recipient was in charge was fewer than the maximum number of dogs specified in the order;

(d) that the recipient was in charge of the dogs on the land at a time or during a period other than such times or periods as were prescribed by the order;

(e) that any one or more of sub-paragraphs 54(a) to (d) applies in respect of the incident in question;

(f) that the penalty charge exceeded the amount applicable in the circumstances of the case.

58 Where the ground mentioned in sub-paragraph 57(a) is relied on in any representations made under the said section 62(1), those representations must include a statement of the name and address of the person who was in charge of the dogs at the time in question (if that information is in the recipient's possession).

59 A person shall not be liable to prosecution for an offence under paragraph 1 of Schedule 5 to the 2006 regulations or liable to pay a fixed penalty under section 59 of the Clean Neighbourhoods and Environment Act 2005 if, in relation to the conduct constituting the offence that person has paid a penalty charge under Part 4 of the Act of 2007.

60 In this Part of this Schedule—

"the 2006 regulations" has the same meaning as in Part 3 of this Schedule;

"Dogs (Specified Maximum) Order" means an order of that description under Schedule 5 to the 2006 regulations.

PART 8

CONTROL OF DOGS ON ROADS

61 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 in respect of a person, if that person causes or permits a dog to be on a designated road without the dog being held on a lead.

62 No penalty charge is payable where—

(a) no permission is required by virtue of a limitation or exception to which the designation order in question is subject;

(b) the dog is kept for driving or tending sheep or cattle in the course of a trade or business; or

(c) the dog was at the material time in use under proper control for sporting purposes.

63 A penalty charge is payable to a borough council for the purposes of section 61 of the Act of 2007 by the person who caused or permitted the dog to be on the designated road without the dog being held on a lead.

64 The person mentioned in paragraph 63 is the appropriate recipient for the purposes of the said section 61.

65 For the purposes of section 62(1) of the Act of 2007 (representations and appeals) the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this Part are—

(a) that the recipient was not the person who caused or permitted the dog to be on the designated road without the dog being held on a lead;

(b) that the dog in question was not on a designated road without being held on a lead;

(c) that the recipient did not fail to remove the faeces from the land at any time, or at any time during certain periods prescribed in the order;

(d) that any one or more of sub-paragraphs 62(a) to (c) applied in respect of the incident in question;

(e) that the penalty charge exceeded the amount applicable in the circumstances of the case.

66 Where the ground mentioned in sub-paragraph 65(a) is relied on in any representations made under the said section 62(1), those representations must include a statement of the name and address of the person who caused or permitted the dog to be on the designated road without the dog being held on a lead (if that information is in the recipient's possession).

67 A person shall not be liable to prosecution for an offence under section 27(1) of the Road Traffic Act 1988 (c. 52) (control of dogs on roads) if, in relation to the conduct constituting the offence that person has paid a penalty charge under Part 4 of the Act of 2007.

68 In this Part of this Schedule—

"designated road" means a length of road specified by a designation order;

"designation order" means an order of a borough council under section 27(2) of the Road Traffic Act 1988.

SCHEDULE 2

Section 15

APPEALS RELATING TO MANAGEMENT NOTICES

Appeals against management notices

1 (1) The person on whom a management notice is served under **section 12**, or any other person who is a freeholder, lessee or mortgagee of the specified premises, may appeal to a residential property tribunal against the notice.

(2) The appeal may be on any of the following grounds—

(a) that the condition of the specified premises did not justify the local housing authority in requiring the taking of the remedial action specified in the notice;

(b) that there has been some informality, defect or error in or in connection with, the notice;

(c) that the authority have refused unreasonably to approve the taking of alternative remedial action, or that the remedial action required by the notice to be taken is otherwise unreasonable in character or extent, or is unnecessary;

(d) that the date specified for the beginning of the remedial action is not reasonable;

(e) that the time within which the remedial action is to be taken is not reasonably sufficient for the purpose;

(f) that some other person is wholly or partly responsible for the state of affairs calling for the taking of the remedial action, or will as the holder of an estate or interest in the premises derive a benefit from their taking and ought to pay the whole or a part of the expenses of executing them.

2 (1) In so far as an appeal is based on the ground mentioned in paragraph 1(2)(b), the tribunal shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(2) Where the grounds on which an appeal is brought include the ground specified in paragraph 1(2)(f), the appellant shall serve a copy of his notice of appeal on each other person referred to, and on the hearing of the appeal the tribunal may make such order as it thinks fit with respect to the payment to be made by any such other person to the appellant or, where the remedial action is taken by the local housing authority, to the authority.

Time limit for appeal

3 (1) Any appeal under this Schedule must be made within the period of 21 days beginning with the date on which the notice or copy of the management notice was served under section 12.

(2) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

Powers of residential property tribunal on appeal

4 (1) An appeal under this Schedule—

(a) is to be by way of a re-hearing; but

(b) may be determined having regard to matters of which the authority were unaware.

(2) The tribunal may by order confirm, quash or vary the management notice served under **section 12**.

5 (1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 1(2)(f).

(2) On the hearing of an appeal to which this paragraph applies the tribunal may—

(a) vary the notice so as to require the action to be taken by any owner mentioned in the notice of appeal in accordance with paragraph 1; or

(b) make such order as it considers appropriate with respect to the payment to be made by any such owner to the appellant or, where the action is taken by the local housing authority, to the authority.

(3) In the exercise of its powers under sub-paragraph (2), the tribunal must take into account, as between the appellant and any such owner—

(a) their relative interests in the premises concerned (considering both the nature of the interests and the rights and obligations arising under or by virtue of them);

(b) their relative responsibility for the state of the premises which gives rise to the need for the taking of the action concerned; and

(c) the relative degree of benefit to be derived from the taking of the action concerned.

(4) Sub-paragraph (5) applies where, by virtue of the exercise of the tribunal's powers under sub-paragraph (2), a person other than the appellant is required to take the action specified in a management notice.

(5) So long as that other person remains an owner of the premises to which the notice relates, he is to be regarded for the purposes of this section as the person on whom the notice was served (in place of any other person).

The "operative time" for the purposes of section 14(4)

6 (1) This paragraph defines "the operative time" for the purposes of **section 14**(4) (operation of management notices).

(2) If an appeal is made under paragraph 1 against a management notice, and a decision on the appeal is given which confirms the notice, "the operative time" is as follows—

(a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, "the operative time" is the end of that period;

(b) if an appeal to the Lands Tribunal is brought, "the operative time" is the time when a decision is given on the appeal which confirms the notice.

SCHEDULE 3 **Section 16**

TAKING OF REMEDIAL ACTION AND RECOVERY OF EXPENSES INCURRED BY LOCAL HOUSING AUTHORITY

PART 1

ACTION TAKEN BY AGREEMENT

Power to take action by agreement

1 (1) The local housing authority may, by agreement with the person on whom a management notice has been served, take any action which that person is required to take in relation to any premises in pursuance of the notice.

(2) For that purpose the authority have all the rights which that person would have against any occupying tenant of, and any other person having an interest in, the premises (or any part of the premises).

(3) In this paragraph—

"management notice" means a management notice which has become operative under **Part 4** of this Act;

"occupying tenant", in relation to any premises, means a person (other than an owner-occupier) who—

(a) occupies or is entitled to occupy the premises as a lessee;

(b) is a statutory tenant of the premises;

(c) occupies the premises under a restricted contract;

(d) is a protected occupier within the meaning of the Rent (Agriculture) Act 1976 (c. 80); or

(e) is a licensee under an assured agricultural occupancy;

"owner-occupier", in relation to any premises, means the person who occupies or is entitled to occupy the premises as owner or lessee under a long tenancy (within the meaning of Part 1 of the Leasehold Reform Act 1967 (c. 88)).

Expenses of taking action by agreement

2 Any action taken by the local housing authority under paragraph 1 is to be taken at the expense of the person on whom the notice is served.

PART 2

POWER TO TAKE ACTION WITHOUT AGREEMENT

Power to take action without agreement

3 (1) The local housing authority may themselves take the action required to be taken in relation to the condition of an HMO by a management notice if sub-paragraph (2) or (3) applies.

(2) This sub-paragraph applies if the notice is not complied with in relation to the condition of the HMO.

(3) This sub-paragraph applies if, before the end of the period which under sub-paragraph (4) is appropriate for completion of the action specified in the notice in relation to the failures to comply with management duties, they consider that reasonable progress is not being made towards compliance with the notice in relation to the failure to comply with management duties.

(4) In sub-paragraphs (2) and (3), compliance with a notice means beginning and completing the remedial action specified in the notice—

(a) (if no appeal is brought against the notice) not later than such date and within such period as is specified in the notice;

(b) (if an appeal is brought against the notice and is not withdrawn) not later than such date and within such period as may be fixed by the tribunal determining the appeal; and

(c) (if an appeal brought against the notice is withdrawn) not later than the 21st day after the date on which the notice becomes operative and within such period (beginning on that 21st day) as is specified in the notice.

(5) Any person authorised in writing by the authority may enter any part of the specified premises for the purposes of the taking of any action which the authority are authorised to take under this paragraph.

(6) The right of entry conferred by sub-paragraph (5) may be exercised at any reasonable time.

(7) Any reference in this Part of this Schedule (of whatever nature) to a local housing authority entering any premises under this paragraph is a reference to their doing so in accordance with sub-paragraph (5).

(8) In this paragraph "management notice" means a management notice which has become operative under **Part 4** of this Act.

Notice requirements in relation to taking action without agreement

4 (1) The local housing authority must serve a notice under this paragraph before they enter any premises under paragraph 3 for the purpose of taking action in relation to the condition of an HMO.

(2) The notice must identify the management notice to which it relates and state—

(a) the premises concerned and details of the defective condition in question;

(b) that the authority intend to enter the premises;

(c) the action which the authority intend to take on the premises; and

(d) the power under which the authority intend to enter the premises and take the action.

(3) The notice must be served on the person on whom the management notice was served, and a copy of the notice must be served on any other person who is an occupier of the premises.

(4) The notice and any such copy must be served sufficiently in advance of the time when the authority intend to enter the premises as to give the recipients reasonable notice of the intended entry.

(5) A copy of the notice may also be served on any owner of the premises.

Obstruction of action taken without agreement

5 (1) If, at any relevant time—
(a) the person on whom the notice under paragraph 4 was served is on the premises for the purpose of taking any remedial action; or
(b) any workman employed by that person, or by any contractor employed by that person, is on the premises for such a purpose,
that person is to be taken to have committed an offence under **section 35**.

(2) In proceedings for such an offence it is a defence that there was an urgent necessity to take out the remedial action in order to prevent danger to persons occupying the premises.

(3) In sub-paragraph (1) "relevant time" means any time—
(a) after the end of the period of 7 days beginning with the date of service of the notice under paragraph 4, and
(b) when any workman or contractor employed by the local housing authority is taking action on the premises which has been mentioned in the notice in accordance with paragraph 4(2)(c).

Expenses in relation to taking action without agreement

6 (1) Part 3 of this Schedule applies with respect to the recovery by the local housing authority of expenses incurred by them in taking action under paragraph 3.

(2) Sub-paragraph (3) applies where, after a local housing authority have given notice under paragraph 4 of their intention to enter premises and take action, the action is in fact taken by the person on whom the management notice is served.

(3) Any administrative and other expenses incurred by the authority with a view to themselves taking the action are to be treated for the purposes of Part 3 of this Schedule as expenses incurred by them in taking action under paragraph 3.

PART 3

RECOVERY OF CERTAIN EXPENSES

Introductory

7 This Part of this Schedule applies for the purpose of enabling a local housing authority to recover expenses reasonably incurred by them in taking action under paragraph 3.

Recovery of expenses

8 (1) The expenses are recoverable by the local housing authority from the person on whom the management notice was served ("the relevant person").

(2) Where the relevant person receives the rent of the premises as agent or trustee for another person, the expenses are also recoverable by the local housing authority from the other person, or partly from him and partly from the relevant person.

(3) Sub-paragraph (4) applies where the relevant person proves in connection with a demand under paragraph 9—
   (a) that paragraph 8 applies, and
   (b) that he has not, and since the date of the service on him of the demand has not had, in his hands on behalf of the other person sufficient money to discharge the whole demand of the local housing authority.

(4) The liability of the relevant person is limited to the total amount of the money which he has, or has had, in his hands as mentioned in sub-paragraph (3)(b).

(5) Expenses are not recoverable under this paragraph so far as they are, by any direction given by a residential property tribunal on an appeal to the tribunal under paragraph 11, recoverable under an order of the tribunal.

Service of demand

9 (1) A demand for expenses recoverable under paragraph 8, together with interest in accordance with paragraph 10, must be served on each person from whom the local housing authority are seeking to recover them.

(2) If no appeal is brought, the demand becomes operative at the end of the period of 21 days beginning with the date of service of the demand.

(3) A demand which becomes operative under sub-paragraph (2) is final and conclusive as to matters which could have been raised on an appeal.

(4) Paragraph 11 deals with appeals against demands.

Interest

10 Expenses in respect of which a demand is served carry interest, at such reasonable rate as the local housing authority may determine, from the date of service until payment of all sums due under the demand.

Appeals

11 (1) A person on whom a demand for the recovery of expenses has been served may appeal to a residential property tribunal against the demand.

(2) An appeal must be made within the period of 21 days beginning with the date of service of the demand or copy of it under paragraph 9.

(3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

(4) Where the demand relates to action taken by virtue of paragraph 3(3), an appeal may be brought on the ground that reasonable progress was being made towards compliance with the management notice when the local housing authority gave notice under paragraph 4 of their intention to enter and take the action.

This does not affect the generality of sub-paragraph (1).

(5) The tribunal may, on an appeal, make such order confirming, quashing or varying the demand as it considers appropriate.

(6) A demand against which an appeal is brought becomes operative as follows—

(a) if a decision is given on the appeal which confirms the demand and the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, the demand becomes operative at end of that period;

(b) if an appeal to the Lands Tribunal is brought and a decision is given on the appeal which confirms the demand, the demand becomes operative at the time of that decision.

(7) For the purposes of sub-paragraph (6)—

(a) the withdrawal of an appeal has the same effect as a decision which confirms the demand, and

(b) references to a decision which confirms the demand are to a decision which confirms it with or without variation.

(8) No question may be raised on appeal under this paragraph which might have been raised on an appeal against the management notice.

Expenses and interest recoverable from occupiers

12 (1) Where a demand becomes operative by virtue of paragraph 9(2) or 11(6), the local housing authority may serve a recovery notice on any person—

(a) who occupies the premises concerned, or part of those premises, as the tenant or licensee of the person on whom the demand was served under paragraph 9(1); and

(b) who, by virtue of his tenancy or licence, pays rent or any sum in the nature of rent to the person on whom the demand was served.

(2) A recovery notice is a notice—

(a) stating the amount of expenses recoverable by the local housing authority; and

(b) requiring all future payments by the tenant or licensee of rent or sums in the nature of rent (whether already accrued due or not) to be made direct to the authority until the expenses recoverable by the authority, together with any accrued interest on them, have been duly paid.

(3) In the case of a demand which was served on any person as agent or trustee for another person ("the principal"), sub-paragraph (1) has effect as if the references in paragraphs (a) and (b) to the person on whom the demand was served were references to that person or the principal.

(4) The effect of a recovery notice, once served under sub-paragraph (1), is to transfer to the local housing authority the right to recover, receive and give a discharge for the rent or sums in the nature of rent.

(5) This is subject to any direction to the contrary contained in a further notice served by the local housing authority on the tenant or licensee.

(6) In addition, the right to recover, receive and give a discharge for any rent or sums in the nature of rent is postponed to any right in respect of that rent or those sums which may at any time be vested in a superior landlord by virtue of a notice under section 6 of the Law of Distress Amendment Act 1908 (c. 53).

Expenses and interest to be a charge on the premises

13 (1) Until recovered, the expenses recoverable by the local housing authority, together with any accrued interest on them, are a charge on the premises to which the management notice related.

(2) The charge takes effect when the demand for the expenses and interest becomes operative by virtue of paragraph 9(2) or 11(6).

(3) For the purpose of enforcing the charge, the local housing authority have the same powers and remedies, under the Law of Property Act 1925 (c. 20) and otherwise, as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

(4) The power of appointing a receiver is exercisable at any time after the end of one month beginning with the date when the charge takes effect.

Recovery of expenses and interest from other persons profiting from taking of action

14 (1) Sub-paragraph (2) applies if, on an application to a residential property tribunal, the local housing authority satisfy the tribunal that—

(a) the expenses and interest have not been and are unlikely to be recovered; and

(b) a person is profiting by the taking of the action under paragraph 3 in respect of which the expenses were incurred in that he is obtaining rents or other payments which would not have been obtainable if the number of persons living in the premises was limited to that appropriate for the premises in their state before the action was taken.

(2) The tribunal may, if satisfied that the person concerned has had proper notice of the application, order him to make such payments to the local housing authority as the tribunal considers to be just.

SCHEDULE 4

Section 28

MINOR AND CONSEQUENTIAL AMENDMENTS TO CITY OF WESTMINSTER ACT 1999

Offences

1 In paragraph (b) of section 24 (offences) after "temporary licence" insert "or in completing a notice in accordance with subsection (4) of section 27B (seizure: notices) of this Act".

Seizure

2 In new section 27A (seizure)—

(a) in subsection (1) (as numbered by section 25(4)), for "subsection (9) below" substitute "section 27E (forfeiture of seized items by court) of this Act";

(b) in subsection (4) (as so numbered), for "subsections (5) and (6)" substitute "subsections (1) to (3)".

3 In new section 27C (return of seized items)—

(a) in subsection (2) (as numbered by section 27(9))—

(i) for "paragraph (f)" substitute "subsection (6)";

(ii) for "article or thing" substitute "item";

(iii) for "subsection (9) below" substitute "section 27E (forfeiture of seized items by the court) of this Act";

(b) in subsection (3) (as so numbered), for "article or thing" in all four places substitute "item";

(c) in subsection (4) (as so numbered)—

(i) for "sub-paragraph (e)" substitute "subsection (5)";

(ii) for "subsection (5) above" substitute "subsection (1) of the said section 27A";

(d) in subsection (5) (as so numbered), for "Sub-paragraph (d)" substitute "Subsection (4)";

(e) in subsection (6) (as so numbered), at the beginning insert "Subject to subsection (8) below,";

(f) in subsection (7) (as so numbered)—

(i) for "Paragraph (h)" substitute "Subsection (8)";

(ii) for "article, thing, receptacle or equipment" substitute "item";

(g) in subsection (8) (as so numbered)—

(i) for "paragraph" substitute "subsection";

(ii) for "section 27C" substitute "section 27I".

Forfeiture

4 In new section 27E (forfeiture of seized objects by council)—

(a) in subsection (1) (as numbered by section 25(11), for "subsection (10)" substitute "subsection (2)";

(b) in subsection (2) (as so numbered), (i) for "subsection (9)" substitute "subsection (1)"; and (ii) renumber paragraphs (i) and (ii) as (a) and (b).

Compensation

5 In new section 27F (compensation)—

(a) in subsection (1) (as numbered by section 27(12))—

(i) for "This subsection" substitute "This section";

(ii) in paragraph (a) for "article, thing, receptacle or equipment" substitute "item";

(iii) in paragraph (a) for "subsection (5) or (6) above" substitute "subsections (1) to (4) of section 27A (seizure) of this Act";

(b) in subsection (2) as so numbered—

(i) for "subsection" substitute "section";

(ii) for "article, thing, receptacle or equipment" substitute "item";

(c) in subsection (3) as so numbered—

(i) for "paragraph (b)" substitute "subsection (2)";

(ii) for "subsection (5) or (6)" substitute "subsections (1) to (4) of section 27A (seizure) of this Act".

Seizure of perishable items

6 In section 27G (as renumbered by section 27(14))—

(a) in subsection (1)—

(i) for "article or thing" substitute "item" in both places where those words appear;

(ii) for "subsection (5) of section 27 (unlicensed street trading" substitute "subsection (1) of section 27A (seizure)";

(b) in subsection (2)—

(i) for "subsection (5)" where it appears the first time, substitute "subsection (1)";

(ii) for "subsection (10) of the said section 27" substitute "subsection (2) of section 27E (forfeiture of seized items by court) of this Act";

(c) in subsection (5)—

(i) for the words from the beginning to "section 27" substitute "Subsections (1) to (4) of section 27C (return of seized items) and subsections (1) and (2) of section 27E (forfeiture of seized items by court) of this Act";

(ii) for "that section" substitute "section 27A (seizure) of this Act";

(iii) for "article or thing" in both places, substitute "item".

(d) in subsection (6)—

(i) for the words from the beginning to "section 27" substitute "Subsections (6) and (7) of the said section 27C";

(ii) for "that section" substitute "the said section 27A";

(iii) for "paragraph (f)" substitute "subsection (6)";

(e) in subsection (7)—

(i) for "Subsection (11) of the said section 27" substitute "Section 27F (compensation) of this Act";

(ii) for "paragraph (c)" substitute "subsection (3)";

(iii) for "paragraph (a)(ii)(A) or (B)" substitute "subsection (1)(a) of that section";

(f) in subsection (8) for "subsection (4)" substitute "subsection (3)";

(g) in subsection (10) for "the said section 27" substitute "section 27 (unlawful street trading) of this Act".

Motor vehicles

7 In section 27H (as renumbered by section 27(15)—

(a) in subsection (2) for "subsection (5) or (6) of section 27 (unlicensed street trading)" substitute "subsection (1) or (2) of section 27A (seizure)";

(b) in subsection (3) for "subsection (8)(f) of that section" substitute "subsection (6) of section 27C (return of seized items) of this Act";

(c) in subsection (5) for "subsection (5) or subsection (6)" substitute "subsection (1) or subsection (2)".

Disposal orders

8 In section 27I (as renumbered by section 27(16)—

(a) for subsection (1) substitute—

"(1) This section applies in respect of a complaint made by the council for a disposal order under—

(a) subsection (5)(a) of section 27B (seizure: notices) of this Act;

(aa) subsection (8) of section 27C (return of seized items) of this Act; or

(ab) subsection (3) of section 27D (disposal of seized objects by the council) of this Act; or

(b) section 27H (motor vehicles) of this Act,

and items that are the subject of the complaint are referred to as "seized items" in this section.";

(b) in subsection (2) omit "complainant";

(c) in subsection (3) for "article, thing, receptacle or equipment" substitute "seized item".

SCHEDULE 5 **Section 29**

CITY OF WESTMINSTER ACT 1999 (c.i) AS HAVING EFFECT AS AMENDED BY SECTION 20(2) OF THE LONDON LOCAL AUTHORITIES ACT 2004 (c.iii), CHAPTER 2 OF PART 3 OF THE LONDON LOCAL AUTHORITIES ACT 2007 (c.ii) AND THIS ACT

1 Citation and commencement

(1) This Act may be cited as the City of Westminster Act 1999.

(2) This Act shall come into operation at the end of the period of two months beginning with the date on which it is passed.

2 Interpretation

(1) In this Act, except as otherwise expressly provided or unless the context otherwise requires—

"authorised officer" means a person authorised by the council to act in relation to the relevant provisions of this Act;

"the city" means the City of Westminster;

"the Commissioner" means the Commissioner of Police of the Metropolis;

"the council" means the Westminster City Council;

"house" includes any part of a building constituting a separate dwelling;

"ice cream trading" means the selling, exposing or offering for sale of goods consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities;

"itinerant ice cream trading" means ice cream trading from a vehicle which goes from place to place remaining in any one location in the course of trading for short periods only;

"licence street" means a street or part of a street designated under section 5 (designation of streets and specification of articles) and section 6 (designating resolution) of this Act;

"receptacle" includes a vehicle, trailer or stall and any basket, bag, box, vessel, stand, easel, board, tray or thing which is used (whether or not constructed or adapted for such use) as a container for or for the display of any article or thing or equipment used in the provision of any service;

"street" includes—

(a) any road or footway;

(b) any other area, not being within permanently enclosed premises, within 7 metres of any road or footway, to which the public obtain access without payment—

(i) whether or not they need the consent of the owner or occupier; and

(ii) if they do, whether or not they have obtained it;

(c) any part of such road, footway or area;

(d) any part of any housing development provided or maintained by a local authority under Part II of the Housing Act 1985;

"street trading" means, subject to subsections (1A) and (2) below and section 3 (Exemptions) of this Act—

(a) the selling, offering for sale, display or exposing for sale of any article (including a living thing); and

(aa) the purchasing of or offering to purchase any ticket for gain or reward; and

(b) the supplying or offering to supply a service for gain or reward (whether or not the gain or reward accrues to the person actually carrying out the trading),

in a street;

"street trading licence" means a licence granted under this Act but excludes a temporary licence;

"street trading pitch" means the area authorised by a street trading licence or a temporary licence for street trading purposes;

"temporary licence" means a licence granted under this Act for one or more days not exceeding six months.

(1A) In this Act "street trading" shall also include the selling or exposure or offer for sale of any motor vehicle if the vehicle is—

(a) exposed or offered for sale on the internet; and

(b) kept on a street during the period when it is so exposed or offered for sale.

(2) In determining whether activity amounts to street trading for the purposes of this Act, the fact—

(a) that a transaction was completed elsewhere than in a street in the case where the initial offer or display of the articles in question or the offer of services, as the case may be, took place in a street;

(b) that either party to the transaction was not in a street at the time it was completed;

(c) that the articles actually sold or services actually supplied, as the case may be, were different from those offered,

shall be disregarded.

3 Exemptions

The following are not street trading for the purposes of this Act—

(a) trading only as a newsvendor provided that no undue interference or inconvenience or safety hazard is caused to people using the street and that the only articles sold, exposed or offered for sale are current newspapers or periodicals and that such articles are being sold, offered or exposed for sale—

(i) without a receptacle; or

(ii) from a single receptacle which does not—

(A) exceed 1 metre in length or width or 2 metres in height; or

(B) occupy a ground area exceeding 0.25 square metres; or

(C) stand on the carriageway of the street.

(b) the selling of articles or things to occupiers of premises adjoining any street, or the offering or exposing of them for sale by a delivery person from a vehicle which is used only for the regular delivery of milk or other perishable goods to those persons.

(c) the selling, exposure or offer for sale of articles or the provision of services on private land adjacent to a shop provided that the selling, exposure or offer for sale of the articles or the provision of the services—

(i) forms part of the business of the owner of the shop or person assessed for uniform business rate of the shop; and

(ii) takes place during the period during which the shop is open to the public for business.

(d) the doing of anything authorised by regulations made under section 5 of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916 or by permit or order made under Part III of the Charities Act 1992.

(e) trading by a person acting as a pedlar under the authority of a pedlar's certificate under the Pedlars Act 1871, if the trading is carried out only by means of visits from house to house.

4 Itinerant ice cream trading

(1) Nothing in this Act shall apply to itinerant ice cream trading in any street unless—

(a) that street is a licence street; or

(b) the street has been designated as a prohibited street under the following provisions of this section.

(2) If at any time it is necessary to prohibit itinerant ice cream trading in any street in the city which is not a licence street in the interests of preventing a safety hazard, obstruction to traffic or undue interference or inconvenience to persons using that street, the council may by resolution designate the street as a prohibited street and may from time to time rescind or vary any such resolution.

(3) The council shall not pass such a resolution unless they have first given notice in writing of their intention to do so—

(a) to the Commissioner;

(b) to the highway authority (except where the council is the highway authority); and

(c) to any body which appears to the council to be representative of persons carrying on ice cream trading in the area affected by the proposed resolution.

(4) The notice shall—

(a) give details of the proposed resolution and the reasons for it; and

(b) state that representations may be made regarding the proposed resolution by the date specified in the notice as the due date which shall be not less than 42 days after the notice has been given.

(5) As soon as practicable after the due date the council shall consider all representations received by that date and may at their discretion consider representations received after that date.

(6) The council shall give to any person who makes representations by the due date an opportunity to make oral representations to the council and may at their discretion give to other persons making representations a similar opportunity.

(7) The council may pass the proposed resolution, with any modifications they consider appropriate as a result of any representations received under this section. 5

(8) As soon as practicable after passing a resolution under subsection (7) above, the council shall by notice in writing inform all persons given notice of the proposed resolution. 10

5 Designation of streets and specification of articles

(1) The council may pass any of the following resolutions—

(a) a resolution designating a street or part of a street in the city as a licence street (a "designating resolution");

(b) a resolution specifying that in relation to a licence street or streets either— 15

(i) only specified articles, things or services or classes of articles, things or services may be sold, offered or provided in that street; or

(ii) the sale, offer or provision of specified articles, things or services or classes of articles, things or services are prohibited in that street; 20

(iii) (a "specifying resolution").

(2) The council may from time to time rescind or vary any such resolution.

6 Designating resolution 25

(1) The council shall not pass a designating resolution or rescind or vary such a resolution unless they have first given notice in writing of their intention to do so—

(a) to the Commissioner;

(b) to the highway authority (except where the council is the highway authority); 30

(c) to any body which appears to the council to represent the relevant street traders;

(d) to all licence holders whom the council could reasonably expect would be affected by the proposed resolution; and 35

(e) where the proposed resolution would designate private land, to the owner of that land or to the person assessed for the uniform business rate on it.

(2) The council may, if they think fit, also give notice in writing to residents associations or amenity societies representing residents living in the vicinity of the area which is the subject of a proposed designating resolution. 40

(3) The notice shall—
(a) give details of the proposed resolution; and
(b) state that representations may be made regarding the proposed resolution by the date specified in the notice as the due date, which date shall be not less than 28 days after the notice has been given.

(4) As soon as practicable after the due date the council shall consider all representations received by that date and may at their discretion consider representations received after that date.

(5) The council shall give to any person who makes representations by the due date an opportunity to make oral representations to the council and may at their discretion give to other persons making representations a similar opportunity.

(6) The council may pass the proposed resolution with any modifications they consider appropriate as a result of any representations received under this section except that no designating resolution may be passed—
(a) in respect of private land without the consent of the owner of that land or the person assessed for the uniform business rate on it; or
(b) in respect of a highway in respect of which the council is not the highway authority, without the consent of the highway authority.

(7) As soon as practicable after passing a resolution under subsection (6) above the council shall by notice in writing inform all persons given notice of the proposed resolution.

(8) If a street trading pitch becomes temporarily unsuitable for street trading purposes the council may after consulting the Commissioner, the highway authority, the licence holder and any other body or person they think fit, temporarily designate an alternative location for that pitch.

(9) A temporary designation under subsection (8) above shall remain in force for a period of no longer than five years from the date of designation and the street trading licence for the temporarily unsuitable pitch may be transferred, with any necessary modification to that licence, to the temporarily designated pitch.

7 Specifying resolution

(1) The council shall not pass a specifying resolution or rescind or vary such a resolution unless they have first given notice in writing—
(a) to all licence holders whom the council could reasonably expect would be affected by the proposed resolution; and
(b) to any body which appears to the council to represent such licence holders.

(2) The notice shall—
(a) give details of the proposed resolution; and
(b) state that representations may be made regarding the proposed resolution by the date specified in the notice as the due date which date shall be not less than 28 days after the notice has been given.

(3) As soon as practicable after the due date the council shall consider all representations received by that date and may at their discretion consider representations received after that date.

(4) The council shall give to any person who makes representations by the due date an opportunity to make oral representations to the council and may at their discretion give to other persons making representations a similar opportunity.

(5) The council may pass the resolution with any modifications which they consider appropriate as a result of any representations received under this section. 5

(6) As soon as practicable after passing a resolution under subsection (5) above the council shall by notice in writing inform all parties given notice of the proposed resolution. 10

8 Licensing of street traders

(1) Subject to section 4 (itinerant ice cream trading) of this Act it shall be unlawful for any person to engage in street trading (whether or not in or from a stationary position) within the city unless that person is authorised to do so by a street trading licence or a temporary licence. 15

(2) For the purposes of this Act a person shall be deemed to engage in street trading whether or not he regularly carries on the business of street trading.

9 Street trading licences

(1) The council may grant a street trading licence on such reasonable terms and conditions relevant to street trading as the council may specify. 20

(2) Without prejudice to the generality of subsection (1) above such conditions may include conditions—

(a) identifying the street trading pitch at which the licence holder may engage in street trading under the licence;

(b) identifying the articles, things or services or the classes of articles, things or services which the licence holder may sell or expose or offer for sale or provide; 25

(c) identifying the days and times during which the licence holder may engage in street trading;

(d) identifying the nature, type and number of any receptacle which may be used by the licence holder in connection with the sale or exposure or offer for sale of articles or things or the provision of services; 30

(e) requiring that any receptacle so used shall carry in a conspicuous position the name of the licence holder and the number of his licence in a form acceptable to the council; 35

(f) identifying any position in the licence street or adjoining streets where articles or things needed for re-stocking any such receptacle may be stored and the period during which they may be so stored;

(g) regulating the storage of receptacles or perishable goods; 40

(h) regulating the deposit and removal of refuse and the containers to be used for the deposit of refuse and their location pending its removal;

(i) requiring that the licence holder shall commence trading by a certain time on any day or forfeit his right to trade under his street trading licence for that day; and 45

(j) requiring third party insurance cover.

(3) Such conditions may also include conditions relating to the prevention of nuisance and may include specific restrictions relating to the hours between 10 p.m. on Sunday to Friday and 7 a.m. the day following and 10 p.m. on Saturday and 9 a.m. on Sunday.

(4) A street trading licence shall remain in force until it is cancelled or revoked by the council.

(5) A licence granted to an individual shall bear his photograph. The photograph, subject to subsection (7) below, shall be one of the photographs provided pursuant to subsection (3) of section 11 (applications) of this Act.

(6) Where a licence is granted to an individual the council may give him notice in writing, at intervals of not less than five years, requiring him to provide the council with three new photographs of the type prescribed by subsection (3) of section 11 (applications) of this Act, signed as there provided, but the council may, at their discretion, accept a lesser number of photographs.

(7) On each occasion when new photographs are provided by a licence holder pursuant to subsection (6) above the council shall re-issue his licence and the re-issued licence shall bear one of the new photographs.

(8) Where a licence is granted to a company incorporated under the Companies Acts, to an unincorporated association or to a partnership to carry on ice cream trading, any individual carrying on ice cream trading in accordance with that licence shall at all times while he is so trading carry with him, and produce on request by an authorised officer or a constable, a recent photograph of himself authenticated by the company or on behalf of the unincorporated association or partnership, as the case may be, which holds the licence.

(9) Where a licence is granted to an individual he shall at all times while engaged in street trading carry with him, and produce on request by an authorised officer or a constable, either the licence or an approved form of identity issued by the council for the purposes of this Act.

10 Standard conditions

(1) The council may prescribe standard conditions which are to apply to all street trading licences.

(2) Before prescribing such conditions or changing any condition so prescribed, the council shall first give notice in writing to all holders of street trading licences whom the council could reasonably expect would be affected by the proposed conditions or changes to the conditions and to any body which appears to the council to represent such licence holders.

(3) The notice shall—

(a) give details of the proposed conditions or changes to the conditions;

(b) state that representations may be made with regard to the proposal by the date specified in the notice as the due date, which date shall be not less than 28 days after the notice has been given.

(4) As soon as practicable after the due date the council shall consider all representations received by that date and may at their discretion consider representations received after that date.

(5) The council shall give to any person who makes representations by the due date an opportunity to make oral representations to the council and may at their discretion give to other persons making representations a similar opportunity.

(6) The council may prescribe the proposed conditions or changes to conditions with any modifications they consider appropriate as a result of any representations received under this section.

(7) As soon as practicable and in any event no later than 7 days after prescribing such conditions or changes to conditions the council shall by notice in writing inform all the holders of street trading licences to whom previous notice was given under subsection (2) above of the conditions or changes to conditions and the conditions or changes to conditions shall come into force 35 days after the date on which the conditions or changes to conditions were prescribed.

11 Applications

(1) An application for the grant or variation of a street trading licence shall be made in writing to the council in such form as the council may prescribe.

(2) In the application the applicant shall state—

(a) in the case of an application by an individual, his full name and home address and date of birth;

(b) in the case of an application for a licence to carry on ice cream trading—

(i) by a company incorporated under the Companies Acts, the name of the company and its registered office;

(ii) by a partnership or unincorporated association, the names of its members and the address of its principal office;

(c) the licence street in which, the days on which and times between which he desires to trade and, if appropriate, the street trading pitches from which he desires to trade;

(d) the description of articles, things or services in which he desires to trade; and

(e) such other particulars, relevant to street trading, as the council may reasonably require:

and may in the case of an individual specify the name of the person to whom he would wish the licence to be granted in the circumstances of any of the events listed in section 20 (succession) of this Act.

(2A) In the case of an application for a street trading licence which, if granted, would authorise street trading on land which falls within paragraph (b) in the definition of "street" in subsection (1) of section 2 (interpretation) of this Act, the applicant shall provide evidence in writing—

(a) that he has consent to trade on the land from the owner of the land in question; or

(b) that he is the owner of the land in question.

(3) In the case of an application by an individual the applicant shall, with his application, hand to an authorised officer three identical clear full face photographs of himself, without headgear (unless on religious grounds the applicant permanently wears headgear) or sunglasses, taken within the preceding 12 months, each photograph being signed by the applicant on the reverse, but the council may, at their discretion, accept a lesser number of photographs.

(4) If a standard condition prescribed under section 10 (standard conditions) of this Act requires third party insurance cover the applicant shall produce to an authorised officer proof of such third party insurance cover before a licence is granted.

(5) The council may make regulations prescribing the procedure for determining applications.

(6) Before making such regulations or changing them the council shall consult with any body which appears to the council to represent licence holders and give consideration to any representations received within 28 days of the date the council's proposals were notified to the body concerned.

12 Mandatory grounds of refusal

(1) The council shall refuse to grant an application made under section 11 (applications) of this Act—

(a) where the applicant is not an individual;

(b) where the applicant is under the age of 17 years;

(c) where the applicant holds a street trading licence in any other licence street granted under this Act, or a street trading licence in the area of another local authority granted under the London Local Authorities Act 1990 which, in either case, enables him to carry on street trading during the period stated in his application;

(d) where the council are satisfied that there is not enough space in the street for the applicant to engage in the trading in which he desires to trade without causing a safety hazard or undue interference or inconvenience to persons or vehicular traffic using the street;

(e) where the street to which the application relates is a street in respect of which a specifying resolution is in force and the grant of the licence would be contrary to any of the terms of that resolution;

(f) to trade in a street which is not a licence street;

(g) where the application, if granted, would authorise street trading on land which falls within paragraph (b) in the definition of "street" in subsection (1) of section 2 (interpretation) of this Act, unless the applicant has provided sufficient such evidence as is mentioned in subsection (2A) above to satisfy the council.

(2) Subsection (1)(a) above shall not apply where the application is to carry on ice cream trading.

13 Discretionary grounds of refusal

(1) The council may refuse to grant an application made under section 11 (applications) of this Act on any of the following grounds:—

(a) that, in the case of an application for the grant of a licence the council considers that there are enough traders trading in the street or in any street adjoining the street in respect of which the application is made in the goods in which the applicant desires to trade;

(b) that the applicant is on account of misconduct or for any other sufficient reason unsuitable to hold a street trading licence;

(c) that the applicant has persistently failed to comply with any condition of his street trading licence or a previous street trading licence held by the individual, member of the unincorporated association or partnership or company concerned;

(d) that the applicant is an individual who has persistently without reasonable excuse failed to make full personal use of a previous street trading licence;

(e) that the applicant is a partnership, unincorporated association or company which has without reasonable excuse persistently failed to avail itself fully of a previous street trading licence;

(f) that the applicant has at any time been granted a street trading licence by the council which was revoked or could have been revoked on the grounds that he had refused or neglected to pay fees or other charges due to them in respect of the licence;

(g) that the applicant has failed to provide or to identify suitable or adequate premises for the storage of any receptacles or perishable goods in which he proposes to trade when street trading is not taking place;

(h) that since the grant of a previous street trading licence the licence holder has persistently failed to remove to the place of storage the receptacles used by him for trading or any perishable goods in which he trades;

(i) that in the vicinity of the street trading pitch concerned undue disturbance is likely to be caused as a result of the proposed activities of the applicant;

(j) that in the case of an application for the grant of a street trading licence—

(i) the only available position is in that part of the street which is in front of any part of the frontage of a shop or in front of the paved area of the frontage of that shop; and

(ii) the articles, things or services mentioned in the application are sold or provided at the shop;

(k) that in the case of an application for the grant of a street trading licence—

(i) the only available position in the street is within the curtilage of a shop; and

(ii) the applicant is not the owner or occupier of the premises comprising the shop.

(2) If the council consider that grounds for refusal exist under subsection (1) (a), (c), (d), (e) or (i) above they may grant the applicant a licence which permits him—

(a) to trade on fewer days or during a shorter period in each day than is specified in the application; or

(b) to trade on a different street trading pitch from that specified in the application; or

(c) to trade in goods other than those specified in the application or in only some of the goods so specified.

14 Cancellation of licences

A holder of a street trading licence or a temporary licence may at any time surrender his licence with a written and signed request for its cancellation and the cancellation shall take effect when the licence together with the request for its cancellation is received by the council.

15 Revocation of licences

(1) The council may at any time revoke a street trading licence or a temporary licence if they are satisfied that—

(a) owing to circumstances which have arisen since the grant of the licence, there is not or will not be enough space in the street in which the licence holder trades for him to engage in the trading permitted by the licence without causing a safety hazard or undue interference or inconvenience to persons or vehicular traffic using the street; or

(b) the licence holder is trading in breach of the terms of a specifying resolution; or

(c) the licence holder is an individual who has persistently without reasonable excuse failed to make full personal use of his licence; or

(d) the licence holder is a partnership, unincorporated association or company which has without reasonable excuse persistently failed to avail itself fully of the licence; or

(e) the licence holder is on account of misconduct or for any other sufficient reason unsuitable to hold the licence; or

(f) since the grant of the licence, the licence holder has for a period of four weeks or more failed to pay fees or charges due to the council in connection with the street trading licence or has failed to pay any charges due from him for accommodation provided in pursuance of subsection (2) of section 23 (receptacles and containers) of this Act; or

(g) since the grant of the licence, the licence holder has persistently failed to pay fees or charges as they fall due to the council in connection with the street trading licence; or

(h) since the grant of the licence, the licence holder has failed to make provision for the suitable and adequate storage when trading is not taking place of the receptacles used by him for trading or of any perishable goods in which he trades; or

(i) since the grant of the licence, the licence holder has persistently failed to remove to the place of storage the receptacles used by him for trading or any perishable goods in which he trades; or

(j) the licence holder has persistently failed to comply with any condition of his licence; or

(k) in the vicinity of the street trading pitch concerned undue disturbance has been caused by the activities of the licence holder; or

(l) the licence holder has failed to provide the council with the photographs required in pursuance of a notice under subsection (6) of section 9 (street trading licences) of this Act.

(2) If the council consider that a licence could be revoked on any of the grounds mentioned in paragraphs (a) to (d) and (k) of subsection (1) above they may instead of revoking it, vary its conditions by attaching further conditions—

(a) reducing the number of days in any week or the period in any one day during which the licence holder is permitted to trade; or

(b) specifying a different street trading pitch at which licensed street trading may take place; or

(c) restricting the description of articles, things or services in which the licence holder is permitted to trade.

16 Variation of licences

(1) In addition to changes to any of the standard conditions which the council may make under section 10 (standard conditions) of this Act the council may vary a street trading licence on 1st January in any year during the currency of the licence.

(2) Subject to the provisions of this Act, the council may also at any time vary a street trading licence on application by the licence holder in accordance with his application.

17 Further provisions relating to refusal, revocation or variation of street trading licences

(1) The council shall before—

(a) refusing an application for the grant of a street trading licence, other than on the grounds specified in section 12 (mandatory grounds of refusal) of this Act;

(b) revoking a street trading licence or a temporary licence valid for a period exceeding 28 days; or

(c) varying a street trading licence other than a variation to a standard condition as set out in section 10 (standard conditions) of this Act;

give to the applicant or licence holder at least 21 days notice in writing of their proposal and the grounds on which the proposed refusal, revocation or variation would be based and giving the applicant or licence holder the opportunity to appear before the committee, sub-committee, authorised officer or panel of officers determining the matter.

(2) The council may consider and determine any of the matters set out in paragraph (a) to (c) of subsection (1) above where a shorter period of notice than the 21 days required by that subsection has been given, provided the applicant or licence holder has so consented in writing.

(3) If an application is refused or a licence is revoked or varied (other than under subsection (2) of section 16 (variation of licences) of this Act) the council shall notify the applicant or licence holder in writing of—

(a) the decision together with the grounds and reasons for that decision; and

(b) any rights of appeal against that decision.

17A Lapsing of licence in certain cases

In the case of a street trading licence which authorises street trading on land which falls within paragraph (b) in the definition of "street" in subsection (1) of section 2 (interpretation) of this Act, the licence shall lapse if—

(a) the consent is discontinued by the person who gave it, or a successor in title of that person, and the council is provided with written notice of the discontinuation of the consent by the person who discontinues it; or

(b) the holder of the licence no longer is the owner of the land in question, as the case may be.

18 Appeals against refusal, revocation or variation of licences

(1) Any person aggrieved—

(a) by a decision of the council to refuse an application under section 11 (applications) of this Act other than on any of the grounds specified in section 12 (mandatory grounds of refusal) of this Act or to revoke a street trading licence; or

(b) by a decision of the council to grant a street trading licence on terms other than those sought; or

(c) by a decision of the council to vary a street trading licence other than by a change to the standard conditions; or

(d) by the attachment to a street trading licence of any condition other than a condition to which the licence had hitherto been subject or a standard condition; or

(e) by a prohibition under subsection (2) of section 4 (itinerant ice cream trading) of this Act;

may appeal to a magistrates' court acting for the area in which the street trading pitch is situated or in which is situated the street to which the prohibition relates.

(2) An appeal under subsection (1) above may be brought—

(a) in the case of an appeal under subsections (1)(a) to (d) above, at any time before the expiration of the period of 21 days beginning with the date upon which notification in writing is given of the decision;

(b) in the case of an appeal under paragraph (e) of that subsection, at any time before the expiration of the period of 21 days beginning with the date on which the person aggrieved is informed under subsection (8) of the said section 4 of this Act of the council's resolution to make the prohibition.

(3) A person desiring to appeal against such a decision as is mentioned in subsection (1) above shall give written notice to the magistrates' court and to the council specifying the decision against which he wishes to appeal and the grounds upon which such appeal is made.

(4) An appeal by either party against the decision of the magistrates' court under this section may be made to the Crown Court.

(5) On an appeal to the magistrates' court or to the Crown Court under this section, the court may make such order as it thinks fit, such order to be limited to the matter which is the subject of the appeal. 5

(6) Subject to subsection (7) below, it shall be the duty of the council to give effect to the order of the magistrates' court or the Crown Court.

(7) The council need not give effect to the order of the magistrates' court until the time for bringing an appeal under subsection (4) above has expired and, if such an appeal is duly brought, until the determination or abandonment 10 of the appeal.

(8) Where the council decide to revoke a street trading licence, or to vary its conditions (other than a standard condition) without the consent of the licence holder the revocation or variation shall not take effect until the time for bringing an appeal to the magistrates' court or the Crown Court under 15 subsection (1) or (4) above has expired or where such an appeal is duly brought, until the determination or abandonment of the appeal.

(9) Notwithstanding the provisions of subsection (8) above where the council—

(a) has revoked a street trading licence on the grounds that the licence 20 holder has failed to pay fees and charges due to the council and the licence holder has appealed it shall only be lawful for the licence holder to trade under the authority of that licence, until any appeal has been determined or abandoned, if—

(i) all fees and charges due to the council have been paid; and 25

(ii) he continues to pay fees and charges due to the council under that licence;

(b) has revoked a street trading licence on any other grounds and the licence holder has appealed the licence holder may continue to trade under the authority of that licence by virtue of subsection (8) 30 above only whilst he continues to pay fees and charges due to the council under that licence.

19 Appeals to Secretary of State

(1) Any person aggrieved—

(a) by a resolution varying or rescinding a designating resolution; 35

(b) by a specifying resolution or a resolution varying such a resolution;

(c) by a standard condition; or

(d) by the amount of a fee or charge under section 22 (fees and charges) of this Act,

may appeal to the Secretary of State whose decision shall be final. 40

(2) An appeal under subsection (1) above may be brought at any time before the expiration of a period of three months commencing on the date on which notice has been given in writing to the person aggrieved under subsection (7) of section 6 (designating resolution), subsection (6) of section 7 (specifying resolution), subsection (7) of section 10 (standard conditions) 45 or subsection (15) of the said section 22 of this Act as appropriate.

20 Succession

(1) (a) The holder of a street trading licence who is an individual may at the time of making application under section 11 (applications) of this Act or at any time thereafter by written notice to the council specify the name and address of a relative (or employee under subsection (3)(e) below) to whom he would wish the licence to be granted if he—

(i) dies; or

(ii) retires having reached the age of 60; or

(iii) notifies the council that owing to ill-health he is unable to continue to engage in the street trading permitted by the licence, and submits evidence to satisfy the council as to his ill-health,

and he may vary his nomination at any time by giving written notice thereof to the council, specifying the name and address of such other person to whom he would wish the licence to be granted and such notice shall revoke all previous nominations made by the licence holder;

(b) When a holder of a street trading licence has nominated a person in accordance with paragraph (a) above the council shall not (except as provided in paragraph (c) below) grant a licence in respect of the street trading pitch for which the former licence holder was licensed until the expiration of 28 days from the date of the death of the licence holder or his retirement or receiving the notification, as the case may be;

(c) If during the said period of 28 days the person previously nominated by the licence holder as the person to whom he desired the licence to be granted in any of the events mentioned in paragraph (a) above makes application for the grant of a licence in respect of the street trading pitch concerned the council shall save as provided by subsection (1)(a) to (c) of section 12 (mandatory grounds of refusal) and subsection (1)(b) to (f) of section 13 (discretionary grounds of refusal) of this Act grant a licence to that person on the same terms and conditions as were previously in force.

(2) For the purposes of this section a person shall be treated as being related to another person if the latter is the wife, common law wife, husband, common law husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister of the former and shall be deemed to be so related notwithstanding that he is so related only through an illegitimacy or in consequence of adoption.

(3) The council may at their discretion—

(a) grant the licence to a nominee where a licence holder has given up or proposes to give up his licence on grounds other than those specified in paragraph (a)(ii) or (a)(iii) of subsection (1) above; or

(b) extend the period of 28 days specified in subsection (1)(b) above; or

(c) grant the licence to a relative not mentioned in subsection (2) above; or

(d) grant the licence to a relative as defined by subsection (2) above where the former licence holder failed to make a nomination; or

(e) grant the licence to an employee of at least five years standing of the former licence holder where—

(i) the former licence holder had previously notified the council of his employment of that person; and

(ii) the former licence holder or the applicant has made available to the council all necessary tax and other records to prove that the person is or was a bona fide employee.

(4) The council shall not grant a street trading licence under subsection (3) above if to do so—

(a) would cause a breach of a specifying resolution; or

(b) would be contrary to the provisions of section 12 (mandatory grounds of refusal) of this Act.

(5) Where a street trading licence cannot be granted under this section because of the provisions of subsection (1)(c) of the said section 12 of this Act the council may at their discretion grant a licence to another relative of the former licence holder or to a relative of the person who, but for the provisions of subsection (1)(c) of the said section 12 of this Act, would have been granted the licence.

21 Temporary licences

(1) The council may if they think fit on the receipt from any person of an application for that purpose and accompanied by the appropriate fee grant to that person a temporary licence.

(2) A temporary licence shall remain in force only for the day or period specified in the licence and—

(a) shall be in a similar form to a street trading licence with such modifications therein as the circumstances require; and

(b) shall contain such terms and conditions as the council may specify.

(2A) In the case of an application for a temporary licence which, if granted, would authorise street trading on land which falls within paragraph (b) in the definition of "street" in subsection (1) of section 2 (interpretation) of this Act, the applicant shall provide evidence in writing—

(a) that he has the consent to trade on the land from the owner of the land in question; or

(b) that he is the owner of the land in question.

(2B) An application for a temporary licence shall not be granted, if the licence would authorise street trading on land which falls within the said paragraph (b), unless the applicant has provided sufficient evidence, as is mentioned in subsection (3) of section 11 (applications) of this Act, to satisfy the council.

(2C) In the case of a temporary licence which authorises street trading on land which falls within the said paragraph (b), the licence shall lapse if—

(a) the consent to trade on the land is discontinued, and the council is provided with written notice of the discontinuance of the permission by the person who gave the consent or by a successor in title to that person; or

(b) the holder of the licence is no longer the owner of the land in question.

(2D) The council may revoke or suspend the operation of a temporary licence held in respect of land which falls within the said paragraph (b) if circumstances have arisen since the grant of the licence or are about to arise which necessitate such revocation or suspension on the grounds of safety.

(2E) Where a temporary licence is revoked or suspended under subsection (2D) above, the council shall return to the licensee such proportion of any fee paid for the granting of the licence as is appropriate, taking into account the period for which the licence was granted and the period remaining on the licence when it was revoked or the period for which the licence was suspended, as the case may be.

(3) Where the holder of a street trading licence is not for the time being exercising his rights under the licence or has indicated in writing to the council his intention not to exercise those rights, a temporary licence authorising street trading from the same street trading pitch may be granted to any other person but subject to the condition that—

(a) in a case where a temporary licence has been granted but has yet to come into effect; or

(b) in a case where a temporary licence is granted for longer than 24 hours and has come into effect,

the temporary licence shall, if the appropriate notice is given by the holder of the street trading licence, cease to be valid at the end of the day on which the appropriate notice expires.

(4) Where a temporary licence ceases to be valid under subsection (3) above—

(a) if it ceases to be valid before it comes into effect, the application fee shall be returned to the applicant by the council;

(b) in any other case, the proportion of the application fee which is attributable to any period in respect of which the temporary licence ceases to be valid shall be returned to the applicant by the council.

(5) In this section "appropriate fee" means such fee as the council may have determined under section 22 (Fees and charges) of this Act and "appropriate notice" means 24 hours notice or 7 days notice where a temporary licence has been granted for longer than 24 hours.

(6) The council may establish a register of persons to whom they would be prepared to grant temporary licences.

22 Fees and charges

(1) The council may charge to applicants for the grant or variation of street trading licences such fees as are sufficient in the aggregate, taking one year with another, to recover the reasonable costs of dealing with such applications.

(2) The council may recover from licence holders such charges as may be sufficient in the aggregate, taking one year with another, to cover the reasonable costs of—

(a) the collection, removal and disposal of refuse or other services rendered by them to such licence holders; and

(b) the cleansing of streets in which street trading takes place in so far as that cleansing is attributable to such trading; and

(c) any reasonable administrative costs or other costs not otherwise recovered under this Act incurred in connection with the administration of the provisions of this Act; and

(d) the cost of enforcing the provisions of this Act.

(3) The council may make a charge for the supply of an approved form of identity issued under subsection (9) of section 9 (street trading licences) of this Act and for a plate identifying a street trading pitch; any such charge shall not exceed the council's reasonable costs of supplying those items.

(4) The council may charge an annual fee for registration or renewal of registration in the register established under subsection (6) of section 21 (temporary licences) of this Act, sufficient in the aggregate, taking one year with another, to cover the council's cost of administering the registration scheme.

(5) (a) The council may at the request of a majority of licence holders in a particular market or area provide other services to licence holders in that market or area;

(b) The cost of these services may be included in the charge referred to in subsection (2) above provided that those costs are only included in the charges made to the licence holders in that particular market or area;

(c) At any time a majority of licence holders in a particular market or area may request the council to cease to provide such services and the council shall, subject to any contractual arrangements, accede to such a request within three months of the request.

(6) Without prejudice to the generality of subsection (2) above it shall be lawful for the council to make a lower charge to licence holders who pay charges in full in advance or in full by means of standing order or direct debit.

(7) The council may require that an application for a licence or for variation of a licence under this Act be accompanied by the whole or part of the fee determined under subsection (1) above.

(8) The council may determine that a fee be charged on application for the grant of a temporary licence under section 21 (temporary licences) of this Act, and in determining the amount of such fees they shall have regard to the matters specified in subsections (1), (2) and where appropriate (5) above and such fees shall be included in the computation for the purposes of determining the charges under subsections (1) and (2) above.

(9) The council shall not determine or vary charges made under subsection (2) above unless they have first given notice in writing to—

(a) all licence holders who would be affected by the proposal; and

(b) any body which appears to the council to represent such licence holders.

(10) The notice shall—

(a) give details of proposed charges;

(b) state that representations may be made regarding the proposed charges by the date specified in the notice as the due date which date shall be not less than 28 days after the notice has been given; 5

(c) be accompanied by a statement showing how the proposed charges have been computed.

(11) Within 21 days of the giving of the notice any body representative of licence holders may ask the council for such further information or explanations with regard to the proposed charges as the body concerned may 10 reasonably require to ascertain whether the proposed charges are reasonable and in accordance with the provisions of this section and as soon as reasonably practicable the council shall comply with the request.

(12) Where a request under subsection (11) above is made the period within which representations may be made shall be extended by the number of 15 days in the period beginning with the date on which the request is made and ending on the date that it is complied with.

(13) As soon as practicable after the expiry of the period specified in subsection (10) above, with any extension under subsection (12) above, the council shall consider all representations received by that date and may at their 20 discretion consider representations received after that date.

(14) The council shall give to any person who may make representations by the due date an opportunity to make oral representations to the council and may at its discretion give to other persons making representations a similar opportunity. 25

(15) As soon as practicable the council shall by notice in writing inform all licence holders affected by the council's decision as to the determination or variation of fees or charges.

(16) The fees and charges as determined or varied by the council shall come into force on a date set by the council which shall be not less than 14 days from 30 the date on which the decision as to the determination or variation of fees or charges was made.

23 Receptacles and containers

(1) The council may sell or let on hire or otherwise provide to any person holding a street trading licence or a temporary licence under this Act 35 receptacles for use by him in street trading.

(2) The council may provide and maintain accommodation for the storage of receptacles and containers for the deposit of refuse arising in the course of street trading and for that purpose may—

(a) adapt any premises or erect any buildings on any land belonging 40 to them but not already appropriated for such purpose; and

(b) make such reasonable charges as they think fit for the use of such accommodation.

24 Offences

Any person who—

(a) without reasonable excuse contravenes any of the conditions of a street trading licence or a temporary licence; or

(b) in connection with an application for a street trading licence or a temporary licence or in completing a notice in accordance with subsection (4) of section 27B (seizure: notices) of this Act makes a statement which he knows to be false in a material particular; or

(c) resists or intentionally obstructs an authorised officer in the execution of his duties under this Act; or

(d) fails on demand without reasonable excuse in the case of an individual licence holder to produce to an authorised officer or to a constable his licence or other approved form of identity issued by the council for the purposes of this Act, or, in the case of an individual carrying on ice cream trading under a licence granted to a company incorporated under the Companies Acts or to a partnership or unincorporated association, to produce the photograph required by subsection (8) of section 9 (Street trading licences) of this Act,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

25 Power to remove receptacles

(1) Where any receptacle used by a licence holder is not removed to a place of storage on the cessation of trading on any day it shall be lawful for the council to cause it to be removed to a place of storage and to recover from the licence holder the reasonable costs incurred by them in removing and storing the receptacle.

(2) Such reasonable charges as the council may incur in respect of the cost of removal and storage of a receptacle in pursuance of subsection (1) above, shall be payable by the licence holder before the return of the receptacle to him.

(3) The provisions of subsection (1) above are without prejudice to the power of the council to take other enforcement action against the licence holder for any breach of the conditions of his licence arising from the failure to remove the receptacle.

(4) If a receptacle removed under subsection (1) above is not recovered by the licence holder within three months of the date it was removed by the council it shall be lawful for the council to dispose of the receptacle in any way they think fit; the council shall take reasonable steps to sell the receptacle at the best possible price which can reasonably be obtained before disposing of it in any other manner.

26 Employment of assistants

A person holding a street trading licence or a temporary licence may employ any other person to assist him in the conduct of street trading authorised by the licence but if any person employed by a licence holder, whether or not the licensed holder is present, fails to comply with the conditions of the ** licence held by his employer such failure shall be deemed to be a failure by the licence holder.

27 Unlicensed street trading

(1) A person who is not the holder of a street trading licence or a temporary licence and who engages in street trading whether or not from a stationary position in the city shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Any person who is the holder of a street trading licence or a temporary licence and who engages in street trading whether or not from a stationary position in the city on a day or in a place not specified in that licence without the council's specific permission in writing shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) In any proceedings for an offence under this section or for an offence of aiding, abetting, counselling or procuring the commission of an offence under this section where it is shown that—

(a) any article or thing was displayed (whether or not in or on any receptacle) in any street; or

(b) any other article or thing of a similar kind to any article or thing referred to in sub-paragraph (a) above was in the possession of or under the control of any person who was displaying an article or thing; or

(c) any receptacle or equipment was used in the display of any article or thing in any street; or

(d) any receptacle or equipment used in the provision of any service was available in any street in such circumstances that a service was being offered;

the article, thing, receptacle or equipment concerned shall be deemed to have been used for purposes for which a street trading licence was required unless it can be proved to the satisfaction of the court that the article, thing, receptacle or equipment was brought into the street for some purpose other than street trading.

(4) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence and liable to the same maximum penalty as the body corporate.

27A Seizure

(1) Subject to section 27G (seizure of perishable items) of this Act, if an authorised officer or a constable has reasonable grounds for suspecting that a person has committed an offence under this section he may seize—

(a) any article or thing being offered for sale, displayed or exposed for sale; or

(b) any other article or thing of a similar nature to that being offered or exposed for sale which is in the possession of or under the control of any person who is displaying an article or thing; or

(c) any receptacle or equipment being used by that person,

(d) which may be required to be used in evidence in any proceedings in respect of that offence, or may be the subject of forfeiture under section 27E (forfeiture of seized items by court) of this Act ***.

(2) An authorised officer or constable may also seize, for examination purposes, any article or thing which he has reasonable cause to suspect may be an article or thing which is prohibited by a specifying resolution made under subsection (1)(b) of section 5 (designation of streets and specification of articles) of this Act and unless the article or thing is required for evidential purposes it shall be returned as soon as possible to the person from whom it was seized.

(3) An authorised officer or constable may also seize any receptacle or equipment (other than a motor vehicle) which—

(a) is in a street; and

(b) he has reasonable cause to suspect is intended to be used in connection with an offence under section 27 (unlicensed street trading) of this Act involving the sale, offer for sale, display, or exposing for sale of refreshments.

(4) An authorised officer shall produce his authority if required to do so by the person having control or possession of anything seized in pursuance of the powers in subsections (1) to (3) above.

27B Seizure: notices

(1) This section applies in relation to any receptacle used in the sale, offer for sale, display, or exposing for sale of refreshments (in this section referred to as a "relevant item").

(2) An authorised officer or a constable—

(a) may give a notice under this section to the person from whom a relevant item was seized under subsection (1) or (2) of section 27A (seizure) of this Act (but no such notice may be given under this paragraph in respect of a motor vehicle);

(b) shall give a notice under this section to the person from whom a relevant item was seized under subsection (3) or (4) of that section,

and any such notice must be given as soon as reasonably practicable after the item was seized.

(3) A notice under this section shall be in such form as the council may prescribe, and shall —

(a) explain that unless the recipient of the notice completes it in accordance with subsection (4) below and then returns it to the council in accordance with subsection (5) below, the council may dispose of the relevant item in question in accordance with section 27D (disposal of seized objects by council) of this Act; and

(b) set out—

(i) the address to which the completed notice should be returned;

(ii) the date by which it must be returned (which must be no earlier than the date on which expires the period of 14 days beginning with the date on which the notice was given under subsection (2) above.

(4) A notice under this section is completed by writing, in the appropriate place on the notice—

(a) the name and full postal address of the recipient of the notice under subsection (2) above; and

(b) (in the case of a notice given in accordance with subsection (2)(a) above) confirmation that that person—

(i) intends to contest any criminal proceedings brought in respect of the alleged offence in respect of which the item in question was seized;

(ii) if not, that he requires the council to make a complaint for a disposal order under the said section 27I in respect of the relevant item in question; and

(c) (in the case of a notice given in accordance with subsection (3)(b) above) confirmation that that person requires the council to make a complaint for a disposal order under section 27I (disposal orders) of this Act in respect of the relevant item in question; and

(d) the signature of that person; and

(e) the date on which it was signed.

(5) A notice under this section, once completed, is returned by delivering it or sending it by post to the address set out on the notice as mentioned in subsection (2)(b)(i) above on or before the date as mentioned in that subsection.

(6) If a notice given in accordance with subsection (2)(b) above is completed and returned in accordance with subsections (4) and (5) above the council must, no later than the date on which expires the period of 28 days beginning with the date on which the notice was received by them—

(a) make a complaint to the magistrates' court for a disposal order under section 27I (disposal orders) of this Act in respect of the relevant item in question; or

(b) return the relevant item in question to the person whose name and address are written on the returned notice,

unless, before the expiry of that period, an information has been laid and not withdrawn in respect of any alleged offence in respect of which the item was seized.

27C Return of seized items

(1) The **** provisions of this ***section shall have effect where any item is seized under subsection (1) of **section 27A (seizure) of this Act or is seized and retained because it is required for evidential purposes under subsection (2) of that section and references in those provisions to proceedings are to proceedings in respect of the alleged offence in relation to which the item is seized.

(2) Subject to subsection (6) below, following the conclusion of the proceedings the item shall be returned to the person from whom it was seized unless—

(a) the court orders it to be forfeited under section 27E (forfeiture of seized items by the court) of this Act; or

(b) any award of costs to the council by the court, which may include removal, return and storage costs, have not been paid within 28 days of the making of the order.

(3) Where after 28 days any costs awarded by the court to the council have not been paid to the council in full, the item may be disposed of in any way the council thinks fit and any sum obtained by the council in excess of the costs awarded by the court shall be returned to the person to whom the item belongs and when any item is disposed of by the council under this subsection the council shall have a duty to secure the best possible price which can reasonably be obtained for that item.

(4) Subject to subsection (5) below, where a receptacle seized under subsection (1) of the said section 27A is a motor vehicle used for ice cream trading the council or the Commissioner (as the case may be) shall, within three days of the receipt of an application in writing by the owner or registered keeper of the vehicle, permit him to remove it.

(5) Subsection (4) above shall not apply where—

(a) the owner or registered keeper of the vehicle has been convicted of an offence under this Act or Part III of the London Local Authorities Act 1990; or

(b) the owner or registered keeper of the vehicle is being prosecuted for a previous alleged offence under this Act or Part III of the said Act of 1990; or

(c) the vehicle has been used in the commission of such an offence or previous alleged offence,

if the offence or previous alleged offence was committed or is alleged to have been committed no more than three years before the seizure and (in the case of an alleged offence) the proceedings are continuing.

(6) Subject to subsection (8) below, if no proceedings are instituted before the expiration of a period of 28 days beginning with the date of seizure, or any proceedings instituted within that period are discontinued, at the expiration of that period or, as the case may be, on the discontinuance of the proceedings, the item shall be returned to the person from whom it was seized unless it has not proved possible, after diligent enquiry, to identify that person or ascertain his address.

(7) Subsection (8) below applies where the item is not returned because—

(a) it has not proved possible to identify the person from whom it was seized or ascertain his address; or

(b) the person from whom it was seized and the owner (if different) have disclaimed or refused to accept it.

(8) Where this subsection applies, the council may make a complaint to the magistrates' court for a disposal order under section 27I (disposal orders) of this Act (whether or not proceedings for an offence under this section have been commenced).

27D Disposal of seized objects by council

(1) The council may, in such manner as they think fit, dispose of—

(a) any relevant item (within the meaning of section 27B (seizure: notices) of this Act) seized under subsection (1) or (2) of section 27A (seizure) of this Act if, in respect of the alleged offence in question—

(i) a fixed penalty is paid in accordance with section 16 of the London Local Authorities Act 2004 (c. i) before the expiry of the period mentioned in subsection (2) of that section; and

(ii) the fixed penalty notice contained or was accompanied by written notice that the recipient could require the council on or before the time when the fixed penalty was paid to make a complaint for a disposal order under section 27I (disposal orders) of this Act in respect of the relevant item in question; and

(iii) no such requirement was made of the council on or before that time; or

(b) any such relevant item seized under subsection (1), (2), (3) or (4) of the said section 27A if a notice was given under section 27B (seizure: notices) as soon as reasonably practicable after the article or thing was seized and the notice was not completed and returned to the council in accordance with subsections (4) and (5) of that section.

(2) The council may recover their costs of disposing of a relevant item under subsection (1) above from the person from whom the object was seized.

(3) Where a requirement of the sort mentioned under subsection (1)(a)(ii) was made on or before the time when the fixed penalty was paid, the council must make a complaint for a disposal order under section 27I (disposal orders) of this Act in respect of the relevant item in question.

27E Forfeiture of seized items by court

(1) Subject to subsection (2) below the court by or before which a person is convicted of an offence under this section or for an offence of aiding, abetting, counselling or procuring the commission of an offence under this section may order anything produced to the court, and shown to the satisfaction of the court to relate to the offence, to be forfeited and dealt with in such manner as the court may order.

(2) The court shall not order anything to be forfeited under subsection (1) above where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made and in considering whether to make such an order a court shall have regard— 5

(a) to the value of the property; and

(b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).

(3) For the avoidance of doubt the court may order forfeiture notwithstanding that the value of the article, thing, receptacle or equipment exceeds the maximum penalties referred to in this section. 10

27F Compensation

(1) This ***section shall have effect where—

(a) an item is seized under subsections (1) to (4) of section 27A (seizure) of this Act; and 15

(b) either—

(i) not less than six months have passed since the date of the seizure and no information has been laid against any person for an offence under this section in respect of the act or circumstances which occasioned the seizure; or 20

(ii) proceedings for such an offence have been brought and either the person charged has been acquitted (whether or not on appeal) and the time for appealing against or challenging the acquittal (where applicable) has expired without an appeal or challenge being brought, or the proceedings (including any appeal) have been withdrawn by, or have failed for want of prosecution by, the person by whom the original proceedings were brought; or 25

(iii) (in the case of a relevant item (within the meaning of section 27B (seizure: notices) of this Act) seized under subsection (3) of section 27A (seizure) of this Act) the council has failed to comply with subsection (5) of section 27B (seizure: notices) of this Act. 30

(2) When this ***section has effect a person who has or at the time of seizure had a legal interest in the item seized may recover compensation from the council or (where it is seized by a constable) the Commissioner by civil action in the County Court in respect of any loss suffered by him as a result of the seizure and any such compensation shall not be included in the computation for calculating charges under section 22 (fees and charges) of this Act. 35 40

(3) The court may only make an order for compensation under subsection (2) above if satisfied that seizure was not lawful under subsection (1) to (4) of section 27A (seizure) of this Act.

(4) Any sums accruing to the council arising out of this section shall be included in the computation for calculating charges under the said section 22 of this Act. 45

27G Seizure of perishable items

(1) No item which is of a perishable nature (in this section referred to as a "perishable item") shall be seized under the provisions of subsection (1) of section 27A (seizure) of this Act unless the council gives a certificate under subsection (2) below to the person from whom the item is seized.

(2) Where a perishable item is seized under the said subsection (1), the person from whom it is seized must be given a certificate—

(a) stating the effect of subsection (5) below and subsection (2) of *** section 27E (forfeiture of seized items by court) of this Act;

(b) giving the address from which the article or thing may be collected;

(c) informing the recipient that if he is not the owner of the article or thing, then he should give the owner the information referred to in paragraphs (a) and (b) above.

(3) If the person from whom a perishable item was so seized fails to collect it within 48 hours of the seizure the council may dispose of it.

(4) When any perishable item is disposed of by the council under subsection (3) above, the council shall have a duty to secure the best possible price which can reasonably be obtained for it.

(5) Subsections (1) to (4) of section 27C (return of seized items) and subsections (1) and (2) of section 27E (forfeiture of seized items by court) of this Act shall apply to a perishable item seized under section 27A (seizure) of this Act only in cases where the item concerned has not been disposed of by the council at the conclusion of the proceedings in respect of the alleged offence in relation to which the item was seized.

(6) Subsections (6) and (7) of the said section 27C apply to a perishable item seized under the said section 27A only in cases where the article or thing concerned has not been disposed of by the council at the expiration of the period mentioned in the said subsection (6); otherwise subsections (8) to (11) below shall apply.

(7) Section 27F (compensation) of this Act shall apply with the omission of subsection (3) in respect of a perishable item seized under that section in cases where the article or thing concerned has not been disposed of by the council by the time the circumstances mentioned in subsection (1)(a) of that section arise otherwise subsections (8) to (11) below shall apply.

(8) Subsection (11) below shall have effect where the council have disposed of a perishable article or thing under subsection (3) above and any of the following conditions apply.

(9) The first condition is that no proceedings in respect of the alleged offence in relation to which the article or thing was seized are instituted before the expiration of a period of 28 days beginning with the date of seizure of the article or thing, or any such proceedings instituted within that period are discontinued.

(10) The second condition is that—

(a) not less than six months have passed since the date of the seizure and no information has been laid against any person for an offence under section 27 (unlawful street trading) of this Act in respect of the acts or circumstances which occasioned the seizure; or

(b) proceedings for such an offence have been brought and either the person charged has been acquitted (whether or not on appeal) and the time for appealing against or challenging the acquittal (where applicable) has expired without an appeal or challenge being brought, or the proceedings (including any appeal) have been withdrawn by, or have failed for want of prosecution by, the person by whom the original proceedings were brought.

(11) When this subsection has effect a person who has or at the time of seizure had a legal interest in the item seized may recover compensation from the borough council or (where it is seized by a constable) the Commissioner of Police of the Metropolis by civil action in the County Court in respect of any loss suffered by him as a result of the seizure and any such compensation shall not be included in the computation for calculating charges under section 22 (fees and charges) of this Act.

27H Motor vehicles

(1) Subsection (4) below applies where the following conditions are met.

(2) The first condition is that where, in ascertaining the identity of the person from whom a vehicle was seized under subsection (1) or (2) of section 27A (seizure) of this Act, the council has, before the expiry of 14 days from the date of the seizure, made a request to the Secretary of State for the supply of relevant particulars.

(3) The second condition is that those particulars have not been supplied to the council before the date after which the council would, but for this section, have to return the vehicle in accordance with subsection (6) of section 27C (return of seized items) of this Act.

(4) Where this subsection applies, the council must return the vehicle to its owner if—

(a) no proceedings are instituted in respect of the alleged offence in respect of which the vehicle was seized before the expiry of the period of 14 days beginning with the date on which the relevant particulars are supplied; or

(b) any such proceedings instituted within that period are discontinued,

at the expiry of that period or on the discontinuance of the proceedings, as the case may be.

(5) If the council seeks to return a vehicle in accordance with the said subsection (1) or subsection (2), but the person to whom the council seeks to return the vehicle cannot be found or disclaims or refuses to accept the vehicle, the council may make a complaint for a disposal order in respect of the vehicle under section 27I (disposal orders) of this Act.

(6) In this section, "relevant particulars" are particulars relating to the identity of the owner of the vehicle contained in the register of mechanically propelled vehicles maintained by the Secretary of State under the Vehicle Excise and Registration Act 1994 (c. 22).

(7) The owner of a vehicle for the purposes of this section shall be taken to be the person by whom the vehicle is kept.

(8) In determining who was the owner of a motor vehicle at any time, it shall be presumed that the owner is the person in whose name the vehicle is at that time registered under the Vehicle Excise and Registration Act 1994.

27I Disposal orders

(1) This section applies in respect of a complaint made by the council for a disposal order under— 5

(a) subsection (5)(a) of section 27B (seizure: notices) of this Act;

(aa) subsection (8) of section 27C (return of seized items) of this Act; or

(ab) subsection (3) of section 27D (disposal of seized objects by the council) of this Act; or 10

(b) section 27H (motor vehicles) of this Act,

and items that are the subject of the complaint are referred to as "seized items" in this section.

(2) On a complaint to which this section applies, a magistrates' court if satisfied that the council has made reasonable efforts to identify the person 15 from whom the seized item was seized or its owner, as the case may be, or has made reasonable efforts to return the seized item, may make an order authorising the *** council—

(a) to dispose of the seized item in question; and

(b) after payment out of any proceeds arising from the disposal of the 20 expenses incurred in the seizure, storage and disposal, to apply the balance, if any, towards the costs of the council as mentioned in paragraphs (a) to (d) of subsection (2) of section 22 (fees and charges) of this Act.

(3) The court shall not make a disposal order under subsection (2) above 25 where a person claiming to be the owner of or otherwise interested in the seized item applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

(4) Subsection (5) below applies where—

(a) a person appears before the court under subsection (3) above to 30 show why the order should not be made; and

(b) the court makes an order under subsection (2) above authorising the council to dispose of the item; and

(c) the seized item in question is not of sufficient value to defray the expenses of seizing and storing it; and 35

(d) the court is satisfied that the person mentioned in paragraph (a) above was the owner of the seized item in question or was the person from whom it was seized, as the case may be.

(5) Where this section applies, the court may order that the person mentioned in subsection (4)(a) above pay the expenses, or the balance of the expenses, 40 reasonably incurred by the council in seizing and storing the seized item in question.

(6) In considering whether to make an order under subsection (2) above a court shall have regard—

(a) to the value of the seized item;

(b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making); and

(c) any other circumstances considered to be relevant.

(7) The court may make a disposal order under this section notwithstanding that the value of the seized item would exceed the maximum penalty for the offence in respect of which the seized item had originally been seized had the said offence been prosecuted to conviction.

(8) For the purposes of this section, "owner" in respect of a vehicle, has the same meaning as it has for the purposes of the said section 27H.

28 Savings

(1) Nothing in this Act shall affect the sale or exposure or offer for sale by London Regional Transport or (as the case may be) any of its subsidiaries of refreshments at any shelter or other accommodation provided by either of them under section 65 (refreshment shelters etc.) of the London Passenger Transport Act 1938.

(2) This Act shall not apply in respect of any land owned by Railtrack PLC or London Regional Transport unless the land forms part of a highway for which the council is responsible as highway authority.

(3) Nothing in this Act shall afford a defence to a charge in respect of any offence at common law or under an enactment other than this Act.

29 Provision as to notices

(1) Any notice, summons or other document required or authorised to be served or given in writing under this Act may be served or given either—

(a) by delivering it to the person on whom it is to be served or to whom it is to be given; or

(b) by leaving it at the usual or last known place of abode or business of that person, or, in a case where an address for service has been given by that person, at that address; or

(c) by sending it by ordinary post addressed to that person at his usual or last known place of abode or business, or, in a case where an address for service has been given by that person, at that address; or

(d) in the case of a company or body incorporated in England or Wales, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it by ordinary post addressed to the secretary or clerk of the company or body at that office.

(2) The delivery, in the absence of a holder of a street trading licence from his street trading pitch, of a document or notice to a person appearing to be an assistant employed by that licence holder shall be deemed to be delivery of that document or notice to the licence holder under subsection (1)(a) above.

(3) A notice required by this Act to be given shall be deemed to be given on the date it is delivered, left, affixed, or posted in accordance with this section.

30 Proof of resolution

In any proceedings which require proof of the passing of a resolution under this Act it shall be presumed, unless the contrary is proved, that the said resolution was duly passed and that any requirements relating to the passing of the resolution and the giving of any notices or information before or after the passing of the resolution were properly complied with.

31 Exercise of powers

Notwithstanding the provisions of section 101 of the Local Government Act 1972 the council's powers under this Act may be exercised by a committee, sub-committee, officer or panel of officers.

32 Disapplication of Part III of London Local Authorities Act 1990

(1) Subject to subsection (2) below, on the date of commencement of this Act Part III (street trading) of the London Local Authorities Act 1990 shall cease to have effect in the city and on that date all—

(a) applications made;
(b) licences issued;
(c) standard conditions prescribed;
(d) fees and charges set;
(e) designating, specifying and prohibition resolutions passed;
(f) regulations for determining applications made; and
(g) appeals made,

under that Act shall be deemed to have been made, issued, prescribed, set or passed under this Act.

(2) In any case where, before the date of commencement of this Act, an application has been made for the renewal of a street trading licence under Part III of the said Act of 1990, and—

(a) no decision on the application has been notified to the applicant; or
(b) the council has refused renewal of the licence or granted a licence with conditions different from those of the existing licence,

Part III of the Act of 1990 shall continue to apply to the application.

London Local Authorities Bill

A

B I L L

To confer further powers upon local authorities in London; and for related purposes.

SESSION 2007–08

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LONDON: THE STATIONERY OFFICE
Printed in the United Kingdom by
The Stationery Office Limited
(384565) 22.11.07.

54/3