

PRESS RELEASE: 2 December 2011 – no embargo

For the attention of all journalists reporting about Street Trading Regulation and Legal Counsel for UK Local Authorities, Chief Licensing Officers, CPO's, APPG, LGA, ATCM, IoL, NABMA, FMT, ACPO, BIS, HMG, EU, pedlars and 48 million people above 17 whom this affects should they choose to trade as a pedlar.

Government considers all Street Trading Regulation ILLEGAL

On 2nd 3rd & 9th November 2011 the House of Lords sat in Select Committee¹ to consider 4 Private Bills in 4 separate jurisdictions namely Canterbury, Leeds, Reading & Nottingham. The bills seek powers to restrict “service” providers known as pedlars under the Pedlars Act 1871 & 1881 through amendment to local street trading regulation under the Local Government (Miscellaneous Provisions) Act 1982, LGMPA, that grants explicit exemption to “Certified traders acting as a pedlar”.

HMG, Her Majesty's Government, gave evidence via BIS, the Department of Business Innovation and Skills to the committee² which addressed its concern that the bills under examination were not compatible with the SD³, the Services Directive 2006/123/EC. More importantly, BIS also finds that the LGMPA to which the bills attach amendment is itself not compatible with the Services Directive, and they confirm that incompatibility makes “all Street Trading legislation illegal”. Similar repercussions extend to 15 restrictive Authorisation Schemes⁴.

The SD was introduced in 2006 with unambiguous definition for “service” being “any self-employed economic activity”. In the recent Hearing⁵ BIS admit interpreting the SD “not in the correct way” and this resulted in advising the HL Grand Committee to rubber-stamp an erroneous Section 45⁶ of the Provision of Services Regulations 2009 to implement the SD into UK law by deadline 31 December 2009.

BIS is currently compounding this error by embarking on a policy u-turn from 2009 to ‘preserve and amend’ the Pedlars Act to the current 2011-2012 policy to ‘de-regulate pedlars and repeal’ the Pedlars Act.

There are dire consequences.

Firstly, as a matter of Principle HMG risks infraction proceedings by the EU Commission for failing to implement the SD by too narrowly interpreting Article 4.8 that provides scope for “*conservation of the national historic and artistic heritage; social policy objectives and cultural policy objectives*” to preserve the 314 year old cultural identity and profession of pedlary that is unique to the UK.

Secondly as a matter of practical application, re-defining pedlars’ exemption from Street

¹ <http://services.parliament.uk/bills/2010-11/readingboroughcouncil/committees/houseoflordsopposedbillcommitteeonthereadingboroughcouncilbill201011.html>

² Report 20 October 2011– scroll down to government reports on footnote 1

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006L0123:EN:HTML> and extracts from the SD are at <http://www.pedlars.info/petitions.html> scroll to the bottom

⁴ City of Westminster Act 1999, Royal Parks (Trading) Act 2000, City of Newcastle upon Tyne Act 2000, Street Trading Act (Northern Ireland) 2001, Medway Council Act 2004, London Local Authorities Act 2004, Leicester City Council Act 2006, Liverpool City Council Act 2006, Maidstone Borough Council Act 2006, Bournemouth Borough Council Act 2009, Manchester City Council Act 2009, Local Government (Miscellaneous Provisions) Act 1982, Civic Government (Scotland) Act 1982, Hampshire Act 1983, Essex Act 1987.

⁵ Column 496

⁶ <http://www.legislation.gov.uk/ukdsi/2009/9780111486276/regulation/45>

Trading Regulation will make the perfect-storm provision for rogues, vagabonds, liars, thieves, scoundrels, criminals and child labour to manifest in all jurisdictions with offenders avoiding prosecution by simply giving false name & address to enforcement officers - there will be no obligation to carry identity.

This second consequence was the very reason why the Pedlars Act 1871 included Section 13⁷ to distinguish lawful traders with an 'identity certificate' from those considered unlawful.

All private Acts⁸ have sought to restrict/prohibit pedlary. BIS is either being led by the nose or is intent on introducing such criminality and chaos into unlicensed street trading that within a short period from deregulation and repeal, councils will prohibit pedlary under Article 9 "*overriding reason relating to the public interest*" of the SD.

Such negative social and cultural policy manipulation by BIS and private Acts is not in the General Interest. It is a flagrant circumvention of Article 1.5 of the SD⁹.

Stakeholders attempted to stop HL Grand Committee endorsement of Section 45 of the PSR Act in November 2009 by proposing amendment to the Pedlars Act 'residency and good character' qualifications but have been and are consistently ignored.

BIS and promoters of private bills/Acts seek to repeal 'civil law provisions' in the Pedlars Act and apply 'criminal law provisions' under Street Trading Regulations.

Do ministers really understand the consequence of blundering civil servant policy in BIS?
Do civil servants suffer such disconnect that they no longer serve the General Interest?

Petitioners amendments¹⁰ to recent bills were submitted to the Select Committee.

They fulfill the needs of the promoters to reduce the size of pedlars trolleys.

They are compatible with the SD as less restrictive measures to achieve the intended aim.

They are consistent with previous private Acts, the Pedlars Act and the LGMPA.

They fulfill the needs of the petitioners and the General Interest.

They are gifted gratis to BIS to amend all illegal Authorisation Schemes.

Petitioners were directed by the Private Bills Office of the House of Lords to Lord Brabazon, Chair of Committees, to submit objections¹¹ about Procedure during the recent Hearing and they await his clear direction.

The Principle of the Pedlars Act can be encapsulated in contemporary language as "***to provide common law privilege to any eligible pedestrian person to trade with complete freedom based on purely individual decisions within any part of the UK***".

End of Press Release

⁷ <http://www.legislation.gov.uk/ukpga/Vict/34-35/96>

⁸ footnote 4

⁹ <http://www.pedlars.info/petitions.html> scroll to bottom of page

¹⁰ <http://www.pedlars.info/petitions.html> scroll to bottom of page

¹¹ <http://www.pedlars.info/petitions.html> scroll to bottom of page