

## **PRESS RELEASE: 23 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.

### **Lords caution Councils seeking private bills that harm Pedlary**

A Special Report HL Paper 242<sup>1</sup> from the House of Lords Select Committee on four private Street Trading bills published 20<sup>th</sup> December found no justification for those Councils seeking penalties of Seizure, Confiscation and Forfeiture against ambulant traders known as pedlars – such measures were expunged from the bills as disproportionate. The Report sends a strong message to other Councils and Local Authorities that may consider pursuing similar private street trading legislation.

Tweets indicate that some councils are now considering what action may be taken against Parliamentary Agents Sharpe Pritchard being responsible for a decade long plethora of draconian private bills costing fifteen<sup>2</sup> Councils some millions in fees.

The basis for an action to retrieve fees from Sharpe Pritchard may reside in the fact that they misled Parliament on the City of Westminster Bill by stating “*the bill would not affect genuine pedlars*”. In 2007 some pedlars realised that they had to begin petitioning Parliament against all these private bills because they do in fact harm *genuine pedlars*. They achieved success with Bournemouth and Manchester and have now reversed the tide through opposing the Reading, Leeds, Canterbury and Nottingham bills.

Several important precedents<sup>3</sup> have now been set by Parliament:

- that the public welcome the diversity of goods offered by pedlars;
- councils may not protect licensed street traders from so called ‘unfair competition’ from pedlars;
- it is not the role of local authorities to decide what is or is not unfair competition;
- councils may not seek to remove pedlars from city centres on the pretext of protecting the urban environment;
- councils may not seek to prohibit pedlars displaying goods;
- pedlars may use a trolley of limited scale and proportion in designated areas;
- councils must provide website information about conditions under which a pedlar may operate.

These precedents together with case law provides overwhelming evidence to the judiciary of a proper interpretation of the pedlar exemption in the LG(MP)A<sup>4</sup> and the LLAA<sup>5</sup> in private Act jurisdictions. No longer is it acceptable for enforcement officers to rely on issuing a Summons on the grounds that a pedlar was not trading only at the door-step of a

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<sup>1</sup> <http://www.publications.parliament.uk/pa/ld201012/ldselect/ldprivbill/242/24203.htm#note1>

<sup>2</sup> 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, Reading Borough Council Bill, Leeds City Council Bill, Nottingham City Council Bill, Canterbury City Council Bill, Westminster City Council Bill, London Local Authorities Bill

<sup>3</sup> <http://services.parliament.uk/bills/2010-11/readingboroughcouncil/documents.html> Committee Report 20.12.2011 points 3-6

<sup>4</sup> Local Government (Miscellaneous Provisions) Act 1984 Schedule 4

<sup>5</sup> London Local Authorities Act 2004

house. It is now established that pedlars also trade other than house to house. Proper interpretation of the amendment to the LG(MP)A & LLAA of “*only by means of visits from house to house*” is understood to mean ambulant trading as compared to static trading and that designation of streets does not prohibit pedlary in such streets.

The principle of the Pedlars Act is encapsulated in contemporary language as: ***“providing common law privilege to any eligible pedestrian person to trade with complete freedom based on purely individual decisions within any part of the UK”***.

Pedlars have also taken issue with HMG/BIS who are considering amending street trading regulation<sup>6</sup> by de-regulating pedlary and repealing the Pedlars Act together with re-definition of the exemption for pedlary in street trading regulation.

This will mean that a ‘newly defined’ pedlar will not be required to carry a valid Pedlar’s Certificate nor any other means of identification. The adoptive LG(MP)A, CoWA<sup>7</sup> and the LLAA, will be affected.

Under the current Pedlar’s Certification regime enforcement officers have legal provisions to identify persons trading as pedlars but if BIS introduce de-regulation then officers will have no powers to identify persons claiming to be pedlars that are not acting as pedlars.

This situation will lead to criminality and at worst child-labour with impunity from prosecution as a suspect may simply give a false name and address. Councils will have no legal provisions to identify the main cause of problems: the un-licensed street traders.

BIS submit that the Pedlars Act is untenable as an Authorisation Scheme in terms of the Services Directive because Application depends on reference to “residency” and “good character” and as such discriminates against “service providers” from other EU Member States.

The recent Lords Hearing reiterated the centuries old common law right of pedlary and Councils that seek to prohibit pedlary will have to think again and consider whether or not the Pedlars Act provides enforcement officers with at least some means of identifying those who are acting lawfully as pedlars compared to all other traders acting without certificate or licence.

The LGA, NABMA, ATCM and others now have to re-consider their decade long propaganda campaign against pedlary and realise that only by preserving and enhancing Forms A & B of the Pedlars Act will council enforcement officers have the means to prosecute those who are neither certified nor licensed.

BIS is currently working on Draft Regulations that seek to provide coherent national law on street trading that is compatible with the European Services Directive. Pedlars and Councils now have a common cause to alter BIS policy in a forthcoming government consultation. BIS admits that it has “*limited understanding of the urban environment for street trading and pedlary*”<sup>8</sup> and it is therefore for pedlars and councils to respond to BIS that pedlars carrying a pedlar’s certificate is preferable to pedlars with no identity.

The time has come for pedlars and Councils to achieve a mutually respectful co-existence.

End of Press Release

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<sup>6</sup> <http://www.pedlars.info/bis-consultation/88-march-2011-bis-report.html> scroll to Executive Summary page 3

<sup>7</sup> City of Westminster Act 1994

<sup>8</sup> <http://services.parliament.uk/bills/2010-11/readingboroughcouncil/documents.html> Government Report 8.11.2011