

Norman Lamb M.P.  
Minister for Employment Relations  
Consumer and Postal Affairs  
BIS  
Department for Business Innovation and Skills

Your ref: 293050

In reply to David Heath CBE MP ref: CN/Law - 22 May 2012

Dear Sir,

I write in response to you contacting David Heath about my correspondence to him concerning the *Pedlars Act* and how your department BIS deals with the issue of street trading with its mismanagement of that policy remit, its maladroit reaction to the European Services Directive (SD) and your intention to delete the *Pedlars Act* (PA) from the UK statute.

I have your response as forwarded by David to me and so I have to comment on your reaction to this very serious constitutional crisis<sup>1</sup> that you appear able to dismiss too easily as with your final comment to David that you are "unable to comment further on this important issue"<sup>2</sup> - my underlining.

I have to correct you on your use of "organisation" with regard to [pedlars.info](http://pedlars.info):  
- this is a website dedicated to the transfer of information about pedlars and pedlary, an address that one might have hoped that an organisation such as yours, BIS, the department for Innovation, Skills and Business, could have helped form in order to foster the greater enterprise and initiatives undertaken by pedlars as noted by the St Chads report from Durham University-  
<http://www.pedlars.info/bis-consultation/76-durham-report-2010.html>.

Although a contributor and to a certain degree a moderator of the site I am unaware that an address can be viewed as an "organisation" and as involvement with the site is wholly voluntary and without any fees or subscriptions, the word "organisation" is not appropriate, especially as the activity of pedlars, again as remarked on by St Chads and to be found in law, is carried on by pedlars who are themselves individuals and independent persons trading by their own means.

This is an important statement and one that has not been recognised by parliament with recent private bills that should have been written up precisely by nominating to whom the bills are purposively directed rather than to the spurious assumption that pedlars are in "associations", organisations or of corporations.

I now have to also cover most of the misunderstanding that you have replied to David and for me to clarify the position confronting pedlars, your department, HMG, and the people of UKGB and to achieve this in part I will put your letter systematically within context.

You contend that that your department "we are fully aware" of "the need to comply with the European Services Directive" and that somehow this necessitates the destruction of the *Pedlars Act* - that you have "explained our position", but that you nonetheless intend "to issue a consultation on this matter in due course" (my underlining).

It is perfectly obvious that your department has this process *a* about *f* - a decision has been taken to "repeal" the *Pedlars Act* as has been permeated to pedlars and repeated to all those malcontent agencies of local and private interests who have been lobbying to have the *Pedlars Act* removed and who are at present in no doubt extremely content.

This "proposal" has come before any consultation without any prior remit following on from the previous consultation participated in by pedlars that also had no remit for the abolition of the *Pedlars Act*.

Had the previous proposal had abolition as its intention then I'm fairly positive that the reaction of most pedlars to such an ignorant proposal would have been considerably more forthright. It is the majority opinion of most pedlars that it is the late response by HMG to the European SD timetable that catapulted your department into most of its recent ill-founded actions and a switch

to the "deregulation" campaign of the present government is also considered likely to run into sand as was attested to by your own department recently at parliament.

Mr Branton of your department BIS appeared at the Select Committee hearings at parliament into the recent spate of private bills seeking to restrict pedlars - Canterbury, Leeds, Reading and Nottingham and spoke in his own words but with the authority of the civil service that is attempting to marry present government "proposals" with that of the European directive and with all these private bills and all the other private Acts that are likely to be proved illegal: <http://www.publications.parliament.uk/pa/privbill/201012/cant/canterbury14402.htm> (Scroll to entry 511 for Mr Branton and also to 512 for the subsequent R. Campbell-Lloyd).

In response to you being "fully aware" of the concerns of myself and other pedlars about your intentions:

- you need to understand that so far into this consultative process your department has not shown one inkling of an appreciation about the role of pedlary either within the nation or of its effect throughout the wider world
- this is ably demonstrated by your choice of words that you do not think "we have sufficient justification" and "we believe that the Pedlars Act creates unnecessary restrictions on the freedom to trade".

I am pleased to inform you that not only have pedlars been consistent with informing your department about potential choices and opportunities for pedlars and government to arrive at mutually satisfying agreements and law, but that these have been put forward to you as with this correspondence in the form of up-dated amendments to all legislations that effect pedlary and street trading regulation<sup>3</sup>.

#### About "Justification".

There has been insufficient communication between your department and pedlars about what is meant by "justification" in its use by your department to explain policy directives or such decisions as the use of a Statutory Instrument to remove "chair menders" and "skills in handicraft" from the text of the *Pedlars Act* taken by your department without adequate consultation with pedlars or apparently without any incisive remarks by any legal authority.

Your department has constantly rebutted pedlars including myself while it attempted to ascertain legal authority for its own disruptive and incompetent decisions.

"Justification" exists *a priori* for the pedlar's act, and here I use the words in the historical, principled, traditional, and some may say almost natural understanding for the action of those persons who have entered into law through the statute of the *Pedlars Act*. This process is easily understood by looking at its progress through the definitive description set out in [pedlars.info](#)<sup>4</sup>.

In fact, in principle and in lawful terms, pedlars act in the most reasonable, sensible, practical and natural manner and the *Pedlars Act* justifies pedlars being able to step out of doors and travel throughout the land within law engaging in activities of "**or other**" going from place to place "**or**" to houses and then returning back to step into the pedlar's own door and house - my emboldening is in emphasis of and from the *Pedlars Act* and in simple interpretation of the phrase "*only by means of visits from house to house*" present in many local ordinances that describe the activities of pedlars<sup>5</sup> (my underlining).

I remark on the fact that your staff Marcelle Janssis and Rachel Onikosi when in conversation with me about the *Pedlars Act* and the decision taken to delete reference to various "descriptions" of various activities of pedlars failed to know the difference between *description* and *definition*, and also though whilst "having been in retail" (Marcelle) did not in fact know that retail is also a service sector. This is relevant to how your department is or is not "fit for purpose" particularly in the context of its approach to and interpretation of the Services Directive.

Freedom to Trade - pedlary is a lawful profession in "European" terms<sup>6</sup>.

Here is precisely the anomaly that confronts how your department looks at life and the law.

The *Pedlars Act* as outlined above grants the potential for any person above a certain age (justifiable within the SD and HR legislation) to travel and trade with whatever throughout the land and within law.

Careful scrutiny of the Act, aside from the archaic language that is redolent of much of the British constitution and statutes reveals a complete freedom to trade, and although there is the simple suggestion that to remove the text of a "residential" requirement and proof of "good character" will aid compliance with the SD, it is a matter of fact that most professions have requirements governing a contact address and reference proof of good behaviour / "character" and this is true of most local authority licensing regimes that come under the aegis of the adoptive<sup>7</sup> LGMPA - the *Local Authority (Miscellaneous Provisions) Act*.

Surely etymological distinctions as a cause for dispute is not the remit that you describe your department has adopted as a way forward "to reduce burdens on business and minimise bureaucracy" despite the fact that your department is intrinsically involved in making regulations to deregulate\* and it must be the very way that government is bound to become ensnared in endless wrangles with the sum total of most British law due to go under the hammer.

This is also a matter that "concerns" pedlars and one that I have raised with your department and have yet to have recognition by you or your department about the serious effect it is likely to have upon peace and tranquillity in the realm of Her Majesty the Queen.

Sincerely,

N.J.McGerr

Enclosures: letter from Robert Campbell Lloyd, with proposals to change legislative texts.

---

<sup>1</sup> constitutional crisis - comment has been made in parliament, by pedlars, on the street and to BIS that removal of the PA from the statute will unleash a rogues and villains gallery that the Act was originally given assent to prevent.

<sup>2</sup> as above

<sup>3</sup> c.f. changes to *Pedlars Act*, the LGMPA, *London Local Authorities Act*, "local" Acts

<http://pedlars.info/bis-consultation/109-7-june-2012-pedlars-act-proposed-amendments.html>

<sup>4</sup> c.f. <http://pedlars.info/pedlar-research/87-history-of-pedlary.html>

<sup>5</sup> the LGMPA particular only to one local area is made adoptive by excising the inappropriate *Pedlars Act* national reference about a pedlar "goes from town to town or to other men's houses" and to substitute the locally appropriate "only by means of visits from house to house".

<sup>6</sup> c.f. \* but not granted proper status as a self-regulating profession in the UK under the authority of the Crown by the *European Communities (Recognition of Professional Qualifications) Regulations 2007*-  
<http://www.legislation.gov.uk/uksi/2007/2781/regulation/2/made>

BIS failed to consult pedlars as stakeholders.

<sup>7</sup> in parliament by R.Campbell-Lloyd referencing "adoptive" legislation c.f. 512-  
<http://www.publications.parliament.uk/pa/privbill/201012/cant/canterbury14402.htm>