

COMPLAINT¹
TO THE COMMISSION OF THE EUROPEAN COMMUNITIES
CONCERNING FAILURE TO COMPLY WITH COMMUNITY LAW

1. Surname and forename of complainant: **Robert CAMPBELL-LLOYD**
2. Where appropriate, represented by: **in person**
3. Nationality: **British**
4. Address or Registered Office²: **Branchfield House, Ballymote, Co Sligo, Ireland**
5. Telephone/fax/e-mail address: **t: +353 719189009 e: robert.admin1@gmail.com**
6. Field and place(s) of activity: **Pedlary within any part of the United Kingdom, Roll B Parliamentary Agent for Parliamentary Petitioners in the United Kingdom.**
7. Member State or public body alleged by the complainant not to have complied with Community law: **Her Majesty's Government, The Department for Business, Innovation & Skills, HMG/BIS.**

¹ You are not obliged to use this form. You may also submit a complaint by ordinary letter, but it is in your interest to include as much relevant information as possible. You can send this form by ordinary mail to the following address:
Commission of the European Communities
(Attn: Secretary-General)
Rue de la Loi 200,
B-1049 Brussels
BELGIUM

You may also hand in the form at any of the Commission's representative offices in the Member States. The form is accessible on the European Union's Internet server ([/eu_law/your_rights/your_rights_forms_en.htm](#)).

² To be admissible, your complaint has to relate to an infringement of Community law by a Member State. You should inform the Commission of any change of address and of any event likely to affect the handling of your complaint.

8. Fullest possible account of facts giving rise to complaint:
- a) *The Services Directive 2006, SD Article 4.1 states – ‘service’ means any self-employed economic activity, normally provided for remuneration.*
 - b) *The SD provides EU recognition of the professional trade of Pedlary contained in the Pedlars Act 1871. [Directives 2005/36/EC Article 3(1)(a) & 75/369/EEC Article 6 itinerant tradesmen, hawkers or pedlars].*
 - c) *HMG/BIS considers the procedure for obtaining a Pedlars Certificate under the Pedlars Act to be a SD Authorisation Scheme meaning any procedure under which a provider or recipient [pedlar] is in effect required to take steps in order to obtain from a competent authority [HMG] a formal decision, or an implied decision, concerning access to a service activity or the exercise thereof.*
 - d) *The trade of pedlary includes, but is not limited to, the sale of goods and services and pedlars may therefore be ‘service providers’ under the SD.*
 - e) *The Pedlars Act, Section 3 provides that a pedlar or other person may, in good faith, trade any goods by pedestrian means.*
 - f) *Prior to PSRA a person acting as a pedlar could rely on exemption from Street Trading regulation such as under the LGMPA Schedule 4, Street Trading, paragraph 2 *The following are not street trading for the purposes of this schedule - (a) trading by a person acting as a pedlar under the authority of a pedlar’s certificate granted under the Pedlars Act 1871.**
 - g) *By implementing the PSRA, Section 45 (1) (a) & (b) HMG has discriminated against two descriptions of pedlary namely *menders of chairs* and *handicraft persons* by expunging those descriptions of pedlary from Statute [Pedlars Act] leaving such service providers vulnerable to potential victim status under local street trading regulation – for example *The Local Government (Miscellaneous Provisions) Act 1982, LGMPA Schedule 4, paragraph 10, Offences wherein the offence of trading without an Authority [of a Pedlars Certificate] can lead to criminal sanctions.**
9. As far as possible, specify the provisions of Community law (treaties, regulations, directives, decisions, etc.) which the complainant considers to have been infringed by the Member State concerned:

- a) *Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market implemented by Statutory Instrument by HMG/BIS into The Provision of Services Regulations 2009, PSRA. In particular Part 10, Street trading, Regulation 45 (1) In section 3 of the Pedlars Act 1871(1) (interpretation)— (a) the words “mender of chairs” are omitted; (b) the words “,or selling or offering for sale his skill in handicraft” are omitted.*
- b) PSRA infringes the rights of some pedlars to provide services by expunging their civil rights under the Pedlars Act and exposing them to potential victim status under street trading regulation with criminal sanctions but such infringement is prohibited by the SD Article 1.5 that provides ‘*This Directive does not affect Member States' rules of criminal law. However, Member States may not restrict the freedom to provide services by applying criminal law provisions which specifically regulate or affect access to or exercise of a service activity in circumvention of the rules laid down in this Directive*’.
10. Where appropriate, mention the involvement of a Community funding scheme (with references if possible) from which the Member State concerned benefits or stands to benefit, in relation to the facts giving rise to the complaint:
not applicable
11. Details of any approaches already made to the Commission's services (if possible, attach copies of correspondence):
none
12. Details of any approaches already made to other Community bodies or authorities (e.g. European Parliament Committee on Petitions, European Ombudsman). If possible, give the reference assigned to the complainant's approach by the body concerned:
none

13. Approaches already made to national authorities, whether central, regional or local (if possible, attach copies of correspondence):
- 13.1 Administrative approaches (e.g. complaint to the relevant national administrative authorities, whether central, regional or local, and/or to a national or regional ombudsman):
- a) **28 October 2009 the Private Bill Office of the House of Lords contacted me by email to inform me as administrator of the public on-line information portal about pedlary www.pedlars.info that a Statutory Instrument the PSRA which affected some pedlars would go before the Grand Committee for approval the following day and urged an immediate response from stakeholders – see Appendix 1 (2 pages).**
 - b) **29 October 2009 I emailed Lord Lucas, member of the Grand Committee advising concern – see Appendix 2. I also emailed Kevin Davis at BIS alerting concern & he responded same day – see Appendix 3 (2 pages).**
 - c) **3 November 2009 several pedlars replied to BIS – see Appendix 4 (2 pages).**
 - d) **4 November 2009 pedlars proposed draft amendments ; BIS replied ; pedlars replied – see Appendix 5 (2 pages).**
 - e) **5 November 2009 I informed Lord Lucas of stakeholders considered view and attached BIS explanation about the Pedlars Act – see Appendix 6 (2 pages).**
 - f) **6 November 2009 BIS published *URN09/1074* as a consultation on Street Trading & Pedlar Law in which BIS also invites comment on their interpretation of the *SD*.**
 - g) **31 December 2009 the *PSRA* became law.**
 - h) **11 February 2010 pedlars respond to the *URN* noting in reply to Questions 9, 29, 38 concern about the impact of *PSRA*.**
 - i) **29 June 2010 I emailed the *SD* Team at BIS a list of 8 questions – see Appendix 7 (1 page).**
 - j) **18 March 2011 BIS published *URN11/542* as further consultation in which BIS propose that the *Pedlars Act* Authorisation Scheme is untenable and should be de-regulated.**

- k) 15 April 2011 I emailed BIS that pedlars were expressing concern that the *URN* contains no Impact Assessment of de-regulation – see Appendix 8 (1 page).
- l) 11 May 2011 I emailed BIS a letter of concern about the points in the Executive Summary of *URN11/542* – see Appendix 9 (10 pages).
- m) 24 May 2011 I emailed BIS regarding their reply to my 11 May email – see Appendix 10 (2 pages).
- n) 27 June 2011 several pedlars emailed a letter to the Secretary of State for BIS regarding potential victim status – see Appendix 11 (7 pages).
- o) 2 August 2011 BIS letter responds to my 27 June – see Appendix 12 (2 pages) .
- p) 30 September 2011 I respond - see Appendix 13 (3 pages).
- q) 7 October 2011 I emailed a letter to BIS re Judicial Review into Potential Victim Status – see Appendix 14 (2 pages) . Attached was a substantive pedlar’s research document on Grounds for Judicial Review of the City of Westminster Act 1999 and amended City of Westminster Bill 2000 (*inter alia*) under the European Convention of Human Rights.
- r) 8 October 2011 I emailed a letter to BIS re Implications of BIS policy formulation in *URN11/542* attaching a list of 44 questions to MP’s and MEP’s re the *SD* – see Appendix 15 (3 pages). Attached was a substantive analysis off the *SD* and BIS policy.
- s) 10 October 2011 I emailed a Freedom of Information enquiry to BIS re the unsubstantiated change in BIS policy from *URN09/1054* to *URN11/542* – see Appendix 16 (1 page).
- t) 1 November 2011 BIS replied to a pedlar Simon Casey request on behalf of pedlars for procedures to begin Infringement Proceedings against HMG/BIS – see Appendix 17 (2 pages).
- u) 3 July 2012 I emailed BIS proposed legislative amendments to resolve all issues and make consistent all legislation concerning pedlary – see Appendix 18 (12 pages).
- v) 6 June 2012 letter to pedlar Nic McGerr to forward to MP’s David Heath MP and Norman Lamb attaching proposed legislative

amendments to form part of the ongoing consultation – see Appendix 19 (5 pages).

- w) 17 August 2012 following several reminders BIS emails reply to my email 3 July – see Appendix 20 (1 page).**
- x) 29 August 2012 email to pedlars re BIS refusal to inform Minister – see Appendix 21 (2 pages) .**
- y) 29 September 2012 pedlars send Briefing to Secretary of State for BIS re Problems in BIS and proposed Solutions – see Appendix 22 (2 pages).**
- z) 23 November BIS publish *URN12/605* – Repeal of the Pedlars Act**
- aa) 23 November 2012 pedlars publish on-line Press Release – see Appendix 23 (2 pages).**
- bb) 12 December 2012 I lodge formal complaint to the Commission of the EC concerning Failure to Comply with Community Law.**

13.2 Recourse to national courts or other procedures (e.g. arbitration or conciliation). (State whether there has already been a decision or award and attach a copy if appropriate):
none

14. Specify any documents or evidence which may be submitted in support of the complaint, including the national measures concerned (attach copies):
see Appendix bundle

15. Confidentiality (tick one box)³:

"I authorise the Commission to disclose my identity in its contacts with the authorities of the Member State against which the complaint is made." **Tick as my authority**

³ Please note that the disclosure of your identity by the Commission's services may, in some cases, be indispensable to the handling of the complaint.

"I request the Commission not to disclose my identity in its contacts with the authorities of the Member State against which the complaint is made."

16. Place, date and signature of complainant/representative:

12 December 2012

signed in person :