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Department for Business, Innovation & Skills

Consultation Response form for England and Wales ONLY

Consultation on Street Trading and Pedlary Laws – Compliance with the requirements of the European Services Directive

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is **15 February 2013.**

Name: Kay, Tim & Lee Schwersenz
Organisation (if applicable): Group of three individuals

Please return completed forms to:

Name:	Rachel Onikosi, Policy Manager
Postal address:	Department of Business, Innovation and Skills Consumer and Competition Policy Directorate, 1 Victoria Street, London, SW1H OET
Tel:	020 7 215 5898
Email:	stcompliance@bis.gsi.gov.uk

If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group from the list below.

☐	Business representative organisation/trade body
☐	Central government

☐	Charity or social enterprise
☐	Individual
☐	Large business (over 250 staff)
☐	Legal representative
☐	Local Government
☐	Medium business (50 to 250 staff)
☐	Micro business (up to 9 staff)
☐	Small business (10 to 49 staff)
☐	Trade union or staff association
X☐X	GROUP OF THREE

We are presently a family of three persons and we have each signed the form.

(1) MR. T. B. SCHWERSENZ

(2) MRS K. R. SCHWERSENZ

(3) MR LEE C. T. SCHWERSENZ

Below we set out a variety of questions in relation to our draft set of regulations attached at Annex A of the consultation document

We would like all consultees to fully consider our proposals and **explain the reasons for your answers as fully as possible.**

Repeal of the Pedlars Acts:

Question 1: Do you agree with the proposed repeal of the Pedlars Acts 1871 and 1881 UK-wide?

☐ Yes X☐X **No**

Comments:

My adopted son aged 19 (who has also signed the form) has learning difficulties and is unable to read and write. He is presently claiming benefits and is severely disadvantaged when considering all employment opportunities. He wants to trade his craftwork as a pedlar, but I am worried that if the pedlars certificate is taken away from him he will be further victimised and taken to court unable to prove he is working in accordance with a law. I have explained this form to my son and the ideas that are written and we are all convinced this will prevent him from realistically doing pedlary work. You will appreciate measuring 50 metres and 10 minutes is beyond him. We have additionally taken advice and consider the evidence presented in the consultancy document does not work for the public or pedlars and are convinced that repeal of the Pedlars Act has not been justified. We need the pedlars act to protect him, please modify it to comply with the Services Directive such that it does disadvantaged people like him. As far as I am aware trading by a pedlar in accordance with the Pedlars Act has never conflicted with static Street Trading and to remove the protection of the Pedlars Act cannot be justified as being for the public good. The Pedlars Act is a Civil Statute that each eligible member of the public has the right to enjoy (should they wish) and each member of the public has the right to require of the government that the same right be available for their ancestors to enjoy.

Question 1.1 If you are a police force:

(i) what is the approximate annual cost of administering the pedlar certification scheme?

(ii)what impacts would repeal of the Acts have in terms of cost, time and/ or other factors?

Comments:

Not considered

Question 1.2: If you are a pedlar: what do you consider are the impacts of repeal, both in terms of costs, time and/ or other factors?

Comments

Not considered

Question 1.3: **Do you consider that repeal would have an impact on any other organisation, individual or group? If so, please provide details of that organisation etc and what you consider the impacts on them would be.**

Comments

As three individuals (one of which wants to be a pedlar) I can see that repeal will have a significant effect on individuals who are pedlars, in that the genuine pedlar will have no Pedlars Certificate to prove he is a pedlar and that he understands the Pedlars Act (as he would have stated previously by acquiring a pedlars certificate that he intends to comply with the Pedlars Act). The genuine pedlar would then be subjected to being classed as an unlicensed street trader by any police or local authority official as regardless of how the pedlar operated in the street he would have No street trading licence and NO pedlars certificate and therefore in the eyes of authorities an unlicensed street trader. A customer or group of customers could not check if the pedlar had a pedlars certificate and would therefore NOT know if they were considering to purchase from an unlicensed street trader - therefore the transaction could fail and this would penalise the pedlar as well as the customer.

My son carries a card saying he is autistic but the police already hassle him in the street. If he displays a pedlars certificate all the time he is selling his craftwork, we think it would be open for the authorities to see he is in the public streets for a good reason.

Question 2: **Do you agree with our proposed new definition of a pedlar for the purposes of the pedlar exemption from the "national" street trading regime in England and Wales?**

☐ Yes X☐ X **No**

Please fully explain your reasons for agreeing or disagreeing with any element of the proposed definition.

Comments:

We have stated in answer to question 1 that the Pedlars Act must not be repealed and we therefore disagree with any additional restrictions proposed (whether within the consultation document or not) which reduces the scope of pedlar activity from that described within the Pedlars Act in terms of location, timing, distances moved and how goods are transported.

Amendments to Schedule 4 to the LG(MP)A

Question 3: **If you are a local authority, do you envisage that there might be circumstances in which you would be able to designate a street as a licence/ consent street in relation to established traders but not in relation to temporary traders?**

☐ Yes ☐ No

Comments:

Not considered

Question 4: **Do you agree that only one photo needs to be submitted with street trading applications which are made electronically?**

☐ Yes ☐ No

Comments:

Not considered

Question 5: **Do you agree with the proposal to replace the mandatory refusal ground? If not, please explain**

why you do not think that the 1933 Act provides adequate protection and why the minimum age requirement of 17 needs to be retained. (see paragraph 1.32).

☐ Yes ☐ No

Comments:

Not considered

Question 5.1: **If you are a local authority, can you indicate the approximate number of applications you would expect to be made from those under 17 years of age?**

Comments:

Not considered

Question 6: **Would it be helpful for BIS to issue guidance on the circumstances in which the discretionary grounds in 3(6) (a), (d), (e) and (f) can be used? (see paragraphs 1.33 and 1.34 above).**

☐ Yes ☐ No

Comments:

Not considered

Question 7: **Do you think there are any circumstances in which the existing paragraph 3(6)(b) ground could be used compatibly with the Directive and, if so, please give reasons. (see paragraphs 1.36 - 1.37).**

☐ Yes ☐ No

Comments:

Not considered

Question 7.1: **Do you consider that it is necessary to insert a new replacement "suitability" refusal ground into paragraph 3(6)? (see paragraph 1.38)**

☐ Yes ☐ No

Comments:

Not considered

Question 7.2: **In relation to this new ground, can you tell us:**

(i) In what circumstances you would use this ground and how often?

(ii) Whether this ground would produce costs on you as a local authority, or on you as a business and what these costs are likely to be?

☐ Yes ☐ No

Comments:

Not considered

Question 7.3: **Would it be helpful for BIS to issue guidance on the circumstances in which this replacement ground could be used?**

☐ Yes ☐ No

Comments:

Not considered

Question 8: **Do you think there are any circumstances in which either of these grounds could be used compatibly with the Directive in relation to temporary traders? (see paragraphs 1.39 -1.42)**

☐ Yes ☐ No

Comments:

Not considered

Question 8:1: **Do you think it would be preferable to pursue our proposed approach of expressly preventing the grounds from being used in relation to temporary traders or to repeal the grounds completely?**

☐ Yes ☐ No

Comments:

Not considered

Question 8.2: **Will local authorities continue to use these grounds in relation to established traders?**

☐ Yes ☐ No

Comments:

Not considered

Question 8.3: **Do you foresee any difficulties with our proposals to limit the circumstances in which these grounds could be used in relation to established traders?**

☐ Yes ☐ No

Comments:

Not considered

Question 9: **Do you foresee any problem resulting from the proposed repeal of paragraph 3(8) of Schedule 4 to the LG(MP)A? (see paragraph 1.43)**

☐ Yes ☐ No

Comments:

Not considered

Question 9.1: **Do you agree with our assumption that those who may benefit from this provision are more likely to be UK nationals than nationals of other Member States?**

☐ Yes ☐ No

Comments:

Not considered

Question 10: **Do you foresee any problems with our proposal to give local authorities flexibility to grant licences for longer than 12 months or indefinitely? (see paragraphs 1.44 – 1.47)**

☐ Yes ☐ No

Comments:

Not considered

If you are a local authority can you further tell us

Question 10.1: **Whether lengthening the duration of licences would have a positive, negative or neutral impact**

on the ability of new street traders to obtain licences to trade in your licence streets?

☐ Yes ☐ No

Comments:

Not considered

Question 10.2:

(i) Whether you are likely to issue licences for more than a 12 month period of indefinitely?

☐ Yes ☐ No

(ii) If you are likely to issue licences for a defined period which is longer than 12 months, what period you are likely to choose?

Comments:

Not considered

Question 11: **Would it be helpful for BIS to issue guidance as to how the PSR may affect a local authority's ability to use some or all of the revocation grounds contained in paragraphs 5(1)(a) to (c) in relation to established traders/temporary traders? (see paragraphs 1.48 – 1.50)**

☐ Yes ☐ No

Comments:

Not considered

Question 11.1: Do you think there are circumstances in which the paragraph 5(1)(d) ground could be used compatibly with the Directive in relation to temporary traders?

☐ Yes ☐ No

Comments:

Not considered

Question 11.2: (i) Do you think it would be preferable to pursue our proposed approach of expressly preventing that ground from being used in relation to temporary traders or to repeal the ground completely?

☐ Yes ☐ No

(ii) Will local authorities continue to use that ground in relation to established traders?

☐ Yes ☐ No

Comments:

Not considered

Question 11.3: Do you foresee any difficulties with our proposals to limit the circumstances in which that ground can be used in relation to established traders?

☐ Yes ☐ No

Comments:

Not considered

Question 12: Do you foresee any problems with our proposals -

To disapply regulation 19(5) of the PSR where a mandatory ground for refusal of the application exists; or

☐ Yes ☐ No

To leave it to local authorities to decide whether to put arrangements in place to disapply the regulation in other circumstances, or to specify what conditions will automatically attach to a licence which is deemed to have been granted under regulation 19(5)? Please give reasons for your views (see paragraphs 1.51 – 1.53)

☐ Yes ☐ No

Comments:

Not considered

Question 13: Do you foresee any problems with our proposals to allow local authorities to relax the prohibition in paragraph 7(7) in its entirety where appropriate? (see paragraphs 1.54 -1.57)

☐ Yes ☐ No

Comments:

Not considered

Question 14: Do you foresee any problems with our proposals to amend paragraph 10(1)(d)? (See paragraph 1.59)

☐ Yes ☐ No

Comments:

Not considered

Question 15: Please can local authorities tell us about any other local Acts regulating street trading which are not listed at Annex B of this document (or any Acts listed in Annex B which have in fact been repealed).

Comments:

Not considered

Question 15.1: Please can local authorities tell us-

(i) whether having screened your local street trading Acts for compliance with the Directive, amendments /repeals need to be made to that legislation;

(ii) if such amendments/ repeals are needed whether you wish us to include them in our regulations.

Comments:

Not considered

Question 16: Please can local authorities tell us-

(i) what consequential amendments are needed to the provisions listed in Annex C as a result of the repeal of the Pedlars Acts (and provide appropriately drafted provisions);

(ii) whether any consequential amendments are needed to other provisions of local Acts as a result of the repeal of the Pedlars Acts (and, if so, provide appropriately drafted provisions);

(iii) if any of the provisions listed in Annex C are no longer in force.

Comments:

Not considered

Question 17: Can local authorities tell us-

(i) what consequential amendments are required to the provisions of local Acts listed above at paragraph 1.73 as a result of our proposed amendments to Schedule 4 to the LG(MP)A, and provide appropriately drafted provisions?

(ii) whether (and, if so, what) consequential amendments are required to <u>any other provisions</u> of local Acts as a result of our proposed amendments to Schedule 4 to the LG(MP)A (and again provide appropriately drafted provisions)?

Comments:

Not considered

Do you have any other comments that might aid the consultation process as a whole? Please use this space for any general

comments that you may have, comments on the layout of this consultation would also be welcomed.

Comments:

Not considered

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply X☐X **Yes**

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

X☐X **Yes** if about pedlary ☐ No

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