
BOROUGH OF DARLINGTON
OPEN MARKET REGULATIONS

1985

These regulations are applicable to the usage by traders of the stalls and ancillary equipment of the Borough of Darlington Open Market together with its environs, public and vehicular thoroughfares and other facilities within the same, and also the conduct of traders within this context.

ATTENDANCE AT MARKETS

- 1.1 Traders with regular reservations shall ensure that the stalls in their occupation are open for business during the normal opening hours at the market unless prior permission of the Market Officer has been obtained for the closing of the stalls and a satisfactory explanation given for such closure.
- 1.2 Casual traders shall ensure that they are open for business, by 9.30 a.m. and shall continue trading until the close of the Market unless prior permission of the Market Officer has been obtained for the closing of the stalls and a satisfactory explanation given for such closure.
- 1.3 No stalls or pitches regularly reserved for a trader will be reserved after 9.00 a.m. and will be re-allocated for that day to a trader on the casual list. Absences not notified in advance will result in the full toll for that day being charged. When prior notification is given before 9.00 a.m. on the market day, half toll (hereinafter referred to as the 'reservation fee') will be charged for that day.
- 1.4 In the event of delay, illness, vehicle breakdown or other reasonable cause which is notified prior to 9.00 a.m. on that day to the Market Officer a delay in starting up to 9.30 a.m. may be authorised at the discretion of the Market Officer. At 9.00 a.m. all stalls still vacant will be allocated for that day only to traders on the casual list without prejudice to the liability of the regular stall holder to pay the relevant reservation fee for that day.
- 1.5 Absences due to sickness extending beyond one week must be supported by medical certificate and further medical certificates must be furnished on request to the Market Officer. Other absences must be notified in advance and must not exceed four weeks in any year unless exceptional circumstances exist and the absences are agreed by the Market Officer.
- 1.6 If a trader with a regular reservation fails to attend for three consecutive weeks without notifying the Market Officer of valid reasons for non-attendance, the stall or pitch will be re-allocated permanently. A regular reservation may be terminated if a trader shall commit any act of bankruptcy or being a company shall go into liquidation (except for the purpose of amalgamation or re-construction).

- 1.7 Reservation fees charged against absence by a trader may be waived in respect of long term sickness subject to the following provisions :-
- a) The trader shall have had a regular reservation for a period of no less than twelve months.
 - b) The appropriate reservation fee shall still apply during the first four weeks.
 - c) Sick notes shall be required in all cases before the lowering of those reservation fees.
- 1.8 Attendance by members of the casual list will be entered on the register, one mark will be received for attendance on each market day. If a casual fails to attend for three consecutive weeks without notifying the Market Officer of valid reasons the offending casuals name will be removed from the list.

VEHICLES AND OTHER ARTICLES OF CARRIAGE

- 2.1 Subject as hereinafter provided vehicles will not be allowed on the open market between 9.00 a.m. and 5.00 p.m. and should at all times be brought on only for such time as is needed to expeditiously load and unload goods to and from stalls or pitches.
- 2.2 Traders allocated stalls or pitches on a casual basis at 9.00 a.m. will be allowed until 9.30 a.m. to clear their vehicles from the site.
- 2.3 Hampers, boxes or containers must only be brought by traders onto a market at such times when they will cause no obstruction to vehicles or avenues, or cause inconvenience to other traders or the public.
- 2.4 Discretion may be exercised by the Market Officer in respect of vehicles entering the market before 5.00 p.m. if for some reason he considers circumstances warrant such a decision.

ALLOCATION OF STALLS – CASUAL LETTINGS

- 3.1 Casual lettings will be made from the casual list for each market day and the priority for allocations will be decided by the number of previous attendances recorded.
- 3.2 Applications for stalls or pitches must be made to the Market Officer by 9.00 a.m. on the day of the market by members of the casual list personally (man and wife members will count as one member of the casual list).
- 3.3 Traders will only be allowed to register for the casual list by giving individual names and home addresses and will not be allowed to register under a trading name or in partnership or as a limited company.
- 3.4 No member of the casual list will be allowed to have his name entered on each daily list for any one market more than once.
- 3.5 Members of a casual list attending may pay a half-toll fee instead of taking an empty stall available for allocation to them on the day but this concession must not exceed three times in any fifty-two week period.

- 3.6 Traders on a casual list who fail to attend the market on which day they are registered on the casual list but give prior notice of non-attendance may obtain their mark for that day by payment of a half toll on the following week after the day of non-attendance but this concession must not exceed three times in any fifty-two week period.
- 3.7 Refusal by a trader of a casual list of an allocation of any empty stalls available to them on the market day to which they are registered to attend other than in the conditions applying to 3.5 and 3.6 may result in that trader's name being removed from the casual list.
- 3.8 A break in attendance by a trader on a casual list without a justifiable reason, for three consecutive weeks will result in that name being removed from the casual list and in any other case where a casual trader fails to attend the market regularly the Market Officer may in his absolute discretion remove the traders name from the casual list.
- 3.9 Traders on a casual list who refuse to accept the offer of a regular reservation may result in that traders name being removed from the casual list.
- 3.10 Discretion may be exercised by the Market Officer when allocating casual lettings in regard to what is termed the "no clashing" rule with goods sold on neighbouring stalls or pitches provided no stalls are left empty.
- 3.11 This Authority reserves the right to control the size of any casual list on the Authority's markets to a number proportional to the efficient management of their market entirely at its own discretion.
- 3.12 Traders on the casual list may be allowed up to three weeks holiday with an attendance mark credited to them subject to a half toll being paid prior to the absence for the purpose of taking a holiday in any twelve month period from 1st April to 31st March subject to the following conditions :
- a. The trader on the casual list must have attended the open market for six months.
 - b. The trader on the casual list must have given one months notice in writing to the Market Officer of his intention to take a holiday.
- 3.13 Traders with regular reservations of stalls will be allowed to stand as casuals subject to casual attenders with no regular reservation of a stall being given priority in the allocation of one day only lettings.

REGULAR LETTINGS

- 4.1 Stalls or pitches made vacant by termination of a regular reservation will be let as follows :-
- a. By transfer to traders with a regular reservation upon relinquishing their current stall or pitch. Where more than one such trader applies length of service on the market will decide the allocation.
 - b. To the members of the casual list with the most attendance marks. Both offers of a regular reservation will be subject to the "no clashing" rule.

- 4.2 A member of the casual list offered a vacant stall, which is refused, will be removed from the casual list and application to be re-registered will be necessary.
- 4.3 Traders with regular reservations are automatically disqualified from becoming a member of the casual list for six months from the date of receiving the regular reservation.
- 4.4 A trader shall inform the Market Officer in writing of any change of address.
- 4.5 The Authority shall not accept any limited company or partnership as a trader on the casual list of its open markets from the date these regulations come into effect.
- 4.6 A regular reservation of a stall will only be registered after the completion by the prospective trader of a signed undertaking to sell only a fixed class of goods upon the official form provided.
- 4.7 Traders with regular reservations will be limited to a maximum of four stalls from the date these regulations take effect.
- 4.8 Traders with regular reservations of more than one stall may not surrender a stall for a limited period of time and if occupancy of any stall has not been taken by the time of 9.00 a.m. by any trader attending the market a full toll for that day will be incurred whether the vacant stall is let or not on that particular day by the Authority. Dispensation may be made to this section of the regulations by the Market Officer in extenuating circumstances. His decision will be final and binding.
- 4.9 The sub-letting of stalls or pitches or any part thereof is prohibited. Traders with regular reservations may not dispose of or transfer the reservation of any stall or part thereof.
- 4.10 The grant by this Authority of each stall or pitch will be on a daily basis only, despite any references to reserved stalls or pitches in these regulations.

USE OF STALLS OR PITCHES

- 5.1 No alteration or addition to the structure or fitting of any stall shall be made by or on behalf of a trader except with the written permission of this Authority and in particular a stall holder shall not drive or permit any driving of nails into any woodwork used in any part of the structure of a stall or otherwise damage or deface the property in any way.
- 5.2 A trader shall not erect any trestle, dress rail or other display on the market outside the defined area of the stall, or pitch without prior permission of the Market Officer and if granted permission will pay a toll at a charge per square foot currently in force at the time. Both the giving and the withdrawal of permission will be at the Market Officer's discretion and his decision will be final and binding.
- 5.3 A trader will secure any broadloom carpets on display with retaining clips of a type to be approved by the Market Officer.
- 5.4 Traders must not under any circumstances move any stall or part thereof away from or within the market without the prior approval of the Market Officer.

- 5.5 A trader shall not provide any lighting to his stall other than those types accepted by this Authority.
- 5.6 No trader shall use or permit the use of any oil, solid fuel or gas heaters provided always that an appliance necessary for the trade or business of the trader and approved by the Market Officer may be so used and the decision of the Market Officer as to whether any appliance is necessary and suitable shall be final and binding upon the trader.
- 5.7 Every trader is required to exhibit his name and stall number and to register his name and address with the Authority.
- 5.8 No trader may make a change in the class of goods sold as prescribed on the signed undertaking (see Section 4.6) except with the prior permission of the Market Officer of this Authority and the completion of a new undertaking.
- 5.9 Nothing herein contained shall be construed as requiring this Authority to permit a trader to transfer from one stall to another, but if such is permitted a trader shall continue to sell the goods previously permitted to be sold on his usual stall and he shall continue to be bound by these regulations.
- 5.10 A trader selling footstuffs shall comply with the Food Hygiene (Market Stalls and Delivery Vehicles) Regulations 1961 or any statutory re-enactment thereof.
- 5.11 All traders shall comply with the provisions of the Children and Young Persons Act, 1933 to 1963 (as amended by the Education Acts 1944 – 1976) or any statutory re-enactment thereof and any such trader shall comply with the Byelaws made thereunder.
- 5.12 A trader shall not permit any dogs, cats or other animals (whether domestic or otherwise) to come onto any stall or any part of the market except where the animal is a guide dog for a registered blind person.
- 5.13 No trader shall sell or permit to be sold any animals, domestic or otherwise, or give cause to be in contravention of the Pet Animals Act, 1951 as amended by the Pet animals Act, 1983.
- 5.14 A trader shall not conduct an auction at or on any stall or pitch without the prior approval of the Market Officer.
- 5.15 A trader shall not, without prior approval of the Market Officer, during the course of his trading on the market generally tout for custom.
- 5.16 A trader shall not use the method of selling known as “demonstrating” except in areas defined for such purpose and approved by the Market Officer.
- 5.17 A trader shall conduct his trading in such a way as to ensure so far as is reasonably practicable that any persons present on the market whether traders there by virtue of any lease or licence or agreement or regular reservation or member of the general public there for any purpose whatsoever, are not exposed to any risks to their health and safety and shall in all respects comply with the Health and Safety at Work Etc. Act 1974 and any regulations made or to be made thereunder.

- 5.18 Traders shall not permit music to be played on stalls or premises in their occupation except where permission has been granted by the Market Officer when such is required in connection with the traders business and the bringing of such articles onto the market place for any other purpose is forbidden.
- 5.19 No trader shall use radios, transistors or otherwise except in connection with a trader's business.

CONDUCT OF TRADERS

- 6.1 Traders and their attendants are required to conduct themselves in an orderly manner and are not permitted to do any act which may cause the public to congregate around the stall or pitch in such a manner or cause an obstruction to the avenues.
- 6.2 A trader shall have no claim against this Authority for any loss, injury or damage sustained through fire, theft or other cause whatsoever nor shall he have a claim for compensation for loss of goodwill or otherwise on the termination of his regular reservation or at any other time.
- 6.3 A trader shall indemnify this Authority from and against all action, proceedings, damage, claims, losses or outgoings of whatever nature arising out of a traders use of any stall or pitch on a market and shall take out a policy of Public Liability for a sum of £500,000 or other sum as determined from time to time by the Authority.
- 6.4 It shall be the responsibility of the trader to insure his stock, fixtures, fittings and any other valuables brought into the market against damage by fire, theft or flood.
- 6.5 A trader shall be responsible for the actions of his employees and if in the opinion of the Market Officer an employee has acted in any way which contravenes these regulations or causes danger to other traders or the public or damages any property of this Authority, the trader may be requested to remove that employee immediately.
- 6.6 Damage or failure of equipment belonging to the Authority shall be reported forthwith to the Market Officer and no attempt whatsoever shall be made to effect a repair. No person shall interfere with any plant or equipment belonging to the Authority.
- 6.7 Traders and all attending a market will observe and carry out the instructions and directions of the Market Officer or his staff of this Authority.
- 6.8 The giving and receiving of gratuities is strictly against the policy of this Authority and traders found offering such gratuities will be suspended from trading pending action under 10.3 of these regulations.

PAYMENT OF TOLLS AND CHARGE

- 7.1 The tolls and charges levied for any stall or pitch shall be such sums as may be laid down by this Authority from time to time.
- 7.2 All tolls and charges levied by this Authority will be collected each market day for that day only, and any reservation charges outstanding for absences from the market shall be paid on the first day of return to the market.

PRIVATELY OWNED STALLS, VEHICLES, STANDS ETC.

- 8.1 All privately owned stalls, sale vehicles, etc on a market must be constructed to a specification acceptable to the Market Officer and kept in a good state of repair, totally at the expense of the trader and at the discretion of the Market Officer.
- 8.2 Traders who have such equipment or vehicles, irrespective of whether such traders are the actual owners or hirers, must indemnify this Authority in writing on the form provided against any claim for damages or injury to persons or property arising from such equipment, however this may be caused.

PROCEDURE FOR DEALING WITH COMPLAINTS

- 9.1 Complaints by traders in respect of any matters affecting the market must be brought to the attention of the Market Officer of this Authority in writing, for investigation, required relevant action and if necessary, notification to the complainant of the result.
- 9.2 If a complainant is not satisfied with the action taken by the Market Officer on any complaint then the matter may be referred by letter to the Borough Engineer, Borough of Darlington Council, Town Hall, Darlington, DL1 5QT

PENALTIES

- 10.1 Infringement of any of the above regulations will result in a verbal warning from the Market Officer.
- 10.2 Should the infringement continue or any other infringement occur, the offender will be sent a letter of final warning by the Market Officer.
- 10.3 Should the infringement still continue or any other infringement occur, after such letter is sent, the offender may be suspended by the Markets Officer but in any event the facts will be reported to the appropriate committee who will determine what action to take – which may take the form of either:-
 - (a) The immediate termination of the regular reservation for any stall or pitch or removal from the casual list on the markets held within the Borough of Darlington for a period determined by the committee.
 - (b) The barring of the offender from standing on the markets held within the Borough of Darlington for a period determined by the committee.
- 10.4 The Market officer may, at his discretion, suspend forthwith the trading activities of any trader occupying a regular stall or pitch if in his opinion the trader is in breach of any regulation hereunder and this Authority acting through the committee of the Authority for the time being responsible for the markets will consider the matter as hereinbefore described (see 10.3).
- 10.5 Should any infringement of regulations be reported as at 10.3 above the offender will be notified in writing of such a report and may if he so wishes submit a written defence and decide if it should be placed before the appropriate committee together with the report of the infringement.

- 10.6 Any decision made by the appropriate committee on the action as described at 10.3 above to be taken against the offender will be notified to that offender in writing and the action will be implemented on the first market day after the date of the letter which will be clearly stated.

MEANING AND INTERPRETATIONS IN THESE REGULATIONS

- 11.1 “Authority” means the Borough of Darlington Council.
- 11.2 “Market” means the place designated by the Borough of Darlington Council being the place the market is held.
- 11.3 “Stalls” or “pitch” shall include, unless the context otherwise requires, any stall, wheresoever situated upon the market, table, stand, equipment or any other device used by the trader shall for the purpose of these regulations be considered within the meaning.
- 11.4 “No clashing” shall mean goods considered as a similar nature by the Market Officer.
- 11.5 “Pitching” shall mean the placing of good within the environs of the market other than the market stall.
- 11.6 “Demonstrating” shall mean that by action a person includes the functional purposes of the goods displayed and all this implies.
- 11.7 “Auction” shall mean persons bidding against one another for the purpose of securing goods being sold on the market becoming their property by offering the higher bid.
- 11.8 “Trader shall mean any person authorised by this Authority whether by lease, agreement, regular reservation or a member of the casual list to occupy any stall on any market or his servant or agent acting on his behalf and shall unless the context otherwise requires, include any body of persons corporate or incorporate.
- 11.9 “Market Officer” shall mean the person for the time being designated as holding the post of Market Manager or acting Market Manger or any other name having substantially the responsibilities of the Market Manager.
- 11.10 “Casual List” shall mean that list (if any) of traders without the right to a reserved stall or stalls maintained by the Authority.
- 11.11 Any powers hereby reserved or granted to the Market Officer may, (whether or not the Market Officer is absent), be exercised by any person designated by this Authority to exercise such power, and in the absence of proof to the contrary an Officer employed by the Borough Engineer’s Department of this Authority shall be deemed to be acting lawfully on the Market Officer’s behalf when enforcing these regulations.
- 11.12 Unless the contrary intention appear the words importing the masculine gender shall include the female and words in the singular shall include the plural and vice versa.

The forgoing regulations were made by the Borough of Darlington Council on the 11th July 1985, and shall come into operation on 5th August, 1985.

THE COMMON SEAL of THE)
COUNCIL OF THE BOROUGH)
OF DARLINGTON was hereunto affixed)
in the presence of :-)

J A Anderson
Mayor

P H Kearsley
Borough Solicitor

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