



CASUAL TRADING ACT, 1995

**Bye-Laws made by the County Council of the County of Clare
on the 9th day of June 2008.**

Bye-laws 2008

Clare County Council, in exercise of its powers under Section 6 of the Casual Trading Act, 1995 hereby make the following Bye-Laws in relation to the control, regulation, supervision and administration of Casual Trading in the administrative area of Clare County Council.

Citation:

These bye-laws may be cited as the Clare County Council Casual Trading Act, 1995 Bye-Laws 2008.

Commencement:

The provision of these bye-laws shall come into effect on 11th day of July 2008, with the exception of the provisions relating to event casual trading which shall come into effect on 1st October, 2008. In the event of an appeal the bye-laws shall come into effect on the date of the final confirmation of the District Court or Circuit Court which ever is applicable.

Definitions

1. In these bye-laws, the following definitions shall apply:-
"The Act" means the Casual Trading Act, 1995.
"The Council" means the Council of the County of Clare.
"Authorised Officer" means any person appointed by Clare County Council under Section 10 of the Act to be an authorised officer.

"Casual Trading" has the meaning assigned to it in Section 2 of the Act.

"Casual Trading Area" means the lands designated as an area, as per these bye-laws and the schedule attached hereto, where casual trading may take place, within the administrative area of County Clare.

"Casual Trading Space/Bay" means the maximum single area, numbered on the Schedule Map attached to these bye-laws, that may be occupied in a Casual Trading Area by a person engaged in casual trading.

“Casual Trader/Licence holder” means any person licensed to carry out casual trading pursuant to “the Act” and these bye-laws and shall include his/her servants or agents, if authorised in writing in accordance with these bye-laws.

“Craft-Worker” means any person licensed to carry out casual trading and selling only handcrafts made by that person or his/her spouse or their children.

“Home producer” means any person or his/her spouse or their children or nominated agent, agreed in writing, that is producing the products being sold, in their home or on their farm.

"Licence" means licence under Section 4 of The Casual Trading Act, 1995 and for the time being in force.

"Sell, Selling or Sale" includes agreeing to offer to sell or displaying for sale or inviting an offer to buy.

"Stall" shall include any wheeled or moveable stall or box, barrow, cart, trailer, caravan or other vehicle or both or other stand or conveyance used for casual trading.

"Vehicle" means and includes every means of conveyance, whether mechanically propelled or not, of persons, market produce or any goods or article.

Exemptions:

2. In these bye-laws, in addition to the classes of selling specified in Section 2 of The Act, casual trading does not include:
 - (a) The selling of news papers, periodicals, magazines or other printed matter or pious or religious objects at or in the immediate vicinity of a church or place of worship on days on which service or other religious ceremonies take place therein.
 - (b) Selling of fish by the person whom, or member of the crew by which, the fish were caught.
 - (c) Selling of ice-cream from mobile vans unless expressly prohibited under bye-laws made by Clare County Council for specific locations.
 - (d) Selling of periwinkles.

Designation:

3. Clare County Council hereby designates the areas indicated on Schedule A to these bye-laws and more particularly defined on the maps attached to Schedule A as the lands on which casual trading may be carried on (in these bye-laws referred to as “the casual trading area”).

Casual trading shall only be carried on at the locations designated for that purpose in these bye-laws or at a specified event or events at such

other locations as may be approved by the Council in an event licence issued pursuant to Section 4(1)(a)(iii) of the Act.

General:

4. A person shall not engage in casual trading in the casual trading area unless:-
- (i) He/she holds a General Casual Trading Licence from Clare County Council that is for the time being in force
or alternatively
 - (ii) He/she holds an Event Casual Trading Licence for a specified event and the casual trading is carried out in accordance with the licence.
 - (iii) An application for a Casual Trading Licence shall be made not less than thirty days in advance of the first date on which trading is to take place.
 - (iv) Only goods listed on the licence application may be sold from the stall of a casual trading licence holder.
 - (v) Casual trading shall be confined to the trading place at the designated Casual Trading Area in accordance with the licence issued and stalls are to be wholly within the trading places in the Casual Trading Area.
 - (vi) The type of stall used must be approved by the Council.
 - (vii) The allocation of a trading space/bay shall not confer upon the licence holder any tenancy or right to occupy or transfer said trading space/bay.

5. A person engaged in Casual Trading:-
- (i) shall not cause or suffer any fowl or feathered game to be plucked at or about his/her stall
 - (ii) shall not cause or suffer any fish to be trimmed, gutted or cleaned at or about his/her stall
- Food, prepared or unprepared shall not be displayed, stored or kept in any other manner except and in accordance with the Food Hygiene Regulations, or any further regulations that may be made in that regard and applicants for a Casual Trading Licence relating to the sale of food must produce evidence of compliance with such regulations.
6. A person engaged in casual trading:-
- (i) shall not use or cause to be used for the purpose of Casual Trading any stall, the dimensions of which shall cause to be obstructed in any way the free passage to or from the immediate approaches thereto.
 - (ii) shall not obstruct or cause to be obstructed in any way the entrance to any premises in the vicinity of the casual trading.
 - (iii) shall not obstruct or cause to be obstructed in any way a public road, footpath or public right of way.
 - (iv) shall not conduct trading in a manner that causes or is likely to cause offence.
7. (i) No stall shall be of such weight or be so loaded as to be capable of transmitting a bearing pressure in excess of 7kg/mm.sq. to any of its supports to the surface on which it is placed.
- (ii) No stall shall exceed 2.75m in height (from ground level).
8. The maximum area that may be occupied in the casual trading area by a person engaged in casual trading shall be the maximum area of the casual trading space the subject matter of the casual trading licence granted by Clare County Council.
9. The direction that trading will be allowed, within the casual trading space/bay shall be as indicated on maps attached to schedule A or as determined by an Authorised Officer appointed for the purpose of regulating casual trading.
10. (i) The allocation of a bay, in the Casual Trading Area shall be a matter for the Council. Individual trading spaces shall be allocated by the Council by such methods that it may, at its discretion, decide. This shall not exclude allocation by lot.

- (ii) The Council may, in its absolute discretion, permit a bay, allocated under a casual trading licence to be temporarily used by any other trader when not in use by the trader to whom it was allocated
 - (iii) No trading shall take place between the hours of 1am and 8am.

- 11. No broadcasting or speech or music from a mechanical or electronic amplification system shall take place from any stall or any vehicle and no loud playing of radios or music reproduction appliances shall take place at any stall.

- 12. A person carrying on casual trading shall display by a notice in the prescribed form the number of the casual trading licence.
 - (a) The notice displayed pursuant to these bye-laws shall be painted or inscribed or printed and affixed on a durable material, and
 - (b) shall be so displayed in a conspicuous position while casual trading as to be clearly visible and easily legible to members of the public at such place.
 - (c) Form No. 1 set out in the Schedule to these bye-laws shall be the prescribed form of the notice required to be displayed under this bye-law for casual trading not being casual trading at an event or events.
 - (d) Form No. 2 set out in the Schedule to these bye-laws shall be the prescribed form of the notice required to be displayed under this bye-law for casual trading at an event or events.

- 13. (i) For the purpose of the regulation of access to the Casual Trading Area and for the purpose of the regulation of the parking of vehicles in the Casual Trading Area for the purpose of the loading or unloading of goods or produce onto or from a Casual Trading Space specified in a Casual Trading Licence a member of the Garda Síochána in uniform may do all or any of the following things: direct, regulate and control traffic; and regulate and control the parking of vehicles.
- (ii) The powers conferred by this bye-law shall in particular include power to do all or any of the following things by oral or manual direction:
 - (a) prohibit the passage of traffic,
 - (b) indicate the direction in which traffic is to proceed,
 - (c) prohibit the parking of vehicles and in particular prohibit the parking of vehicles in any particular place in the

Casual Trading Area for the purpose of the loading or unloading of goods or produce onto or from a Casual Trading Space specified in a Casual Trading Licence,

- (d) indicate places for the parking of vehicles and in particular indicate places for the parking of vehicles in the Casual Trading Area for the purposes of the loading or unloading of goods or produce onto or from a Casual Trading Space specified in a Casual Trading Licence,
 - (e) make any other prohibitions or indications which he considers necessary for the purpose of the regulation of access to the Casual Trading Area and in particular for the purposes of the regulation of the parking of vehicles in the Casual Trading Area for the purposes of loading or unloading of goods or produce onto or from a Casual Trading Space specified in the Casual Trading Licence,
- (iii) A person shall comply with a direction given by a member of the Garda Síochána under this bye-law.

14. A Casual Trading Licence shall only be used by the person to whom the licence was issued or by such agent of such person as agreed in writing by the Council. The holder of a Casual Trading Licence shall be restricted to trading in the space/bay, allocated for that specific licence, at any one time in the county.
15. A person carrying on casual trading shall keep the area in which he/she is casual trading in a clean and tidy condition and for that purpose shall:-
 - (a) cause the stall to be properly cleansed and removed immediately after the sale of goods for the day.
 - (b) as often as is necessary and, when directed by the Council or its servants or agents, cause all refuse arising from his trade or business to be placed in a suitable and sufficient receptacle to be provided by him/her in close connection with such stall.
 - (c) as often as is necessary cause the contents of any receptacle provided for the reception of refuse to be promptly removed, without creating a nuisance or obstruction, to any other person or persons.
16. The Council shall not be held responsible for any property belonging to any person whatsoever deposited or left at any place while Casual Trading, nor for any loss, damage or injury caused by the negligence of any trader, their agents, employees or customers.
17. All generators, used in conjunction with Casual Trading stalls, shall conform to acceptable noise levels (i.e. 55db(A) by day and 45db(A) by night – where db(A) means decibel level.) and a manufacturer's certificate will be required to confirm specification.
18. A person engaged in casual trading shall indemnify the Council against any claim whatsoever by any person for damages for personal injuries, loss or damage caused by any act or omission of the said person holding a licence or his/her servants or agents in and about the carrying on of casual trading.

19. A person applying to the Council for a Casual Trading Licence shall furnish to the Council, the information requested in the form prescribed, together with such further information as the Council may request for the purposes of the exercise of its powers and functions under the Act and, if a person fails to comply with this Article, the Council may refuse to grant the person the licence.
20. The Council may revoke a Casual Trading Licence if it is satisfied that a condition of the licence is being or has been contravened or if the person to whom it was granted is convicted of an offence in relation to the importation, possession or sale of goods committed while he/she was the holder of a casual trading licence or an offence under the Act.
21. Licences issued in any year will expire on 31st December of that year.

Authorised Officers:

22. The Council shall appoint an Authorised Officer or Officers for the purposes of the control, regulation, supervision and administration of Casual Trading.
23. A Casual Trader shall comply with all lawful requests and directions by an authorised officer or a member of the Garda Siochana.
24. An Authorised Officer appointed by the Council may:-
 - (a) enter, inspect and examine any place where he/she has reasonable cause to believe that casual trading is being carried out.
 - (b) require any person whom he/she has reasonable cause to believe to be engaging in casual trading.
 - (c) to produce, if it is not being displayed, a casual trading licence authorising such trading and to permit the Officer or member of the Garda Siochana to examine the licence, and
 - (d) if he/she fails, neglects or refuses to produce such a licence or, in a case in which it is not being displayed, to furnish to the officer his/her name and address and, if he/she is the servant or agent of another person, the name and address of the other person.

- (e) make such examination and inquiry as may be necessary to ascertain whether the provisions of the Act or of these bye-laws are being complied with.
 - (d) require any person whom he/she has reasonable cause to believe to be engaging in casual trading in contravention of the Act to give such information as is in his/her power to give as to the ownership of any goods being sold in the course of such trading.
25. A person shall not obstruct or interfere with, or give false information to an Authorised Officer or member of the Garda Siochana in the performance of functions under these bye-laws.

Event Trading:

- 26. Clare County Council reserves the right to award trading licences to traders for special events, festivals and fairs.
- 27. Applications for event licences shall be made not less than thirty days in advance of the date on which trading is to take place.
- 28. Clare County Council reserves the right to limit the number licences awarded for each event.
- 29. Clare County Council reserves the right to allow trading to take place outside of the hours specified in Article 10(iii) for certain events.
- 30. Only goods approved by Clare County Council shall be sold by the licensee at these events.
- 31. Trading shall be carried out in accordance with specific conditions attached to the event licence and all conditions of such licence shall be strictly adhered to by the licensee.
- 32. All articles of these bye-laws shall apply to licensee's licensed for event trading.

Fees:

33. (i) A fee of €400 per annum shall be payable to the Council in respect of an application for the grant of a Casual Trading Licence for 1 no. Bay for casual trading in the administrative area of Clare County Council.
- (ii) A fee of €200 per annum shall be payable to the Council in respect of an application for a grant of a Casual Trading Licence for 1 no. Bay for casual trading by a Craft-Worker/Home Producer.
- (iii) The fee for an Event Casual Trading Licence shall be €50 per day.
- (iv) Fees set out under this section shall be updated annually by the Council in accordance with the Consumer Price Index

These fees shall be non-refundable in the event of revocation of a licence.

34. Clare County Council reserves the right to include any condition, within reason, on a Casual Licence.

35. A person who contravenes any of the Casual Trading Bye-Laws shall be guilty of an offence under Sub-Section (12) of Section 6 of the Act and shall be liable on summary conviction to a fine not exceeding €1,250 as specified in Section 14 of the Act.

36. Applications for Casual Trading Licences shall be made on the appropriate form addressed to the Director of Services, Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare.

The Council reserves the right to grant or refuse a Casual Trading Licence.

Schedule A

(Casual Trading Areas)

- That part of **Ennistymon** Town Centre, as outlined on the map attached hereto, on Tuesdays only, from 9am to 5pm.
- That part of **Doolin Pier**, as outlined on the map attached hereto on a daily basis from 9am to 5pm.

- That part of **Kiladysart** Square, as outlined on the map attached hereto, on Tuesdays, Fridays and Saturdays only from 9am to 6pm.
- That part of **Kilfenora**, Square, as outlined on the map attached hereto from 1st June 'til 31st August from 9am to 5pm.
- That part of **Killaloe** car park ("between the waters"), as outlined in the map attached hereto, on Sundays only, from 11am to 3pm.
- The Square, **Kilkee**, as outlined on the map attached hereto, on Saturdays and Sundays and during the months of June, July and August from 9am to 7pm.
- That part of **Miltown Malbay**, as outlined on the map attached hereto, on Thursdays only, from 9am to 5pm.
- That part of Drumgeely, **Shannon**, as outlined on the map attached hereto, on Fridays only, from 9 am to 5pm.
- That part of **Tulla**, as outlined on the map attached hereto, on Thursdays only from 9am to 1pm.

These Bye-Laws shall be known as the Clare County Council Casual Trading Bye-Laws, 2008 and shall come into operation on the 11th July, 2008 save the provisions relating to event trading which shall come into operation on 1st October, 2008.

Made and adopted under the Common Seal of Clare County Council on this 9th day of June 2008.

NOMINATED MEMBER

DIRECTOR OF SERVICES.

FORM NO. 1

**Form of Notice required to be displayed
while engaged in Casual Trading.**

CLARE COUNTY COUNCIL
CASUAL TRADING ACT, 1995

Clare County Council has granted a Casual Trading Licence under Section 4 of The Casual Trading Act, 1995 authorising casual trading in the administrative area of Clare County Council at pitch number _____ located at _____ County Clare.

The number of the Casual Trading Licence is
.....
(insert the number of the Licence)

The Casual Trading Licence expires on
.....
(insert the date upon which the Casual Trading licence expires)

Signed: _____
Clare County Council.

FORM NO. 2

Form of Notice required to be displayed at an event or events specified in a Casual Trading Licence to which the public are admitted, whether subject to or free of charge, or at or in the immediate vicinity or the place where and on the day on which the event takes place.

CLARE COUNTY COUNCIL

CASUAL TRADING ACT, 1995

Clare County Council has granted a Casual Trading Licence under Section 4 of The Casual Trading Act, 1995 authorising casual trading at the event/events set out as follows:

Event(s): _____

(set out the event(s) and the location of such event(s))

Date of Event(s): _____

(set out the date(s) upon which casual trading is authorised under the Casual Trading Licence)

The number of the Casual Trading Licence is

.....

(insert the number of the Licence)

Signed: _____