



STATUTORY INSTRUMENTS.

S.I. No. 308 of 2018



EUROPEAN UNION (CASUAL TRADING ACT 1995) REGULATIONS
2018

EUROPEAN UNION (CASUAL TRADING ACT 1995) REGULATIONS
2018

I, HEATHER HUMPHREYS, Minister for Business, Enterprise and Innovation, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006¹ on services in the internal market, hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Casual Trading Act 1995) Regulations 2018.
- (2) These Regulations shall come into operation on 1 January 2019.

Definition

2. In these Regulations, “Act of 1995” means the Casual Trading Act 1995 (No. 19 of 1995).

Amendment of section 4 of Act of 1995

3. Section 4 of the Act of 1995 is amended by the substitution of the following subsection for subsection (8):

“(8) Section 4A(4) (inserted by Regulation 4 of the European Union (Casual Trading Act 1995) Regulations 2018 (S.I. 308 of 2018)) shall apply for the purposes of the duration of a casual trading licence.”.

Construction

4. The Act of 1995 is amended by the insertion of the following section after section 4:

“4A. (1) Regulation 13 (other than paragraph (c)) of the Regulations of 2010 shall apply for the purposes of this Act subject to the modification that—

- (a) “A local authority responsible for issuing a casual trading licence shall not make access to, or the performance of, the casual trading by a provider” shall be substituted for “A competent authority in the State responsible for administering an authorisation scheme relating to a service activity shall not make access to, or the performance of, the service activity by a provider”, and

¹OJ No. L376, 27.12.2006, p.36.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 3rd August, 2018.

(b) a reference to “licence” shall be construed as reference to “scheme”.

(2) Regulation 14(1) of the Regulations of 2010 shall apply for the purposes of this Act subject to the modification that “Every local authority responsible for issuing a casual trading licence shall ensure that the licensing procedures and formalities applicable to the casual trading licence” shall be substituted for “Every competent authority in the State responsible for administering an authorisation scheme shall ensure that the authorisation procedures and formalities applicable to the scheme”.

(3) Regulation 15 (other than paragraphs (3), (4), (5) and (6)) of the Regulations of 2010 shall apply for the purposes of this Act subject to the modifications—

(a) that the following paragraph shall be substituted for paragraph (1):

“(1) A local authority responsible for issuing a casual trading licence shall exercise its power of assessment in relation to the operation of the licensing scheme on the basis of criteria that are not arbitrary.”,

(b) in paragraphs (1), (2), (7), (8), (9) and (10), that a reference to “a competent authority” shall be construed as a reference to “a local authority”, and

(c) in paragraphs (1), (2), (7), (8), (9) and (10), that a reference to “an authorisation” shall be construed as a reference to “a casual trading licence”.

(4) Regulation 16 of the Regulations of 2010 shall apply for the purposes of this Act subject to the following modifications—

(a) that a reference to “an authorisation” shall be construed as a reference to “a casual trading licence”,

(b) that a reference to “authorisations” shall be construed as a reference to “casual trading licences”,

(c) that a reference to “a competent authority” shall be construed as a reference to “a local authority”, and

(d) in paragraph (3), that “the local authority responsible for issuing a casual trading licence” shall be substituted for “the competent authority in the State responsible for administering the scheme to which the authorisation relates”.

(5) Regulation 17 of the Regulations of 2010 shall apply for the purposes of this Act subject to the following modifications—

- (a) that a reference to “A competent authority in the State” shall be construed as a reference to “A local authority”,
- (b) that a reference to “an authorisation” shall be construed as a reference to “a casual trading licence”,
- (c) that a reference to “authorisations” shall be construed as a reference to “casual trading licences”, and
- (d) in paragraph (1), that “the local authority responsible for issuing a casual trading licence” shall be substituted for “the competent authority in the State responsible for issuing authorisations for that activity”.

(6) Regulation 18 of the Regulations of 2010 shall apply for the purposes of this Act subject to the following modifications—

- (a) that “Every local authority responsible for issuing a casual trading licence” shall be substituted for “Every competent authority in the State responsible for administering an authorisation scheme”,
- (b) in paragraph (1)(a), that a reference to an “authorisation” shall be construed as a reference to a “casual trading licence”,
- (c) in paragraphs (3), (4), (5) and (7), that a reference to “a competent authority in the State” shall be construed as a reference to “a local authority responsible for issuing a casual trading licence”, and
- (d) in paragraph (6)(b), that a reference to “competent authority” shall be construed as a reference to “local authority”.

(7) Regulation 19 of the Regulations of 2010 shall apply for the purposes of this Act subject to the following modifications-

- (a) in paragraph (1), that “a casual trading licence, a local authority responsible for issuing a casual trading licence” shall be substituted for “an authorisation, a competent authority in the State”,
- (b) in paragraph (3)-
 - (i) that a reference to “an authorisation” shall be construed as a reference to “a casual trading licence”, and
 - (ii) that a reference to “competent authority” shall be construed as a reference to “local authority”, and
- (c) in paragraph (4), that “local authority responsible for issuing a casual trading licence that refuses an application for a casual trading licence” shall be substituted for “competent authority in the State that refuses an application for an authorisation”.

(8) Regulation 20 of the Regulations of 2010 shall apply for the purposes of this Act subject to the following modifications in paragraph (1)-

- (a) that a reference to “competent authority in the State” shall be construed as a reference to “local authority responsible for issuing a casual trading licence”,
- (b) in subparagraph (e), that “a casual trading licence” shall be substituted for “an authorisation”, and
- (c) in subparagraph (f)—
 - (i) in clause (i), that “a casual trading licence” shall be substituted for “an authorisation”, and
 - (ii) in clause (ii), that “local authority” shall be substituted for “competent authority in the State (other than a professional body or other organisation acting as the relevant competent authority in the State)”.

(9) Regulation 21 (other than paragraph (6)) of the Regulations of 2010 shall apply for the purposes of this Act subject to the following modifications—

- (a) in paragraph (1), that a reference to “competent authority in the State” shall be construed as a reference to “local authority responsible for issuing a casual trading licence”, and
- (b) in paragraph (5), that a reference to “competent authority in the State” shall be construed as a reference to “local authority responsible for issuing a casual trading licence”.

(10) In this section, ‘Regulations of 2010’ means the European Union (Provision of Services) Regulations 2010 (S.I. No. 533 of 2010).”.

Amendment of section 6 of Act of 1995

5. Section 6 (2) of the Act of 1995 is amended by the substitution of the following paragraph for paragraph (d):

“(d) the fixing of fees in respect of casual trading licences which fees (if any) shall be reasonable and proportionate to the cost of the administration of a casual trading licence scheme and do not exceed the cost of such administration,”.



GIVEN under my Official Seal,
1 August 2018.

HEATHER HUMPHREYS,
Minister for Business, Enterprise and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations amend the Casual Trading Act 1995 in order for it to comply with the Services Directive (Directive 2006/123/EC) which was adopted by the European Parliament and the EU Council on the 12 December 2006. The Services Directive was transposed in Ireland in November 2010 by the European Union (Provision of Services) Regulations 2010 (S. I. No. 533 of 2010).

These Regulations provide for amendments to the Casual Trading Act 1995 in the following areas:

- selection procedures used by local authorities in issuing licences;
- the issue of charges and fees; and
- the duration of casual trading licences.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€2.54



Wt. (B33592). 285. 8/18. Essentra. Gr 30-15.