

SOUTH DUBLIN COUNTY COUNCIL

CASUAL TRADING BYE-LAWS 2016

made under the

CASUAL TRADING ACT, 1995

Bye-Laws

***For the control, regulation, supervision and administration of casual trading in the
administrative area of South Dublin County Council***

PART 1

LONG TITLE: The Mayor and Members of South Dublin County Council (hereinafter referred to as "The Council") in exercise of the powers vested in them by the provisions of The Casual Trading Act, 1995 and all other enabling statutory powers hereby make the following Bye-Laws for the control, regulation, supervision and administration of casual trading in the administrative area of South Dublin County Council.

PRELIMINARY AND GENERAL

- 1. CITATION** These Bye-Laws may be cited as the South Dublin County Council Casual Trading Bye-Laws 2016.
- 2. AREA OF APPLICATION** These Bye-Laws apply to the administrative area of South Dublin County Council.
- 3. COMMENCEMENT DATE** These Bye-Laws shall come into effect on the 1st day of August 2016
- 4. REVOCATION** The South Dublin County Council Casual Trading Bye-Laws 1998 made by the Council on the 10th day of June 1998 are hereby revoked as and from the commencement date of the 1st day of August 2016.

5. DEFINITIONS

In these Bye-Laws, except where expressly stated to the contrary, the following words or phrases shall have the meanings hereby respectively given to them, that is to say:

“the Act”

means the Casual Trading Act, 1995.

“Authorised Officer”

means an officer of the County Council or other person appointed by the County Council for the purposes of the Act.

“Casual Trading”

means selling goods at a place (including a public road) to which the public have access as of right or at any other place that is a Casual Trading Area as defined by the Act.

“Casual Trading Area”

means an area marked in red on the attached maps and listed in the First Schedule hereto, in a designated area delineated by markings at the boundary, where casual trading may be carried on. A Casual Trading Area shall not exceed the area delineated by markings.

“the Council”

means the County Council of the County of South Dublin.

“Event Trading”

means licensed casual trading at an event or events specified in the Licence or at/in the immediate vicinity of the place where and on the day or days on which the event takes place.

“Licence”

means a Casual Trading Licence granted under the Casual Trading Act, 1995.

“Licence Holder”

means a person to whom a Casual Trading Licence has been granted or his/her servant or agent acting on his/her behalf.

“the Regulations”

means the Casual Trading Act, 1995 (Forms) Regulations, 1996

“Selling”

means agreeing or offering to sell, or displaying for sale, or inviting an offer to buy.

“Stall”

includes, in addition to its ordinary meaning, any wheeled or moveable stall, or box, barrow, cart, caravan, trailer or other vehicle or both or other stand or conveyance used for Casual Trading.

PART 2

REGULATION

6. CASUAL TRADING AREA

Each of the lands described in the First Schedule hereto is hereby designated as a Casual Trading Area for the purposes of the Act. The said designated areas are divided into categories marked A to E as shown in the First Schedule.

Casual Trading shall only take place in accordance with the Casual Trading Act 1995 and these Bye-Laws.

Casual Trading shall only take place at the locations designated for that purpose in the First Schedule and on the days and at the times specified in the Licence or for a specified event or events at such other locations as may be approved by the Council.

Casual Trading shall take place only within the space allocated to the Licence Holder, identified by means of a description in his/her Licence and delineated by the Council.

The allocation of a Casual Trading Area by the Council shall not confer upon the Licence Holder any tenancy or right to occupy or to transfer the said Casual Trading Area.

Servants, agents, assistants, employees and/or family members of the Licence Holder shall have no right or entitlement to succeed to a Casual Trading Area.

The Council may grant more than one Licence in respect of any one Casual Trading Area.

In general, the Council will issue a Licence for only one Casual Trading Area to any individual applicant. However, consideration may be given to applications for more than one Casual Trading Area.

7. LICENCE

No person shall engage in Casual Trading unless he/she holds a Licence from the Council that is for the time being in force.

A Licence shall be issued annually.

The Licence shall indicate what goods may be sold and only such goods as shown on the Licence and for which the appropriate fee has been paid may be sold by the Licence Holder.

A Licence may not be rented or sold or transferred by the Licence Holder. Any Licence Holder found in breach of this condition shall have his/her Licence revoked.

An applicant for a Licence shall complete and submit to the Council an application in the form as prescribed in the Regulations and as set out in the Third Schedule and furnish to the Council the information requested in the application form together with the appropriate fee, and together with such further information as the Council may request, and if the person refuses to comply with these provisions the Council may refuse to grant a Licence to the applicant.

The Council reserves the right to grant or refuse or revoke a Licence. The final decision with regard to the granting of a Licence shall rest with the Council.

Licence Holders shall be responsible for compliance with these Bye - Laws by their servants, agents, assistants and employees.

8. LICENCE FEES

An applicant for a Licence must pay the appropriate fee for the type of goods to be sold in the particular category of the Casual Trading Area as shown set out in the First Schedule hereto.

Licence fees may be revised from time to time by executive order.

9. DISPLAY OF LICENCE NUMBER

A Licence Holder shall prominently display the number of his/her Licence in such a position as to be clearly visible and easily legible to members of the public at all times during trading hours.

If so requested he/she shall produce the Licence to any person at that place.

10. SURRENDER OF LICENCE.

A Licence Holder may surrender his/her Licence to the Council prior to the expiry of the Licence period.

A Licence Holder who wishes to surrender his/her Licence must give a minimum of one month's notice to the Council.

A person who surrenders a Licence may obtain a refund of that portion of the Licence fee equivalent to the unexpired term of the Licence, subject to a maximum refund of 50% of the total Licence fee. Where a Licence has been surrendered, the Council may issue a new Licence for the unexpired term of the surrendered Licence.

11. REVOKING OF LICENCE

The Council may at its discretion decide that a Licence Holder has lost his/her claim to a Casual Trading Area for the remainder of the year and/or their claim to a Licence for future years, if he/she has been found to have not engaged in Casual Trading at his/her Casual Trading Area for four (4) consecutive weeks. The Licence Holder will be given the opportunity to explain their absence prior to their Licence being revoked.

Before deciding to revoke a Licence, 21 days' notice giving particulars of the breach and of the Council's intention to revoke the Licence shall be sent to the Licence Holder.

The Council shall have regard to any written submissions made by the Licence Holder prior to deciding whether to revoke the Licence.

A Licence fee shall not be refunded in the event of a

Licence being revoked.

12. STALL

A Licence Holder shall only use a stall, vehicle, trailer or other like receptacle or structure for carrying/displaying goods which is approved by an Authorised Officer of the Council and shall remove same at the end of each day's trading.

Stalls shall be maintained in a safe condition at all times and barriers shall be erected around all potential hazards.

No stall shall exceed 2.5m in height, from ground level.

13. FOODSTUFFS

A Licence Holder licenced to casually trade in foodstuffs must be registered with the HSE as a food business establishment and must comply with the requirements of the HSE Environmental Health Office and/or the Food Safety Authority of Ireland in relation to the statutory control of food.

A Licence Holder, if so requested, shall produce evidence of the registration of his/ her food business with the HSE to any person at the place of Casual Trading.

14. LITTER

A Licence Holder shall provide, at his/her own expense, adequate and suitable litter receptacles, that meet the requirements of the Council, for the disposal of litter and shall keep the Casual Trading Area and vicinity clean and tidy at all times, in accordance with Section 15 of the Litter Pollution Act 1997, as amended.

Litter shall not be allowed to accumulate in the vicinity of the Casual Trading Area during authorised Casual Trading hours and at the end of trading each day, the Casual Trading Area shall be cleaned and all litter removed and shown to be properly disposed of by the Licence Holder.

Contravention of this provision of these Bye-Laws shall result in enforcement action being taken against the Licence Holder under the Litter Pollution Act 1997, as amended.

15. WASTE MANAGEMENT

The removal of waste generated at each Casual Trading Area is the responsibility of the Licence Holder.

Licence Holders shall ensure that all waste generated at the Casual Trading Area is disposed of appropriately and in accordance with the Waste Management Act 1996, as amended, and any relevant Regulations and EU Directives.

Licence Holders shall, on request by an Authorised Officer, produce evidence of method of disposal of waste generated at the Casual Trading Area.

Contravention of this provision of these Bye-Laws shall result in enforcement action being taken against the Licence Holder under the Waste Management Act 1996, as amended.

16. OBLIGATION TO OBEY DIRECTIONS

While occupying a Casual Trading Area, a Licence Holder must obey all lawful requests of an Authorised Officer and/or a member of the Garda Síochána.

17. INSURANCE

A Licence Holder shall indemnify the Council against all actions, claims or demands whatsoever by any person claiming damages for personal injuries, loss or damage caused by any act, neglect or default of such Licence Holder, his/her servants, agents or employees in and about the carrying on of such Casual Trading in the Casual Trading Area and every such Licence Holder shall be required by the Council to have in force at all times appropriate public liability insurance, ensuring against the aforesaid risks in a sum to be specified by the Council from time to time. The interest of the Council is to be noted on the face of such insurance policy and if at any time, the said policy is allowed to lapse or is rendered void, the Council shall be at liberty to revoke

the Licence of such person forthwith.

A Licence Holder shall submit a copy of the current insurance policy held by him/her before a Licence is granted.

18. HEALTH AND SAFETY

A Licence Holder shall submit a copy of the current Health & Safety Statement held by him/her before a Licence is granted.

19. ESSENTIAL WORKS

A Licence Holder shall not interfere with or obstruct any officer, servant or agent of the Council or any other provider of public utilities engaged in the carrying out of any works of maintenance or improvement in any part of the Casual Trading Area, even when such work is carried out during authorised Casual Trading hours. The Council reserves the right to prohibit Casual Trading at any time, in the event that exceptional circumstances arise which necessitate such prohibition. The Council will notify any affected Licence Holders in advance of such prohibition taking effect.

20. REVOCATION OF CASUAL TRADING AREA

The Council reserves the right to revoke by executive order the designation of a Casual Trading Area, for operational or other reasons.

21. ALTERNATIVE CASUAL TRADING AREA

An existing Licence for a Casual Trading Area may be temporarily suspended by executive order to facilitate construction/development/maintenance of a roadway, footpath, cycle track or other infrastructure or on adjoining sites or for other operational reasons. Alternative Casual Trading Areas may be assigned by the Council to existing Licence Holders following consultation, subject to availability.

22. SERVICE OF NOTICES

(1) Any notice required to be served on or given to a person under the Act or these Bye-Laws shall be addressed to the person concerned and given in one of the following ways:

(a) By addressing it to the person by name and delivering it to the person

(b) By leaving it at the address at which the person ordinarily resides or at an address which has been furnished by him/her to the Council

(c) By sending it by post in a prepaid registered letter, addressed to the person at the address at which he/she ordinarily resides or at an address which has been furnished by him/her to the Council

(d) By sending it by ordinary post, addressed to the person at the address at which he/she ordinarily resides or at an address which has been furnished by him/her to the Council

(e) Where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and notice is required to be given to the person in respect of any Casual Trading Area, by delivering it to a person over the age of sixteen (16) years engaged in Casual Trading at that Casual Trading Area.

(2) Where the name of the person concerned cannot be ascertained by reasonable inquiry, a notice under the Act or these Bye-Laws may be addressed to "the occupier" or "person in charge".

23. OFFENCES

A person who contravenes any provision of these Bye-Laws shall be guilty of an offence.

24. PENALTY

Every person who shall offend against any provision of these Bye-Laws shall be liable for every such offence on summary conviction to a fine, in accordance with Section 14 of the Act.

The Council reserves the right to revoke a Licence for contravention of these Bye-Laws.

25. TERMS AND CONDITIONS

(1) Licence Holders shall ensure that no obstruction is caused or allowed to be caused to owners or occupiers of premises and their invitees in the vicinity of the Casual Trading Area.

(2) No vehicle shall be parked in the Casual Trading Area during hours of trading unless the vehicle is associated with the Casual Trading being carried out and is parked within the Casual Trading Area.

(3) The Council reserves the right to remove any goods, stall, vehicle, trailer or like receptacle or structure found in a Casual Trading Area outside of authorised times of Casual Trading.

(4) The Council shall not be responsible for any property, goods or equipment of any kind deposited or left in any part of the Casual Trading Area or any loss, damage or injury arising from the actions of the Licence Holder.

(5) No advertising sign or structure shall be placed at or in the vicinity of a Casual Trading Area or above or in the vicinity of any stall.

(6) Casual Trading shall only take place at the Designated Casual Trading Area and on the days and at the times specified in the Licence.

(7) A Licence shall issue only in respect of a specific Casual Trading Area and any person engaging in Casual Trading shall do so only within the confines of the specific Casual Trading Area to which the Licence relates.

(8) A Licence Holder shall engage in Casual Trading only at the specified times and days shown on the Licence.

(9) No goods or articles shall overhang a stall or be deposited on the ground, except within the Casual Trading Area.

(10) Any lighting system for the stall shall be designed to minimise potential glare and light spillage and shall be positioned and/or cowled away from vehicular and pedestrian traffic areas or adjoining residential properties.

(11) Only approved connections for fuel or power supply shall be used.

(12) Licence Holders shall not use a loudspeaker or other public address or amplification system at or in the vicinity of the Casual Trading Area.

(13) Subject to Conditions 25(14), 26(15) and 26(16) below, no motor vehicles, vans or trailers, other than those approved by the Council and specially designed and constructed for the purpose, shall be permitted within designated Casual Trading Areas during trading hours.

(14) Before the commencement of casual trading, Licence Holders may park a vehicle in a Casual Trading Area for a period not exceeding 60 minutes for the sole purpose of unloading stalls, goods, produce and/or equipment from the vehicle to the stall.

(15) Licence Holders may park a vehicle in a Casual Trading Area for a period not exceeding 60 minutes after the expiration of the authorised Casual Trading hours, for the sole purpose of unloading stalls, goods, produce and/or equipment from the stall specified in the Licence to the vehicle.

(16) All stalls, goods, produce and/or equipment shall be removed from the Casual Trading Area no later than 60 minutes after the expiration of the authorised Casual Trading hours, at which time the Council may remove them and the Licence Holder shall be liable for the cost of removal.

(17) With the exception of Conditions 26(15), 26(16) and 26(17) above, a Licence Holder or any other person who parks a vehicle in a Casual Trading Area during authorised Casual Trading hours shall be guilty of an offence under these Bye-Laws.

(18) Trading shall not be conducted in a manner that is likely to cause offence to any fellow Licence Holder, Authorised Officer, or any member of the public.

(19) Only the licence holder shall engage in Casual Trading at the location specified in the licence.

(20) No goods other than those specified in the licence shall be sold.

(21) A licence holder must at all times be able to produce a paper trail identifying the provenance of goods clearly identifying where stock came from.

(22) The sale of counterfeit items is strictly prohibited.

(23) All goods that are sold as "seconds" must be clearly identified as "seconds" at the point of sale. This licence may be revoked at any time if any condition of the licence has been or is being contravened.

(24) A person engaged in Casual Trading shall not obstruct any business, premises, footpath, public road or public right of way.

26. APPLICATION PROCESS

Incomplete application forms shall be invalidated and returned to applicant.

The acceptance of an application form by the Council does not guarantee the granting of a Licence.

Casual Trading Licence

Applications must be accompanied by the following documentation:

- Completed Application Form in the prescribed form as set out in the Third Schedule
- 2 passport photographs of the applicant
- Proof of identity – Passport/drivers licence
- Copy of public liability insurance policy in the sum of €2.6 million
- In the case of Licences to sell food, evidence of registration with the HSE
- A photograph of the stall/unit to be used
- Valid tax clearance certificate
- Appropriate fee

Event Casual Trading Licence

All applications must be made by the organiser of the

event 30 days in advance of date of event. Applications received outside of this timeframe may not be processed.

Applications must be accompanied by the following documentation:

- Completed Application Form in the prescribed form as set out in the Third Schedule
- Copy of public liability insurance policy in the sum of €2.6 million with the interest of the Council noted on the face of the policy
- Copy of Health and Safety Statement
- Copy of waste management plan
- Copy of traffic management plan, where appropriate
- Appropriate fee

27. RENEWAL PROCESS All Casual Trading Licences are renewed in January of each calendar year. Applications for renewal of Licence are posted to Licence Holder one month prior to the expiry of the Licence.

Incomplete renewal application forms shall be invalidated and returned to applicant.

The acceptance of a renewal application form by the Council does not guarantee the granting of a Licence.

Failure to submit a valid application for renewal of Licence fourteen (14) days in advance of expiration of current Licence shall result in the revocation of the Licence. The Council reserves the right to reallocate the Casual Trading Area.

**28. ALLOCATION
POLICY**

Favourable consideration will be given to established Licence Holders.

Vacant Casual Trading Areas will be allocated following assessment of application(s).

Where multiple applications for a single trading area are received in accordance with the provisions of these bye laws, the Local Authority may at its discretion award a

casual trading licence by way of lottery. The form of such lottery shall be at the discretion of the local authority.

A licence will not be granted unless all the relevant information required in the application process is supplied.

A licence will not be granted unless the appropriate fee is paid.

The following documentation must be supplied within 30 days of receipt of offer:

Copy of public liability insurance policy in the sum of €2.6 million with the interest of the Council noted on the face of the policy

Copy of Health and Safety Statement

First Schedule

Designated Trading Areas and Appropriate Fees

	<i>Goods</i>	<i>Fees €</i>
<i>Category A - Flowers</i>		
Esker Cemetery	Flowers	500
Bohernabreena Cemetery	Flowers	500
Newcastle Cemetery	Flowers	500
<i>Category B – Mobile Food Outlets</i>		
Western Industrial Estate	Food	760
Killinarden Ring Road	Food	760
Viewing Point at Killakee	Food	760
<i>Category C - Markets</i>		
Fettercairn Community Centre	General	50
	Farmers Markets	
<i>Category D – Car Parks within Public Parks</i>		
Tymon Park – Wellington entrance	Ice Cream/Confectionery	10,000
Tymon Park – Tymon North entrance	Ice Cream/Confectionery	5,000
Tymon Park – Limekiln entrance	Ice Cream/Confectionery	5,000
Corkagh Park – St. John's entrance	Ice Cream/Confectionery	10,000
Corkagh Park – Camac Valley entrance	Ice Cream/Confectionery	10,000
Griffen Valley Park	Ice Cream/Confectionery	5,000
Hermitage Park	Ice Cream/Confectionery	3,500
Tymon Park – Wellington entrance	Tea/Coffee/Confectionery	5,000
Corkagh Park - St. John's entrance	Tea/Coffee/Confectionery	5,000
Griffen Valley Park	Tea/Coffee/Confectionery	5,000
<i>Category E – Seasonal Trading</i>		
Locations may be determined by executive decision by South Dublin County Council		
	Christmas Trees	200
	Village Festivals/Summer Fetes/Christmas Fairs	50

Second Schedule

Map Numbers

Location	Map No
Esker Cemetery	DTA-002
Bohernabreena Cemetery	DTA-003
Newcastle Cemetery	DTA-004
Western Industrial Estate	DTA-005
Killinarden Ring Road	DTA-006
Viewing Point at Killakee	DTA-007
Fettercairn Community Centre	DTA-008
Tymon Park – Wellington entrance	DTA-009
Tymon Park – Tymon North entrance	DTA-010
Tymon Park – Limekiln entrance	DTA-011
Corkagh Park – St. John's entrance	DTA-013
Corkagh Park – Camac Valley entrance	DTA-012
Griffeen Valley Park	DTA-014
Hermitage Park	DTA-015
Tymon Park – Wellington entrance	DTA-009
Corkagh Park - St. John's entrance	DTA-013
Griffeen Valley Park	DTA-014

Third Schedule

COMHAIRLE CONTAE ATHA CLIATH THEAS

SOUTH DUBLIN COUNTY COUNCIL

APPLICATION FORM FOR A CASUAL TRADING LICENCE

Casual Trading Act, 1995

Casual Trading Bye-Laws 2016

PLEASE READ THE NOTES INCLUDED BEFORE COMPLETING THIS FORM

PLEASE COMPLETE IN BLOCK CAPITALS

1. **Name of Applicant:** _____
2. **Full Postal Address:** _____

3. **Telephone Number:** _____
4. **Email:** _____
5. **Occupation:** _____
 - (a) **PPS No. (In the case of an individual)** _____
 - (b) **Tax Reference No. (In the case of a company/business/sole trader):** _____

6. **Company Registration Number, as supplied by the Companies Registration Office (If the application is in the name of a company/business/sole trader):** _____
7. **Intended Casual Trading Area:** _____
8. **First date on which it is intended to engage in Casual Trading:** _____
9. **Description of the goods to be sold:** _____
10. **Date registered with HSE for sale of foodstuffs:** _____
HSE No. : _____
11. **Insurance held:** _____

If you were a holder of a previous Casual Trading Licence please quote the following:

Licence Number: _____

Expiry Date: _____

To South Dublin County Council

I DECLARE ---

1. that I have not been convicted of two or more offences under the Casual Trading Act, 1995, within three years prior to the date on which I intend to commence casual trading.
2. that the foregoing particulars are correct and I enclose a cheque/bank-draft/postal-order/money order for €_____ being the fee fixed under bye-law by South Dublin County Council under Section 6 of the Casual Trading Act, 1995.

Signature

Print Name

Date

Section 4(11) of the Casual Trading Act, 1995, provides that the local authority concerned shall notify the Minister for Social Welfare of the name and address of a person to whom a casual trading licence was granted and the conditions of the licence and Section 4(2A) of the Casual Trading Act, 1995 (inserted by Section 141 of the Finance Act, 1996 (No.9 of 1996)) provides that the local authority concerned shall notify the Revenue Commissioners of the name, address and tax reference number of a person to whom a casual trading licence was granted and the conditions of the licence. Section 13 of the Casual Trading Act, 1995, also provides that a local authority may establish and maintain the Register of Casual Trading Licences on computer. In such circumstances, personal data kept in the register is subject to the requirements of the Data Protection Act, 1988 (No. 25 of 1988) including an individual's right of access to and verification of data, where appropriate.

PLEASE ENSURE THAT YOU HAVE INCLUDED THE FOLLOWING DOCUMENTATION WITH APPLICATION FORM. INCOMPLETE APPLICATIONS WILL BE DEEMED INVALID AND RETURNED.

Have you included?

☐

2 Passport photos of the applicant

☐

Proof of identify (passport/ driving licence)

☐

Copy of public liability insurance policy of at least €2.6 million. Please note that should you be granted a Licence, you will be required to provide a specific indemnity to South Dublin County Council on the policy.

☐

If you wish to nominate an agent(s), you must supply the name, PPS number and photograph of the agent(s).

☐

In the case of application for Licence to sell food, copy of letter of registration with the HSE

☐

A photograph of the stall to be used

☐

A valid tax clearance cert

☐

Appropriate fee

c

Made Under the Official Seal

of

South Dublin County Council

Dated This 29th Day Of July 2016

Present when the Official Seal of South Dublin County Council was affixed hereto:



Mayor or Nominated Employee

These Bye-Laws shall come into effect on 1st day of August 2016