

Birmingham City Council Markets

Rules and regulations (2006) for the operation of the retail markets

These rules and regulations are intended to assist in the operational effectiveness of the Retail Markets, to ensure equity in relationship to the traders and to support the city council's intention to provide a high quality service. All Licensed and Casual Stallholders shall comply with these Regulations. Where applicable, Employees shall also comply with these Regulations.

In these Regulations the following terms have the meaning hereby assigned:

Term	Meaning
'Council'	means Birmingham City Council.
'Department'	means the council's Market.
'Head of Operations, Markets'	means the council's Head of Operations, Markets - Birmingham City Council or in the Head of Operations, Markets - Birmingham City Council absence the holder of the post of Markets Manager, Markets.
'Retail Markets'	means the Open Market, St. Martin's Indoor Market,
'Regulations'	means the Rules and Regulations (2006) for the operation of the Retail Markets.
'Licensed Stallholder'	means a trader who has been granted a Licence by the Department to trade on a specific stall or stalls in the Retail Markets.
'Licence'	means a licence granted by the Department in respect of a specific stall or stalls in the Retail Markets.
'Casual Stallholder'	means a trader attending the Retail Markets who has not been granted a licence.
'Employee'	means a person working for a Licensed or Casual stallholder
'Authorised Officer'	means an officer in the Department who is authorised in writing by the Head of Operations, Markets - Birmingham City Council to exercise a particular function with respect to the Retail Markets
'Appeals Committee'	means the Council Business Management Sub-Committee to which the function of dealing with appeals under the Regulations is delegated.
'Senior Officer'	means the Markets Manager or Principal Market Officer(s) in the Department.
'Serious Misconduct'	Includes, but is not limited to, any of the following: <ul style="list-style-type: none"> • Sexist, racist, foul or abusive language; • Acts of dishonesty; • Acts of indecency; • Any act causing, or likely to cause, death or personal injury to a person.

1.0 General conditions

1.1 Registration

All Licensed/Casual Stallholders and their Employees shall register their names and current addresses with the Department in accordance with the requirements outlined on the Department's application form, and give written notice to the Department immediately of any changes in such details. A recent passport size photograph of the Licensed/Casual Stallholder signed on the reverse by the Licensed/Casual Stallholder will be required.

1.2 Employees

All Licensed/Casual Stallholders shall ensure that all their Employees comply fully with the Regulations as disciplinary action may be taken against any Licensed/Casual Stallholders or their Employees for any breaches of the Regulations. Licensed/Casual Stallholders are under a duty to bring the Regulations to the attention of their Employees.

1.3 Children

The employment of children is subject to the Children and Young Persons Act 1933. A permit is required from the council's Education Department for the employment of any young person of compulsory school age.

It is an offence to employ any child under the age of thirteen.

1.4 Equality

Birmingham City Council is committed to a policy of equality within all the services for which it is responsible, as outlined in the city council's Equal Opportunities Policy and the delivery of a better quality of life for everyone in the city's diverse communities.

1.5 Partnerships

Only two persons will be permitted to be joint Licensed Stallholder at any stall, and both names shall be on the original application. Licensed Stallholders shall not sub-let or assign their stalls except in accordance with Regulation 3.3.

1.6 Lines

All applications for a licence shall include full details of goods to be sold on the stall. Future changes or additions to existing lines will require prior written consent from the Department, and will not normally be considered at less than 12 month intervals.

1.7 Maximum Stalls

The maximum number of stalls allocated on any one of the Retail Markets to a Licensed Stallholder shall not exceed four.

1.8 Indemnity

All Licensed/Casual Stallholders shall indemnify the council against Third Party Claims. Details of insurance cover are to be set out on the application form for the licence.

1.9 Statutory Requirements

All Licensed/Casual Stallholders and their Employees shall comply with all statutory requirements and statutory instruments including without limitation the Control of Substances Hazardous to Health Regulations 1988 in relation to the sale of goods or provision of services from their stall.

1.10 Animals

Licensed/Casual Stallholders and their Employees shall not bring or keep dogs or other live animals on the Retail Markets.

1.11 Inflammables

Licensed/Casual Stallholders shall not keep or store explosive materials, inflammable liquids or gases on their stalls or in the Retail Markets.

2.0 Trading conditions

2.1 Trading hours

All Licensed/Casual Stallholders shall ensure that their stalls are open for business during the trading hours of the Retail Market as specified from time to time by the Department and published at the Markets Customer Centre or at such other prominent position as shall be determined by the council.

2.2 Employees

All Licensed/Casual Stallholders are fully responsible for the actions of their Employees within the Retail Markets.

2.3 Vehicles

All Licensed/Casual Stallholders shall ensure that vehicles used in respect of their stalls are moved from the Retail Markets area immediately they are unloaded, or at the request of any Authorised Officer.

Licensed/Casual Stallholders shall not bring or permit forklifts and other mechanical trucks to be in the Retail Markets after 9am.

2.4 Nuisance

Excessive noise or nuisance, or any action likely to cause offence may result in disciplinary action being taken against the Licensed/Casual Stallholder and/or the Employee responsible.

2.5 Stallage

All Licensed/Casual Stallholders shall pay on demand from an Authorised Officer the daily stallage charge for their stall, together with any arrears which may have accrued.

2.6 Displays

All goods and produce shall be displayed and sold within the area of the allocated stall. No trimming or sorting of produce is allowed in any public area of the Retail Markets.

2.7 Cleanliness

All Licensed/Casual Stallholders shall ensure that their stalls are kept clean and tidy throughout the trading day, with all refuse being removed at the end of trading to the designated refuse area.

2.8 Scales

Scales must be clearly visible at all times to the public.

2.9 Closing

All Retail Markets to be cleared of goods and vehicles by 6:30pm at the conclusion of each trading day.

3.0 Allocation for licensed stallholders

3.1 Seniority and priority

Licences for stalls are allocated by the Department in line with the seniority of attendance or priority due to minimal representation on the Retail Market.

Over representation may result in restrictions regarding certain lines.

3.2 Seasonal restrictions

Seasonal restrictions may also be applied by the Department in the best interest of the Retail Market.

3.3 Transfer of licences

3.3.1 Licences may be transferred, subject to paragraph 3.3.2 below, by a Licensed Stallholder if the appropriate terms and conditions of the licence are met, and subject to the relevant transfer fee being paid to the Department.

3.3.2 Any Licensed Stallholder who has been suspended pursuant to paragraph 7 and is facing a disciplinary hearing may not transfer their licence from the date of the suspension notice until the outcome of either the disciplinary hearing in accordance with paragraph 9 or, if there is an appeal to the Council Business Management Sub-Committee, then until the outcome of that appeal.

3.4 Holidays

Casual Stallholders can give 14 days' written notice to the Department for up to four weeks' holiday each 12 month period and remain listed.

The Licensed Stallholder will be entitled to two weeks holiday per annum when reservation fees will not be charged. Written notification must be received 14 days prior to commencement of holiday period.

The reservation fee payable for all other absences is full rental.

3.5 Absences

Any absence not covered by a Medical Certificate presented to the Department within seven days of the commencement of an illness, or a holiday form presented to the Department before the absence starts will result in the termination of the licence to trade on the day(s) if the number of unauthorised absences exceed four in succession on any one trading day (e.g. four successive Tuesdays, Fridays, etc) or six in any six month period.

3.6 Permanent stall transfers

Permanent stall transfers for Licensed Stallholders will be allowed by the Department based on seniority and lines.

4.0 Allocation for casual stallholders

4.1 Daily allocation

Allocation of available stalls to Casual Stallholders will be made by the Department each day from the lists of registered casuals, based on the number of recorded attendances by such casuals.

4.2 Attendance credits

Casual attendees shall attend in person prior to allocation in order to receive an attendance credit from the Authorised Officer on the Retail Market.

4.3 Times

Casual allocation will take place as early as operationally possible by the Authorised Officer on the Retail Market.

4.4 Vehicles

Casual Stallholders' vehicles will only be allowed access to the Retail Markets with the prior consent of an Authorised Officer.

Disciplinary procedure

5.0 Issue of offence tickets

- 5.1 Licensed/Casual Stallholders who contravene any of the Regulations may be issued with an Offence Ticket by an Authorised Officer.
- 5.2 The Offence Ticket will state details of the offence, the date of the offence and the name of the Authorised Officer who issued the Offence Ticket.
- 5.3 The following are types of offence for which Offence Tickets may be issued, but this list is not exhaustive:
 - 5.3.1 Selling or displaying goods which are not of a merchantable quality
 - 5.3.2 Selling by short measure
 - 5.3.3 Failing to comply with a reasonable written request of the Head of Trading Services or a Senior Officer
 - 5.3.4 The display or deposit of goods outside the designated stall area contrary to Regulation 2.6
 - 5.3.5 The suspension of articles or equipment from the stall roof and/or lighting cable
 - 5.3.6 The parking of, or permitting of a vehicle to be parked, in the Market other than for longer than is reasonably necessary for loading or unloading
 - 5.3.7 Selling goods or offering goods for sale outside the designated stall area
 - 5.3.8 Failing to clear refuse, empty boxes, etc from designated stall areas as they arise during business, and promptly at the end of each working day
 - 5.3.9 Trimming/sorting outside the designated area
 - 5.3.10 Displaying unauthorised lines or goods contrary to Regulation 1.5
 - 5.3.11 Employment of children under the age of 13, or unregistered staff, contrary to Regulation 1.1 or 1.3.

6.0 Multiple offences

- 6.1 A Licensed/Casual Stallholder who receives more than three Offence Tickets within a 12 month period may be issued with a Notice of Suspension under Regulation 7, preventing him/her from occupying any stall or working at the Retail Markets for a maximum period of one week following the issue of the notice.
- 6.2 If a Licensed/Casual Stallholder receives a further three Offence Tickets within three months following the issue of the Notice of Suspension under Regulation 6.1, the Stallholder may be issued with a second Notice of Suspension under Regulation 7 preventing him/her from occupying any stall or working in the Retail Market for a maximum period of four weeks following the issue of notice.
- 6.3 If a Licensed/Casual Stallholder receives a further three Offence Tickets within three months following the issue of the second Notice of Suspension under Regulation 6.2, the Stallholder's licence to attend the stall may be terminated by a Termination Notice under Regulation 8.

7.0 Notice of Suspension

All Notices of Suspension shall be issued by a Senior Officer and shall be dated and state:

- 7.1 The details of the offence
- 7.2 The date of the offence

- 7.3 The date the suspension is to commence and end
- 7.4 The right of appeal under Regulation 9.

8.0 Termination Notice

A Termination Notice shall be issued by a Senior Officer and shall be dated and state:

- 8.1 The reason for its issue
- 8.2 The date it is to take effect, and
- 8.3 The effect of the termination, and
- 8.4 The right of appeal under Regulation 9.

9.0 Appeals to Head of Operation, Markets – Birmingham City Council

9.1 A Licensed/Casual Stallholder who receives a Notice of Suspension or a Termination Notice may appeal in writing to the Head of Operation, Markets – Birmingham City Council, Manor House, 40 Moat Lane, Birmingham B5 within five working days of the receipt of the Notice. For incidents of Serious Misconduct, please see paragraph 10.

9.2 Following the receipt of such a written appeal by the Head of Operations, Markets – Birmingham City Council – the Stallholder may continue to trade until the determination of the appeal by the Head of Operations, Markets – Birmingham City Council.

9.3 The Head of Operations, Markets – Birmingham City Council – will afford the Stallholder the right to be heard and represented at an oral hearing, and will give their decision in writing, which may either:

- 9.3.1 allow the Stallholder's appeal in which case the Stallholder will be allowed to trade forthwith;
- 9.3.2 suspend the Stallholder from trading from all the Retail Markets for a period not exceeding the period specified under Regulation 6. Any such suspension shall state the date of its commencement and its expiry; or
- 9.3.3 terminate the Stallholder's licence provided that this shall only apply if the appeal is against a Termination Notice issued under Regulation 8.

9.4 A Stallholder shall only be entitled to appeal against a decision of the Head of Operations, Markets – Birmingham City Council – under Regulation 9 where the Head of Operations, Markets – Birmingham City Council – suspends the Stallholder from trading at all Retail Markets for a period exceeding four weeks or terminates the Stallholder's licence. Any period of suspension not exceeding four weeks to be given in consultation with the Chair of the appropriate Market Traders' committee.

Where a Stallholder has a right of appeal, then the Head of Operations, Markets – Birmingham City Council – written decision shall inform the Stallholder of his/her right of appeal to the Council Business Management Sub-Committee under Regulation 11.

10.0 Serious misconduct

10.1 In the event of an incident of Serious Misconduct by a Licensed/Casual Stallholder, a Senior Officer may, by written notice, suspend the Stallholder from trading at all the Retail Markets pending a disciplinary hearing. The notice will state the date the suspension is to commence and the effect of the suspension.

- 10.2 The Head of Operations, Markets – Birmingham City Council – will convene the disciplinary hearing at the earliest opportunity and the Licensed/Casual Stallholder will have the right to be heard and represented.
- 10.3 Following the disciplinary hearing the Head of Operations, Markets – Birmingham City Council – will give the decision in writing to the Licensed/Casual Stallholder which may be either:
- 10.3.1 allow the Stallholder’s appeal in which case the Stallholder will be allowed to trade forthwith;
 - 10.3.2 suspend the Stallholder preventing him/her from trading from all the Retail Markets for a period not exceeding three months from the date of notice; or
 - 10.3.3 terminate the Stallholder’s licence.
- 10.4 A Stallholder shall only be entitled to appeal against a decision of the Head of Operations, Markets – Birmingham City Council – under Regulation 10.3 where the Head of Operations, Markets – Birmingham City Council – suspends the Stallholder from trading from the Retail Markets for a period exceeding four weeks or terminates the Stallholder’s licence. Any period of suspension not exceeding four weeks to be given in consultation with the Chair of the appropriate Market Traders’ committee. Where a Stallholder has a right of appeal, then the Head of Operations, Markets – Birmingham City Council – written decision shall inform the Stallholders of his/her right of appeal to the Council Business Management Sub-Committee under Regulation 11.

11.0 Appeal to Council Business Management Sub-Committee

A Stallholder who is entitled to appeal against a decision of the Head of Operations, Markets – Birmingham City Council – under Regulation 9.3 or 10.3 may appeal to the Council Business Management Sub-Committee by sending a written notice within seven days of the receipt of the Head of Operations, Markets – Birmingham City Council – decision to the Clerk to the Council Business Management Sub-Committee (Markets Appeals), Legal Services Department, Council House, Victoria Square, Birmingham B1 1BB. If the Stallholder so appeals, then:

- 11.1 The Stallholder shall be entitled to continue to trade pending the outcome of the appeal unless he/she shall withdraw his/her appeal;
- 11.2 The Stallholder shall attend in person and shall have the right to be represented at such appeal;
- 11.3 The Council Business Management Sub-Committee shall be entitled to regulate its own procedure but shall either:
 - 11.3.1 allow the Stallholder’s appeal;
 - 11.3.2 suspend the Stallholder preventing him/her from trading from the Retail Markets for a period not exceeding 12 months; or
 - 11.3.3 terminate the Stallholder’s licence.
- 11.4 The Clerk to the Council Business Management Sub-Committee shall notify the Stallholder of the decision of the Council Business Management Sub-Committee in writing as soon as practicable after the Council Business Management Sub-Committee reaches its decision.

12.0 Commencement

The (2006) Rules and Regulations for the operation of the Retail Market shall come into effect 1 April 2006 when the Birmingham City Council Markets, Rules and Regulations dated 1 January 2003 will cease to have effect, subject to Regulation 13.

13.0 Amendment

The council may amend the Regulations at any time by giving at least three months' notice in writing to Licensed Stallholders. Such written notice may be given by publishing the amendment to the Regulations in a prominent position on a Notice Board in each of the Retail Markets.