



AN BILLE UM THRADAIL OCAIDEACH, 1979
OCCASIONAL TRADING BILL, 1979

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

1. Definitions.
2. Occasional trading.
3. Restriction on occasional trading.
4. Occasional trading permits.
5. Display of occasional trading permits.
6. Prohibition of false information and alteration of permits.
7. Advertising of occasional trading.
8. Powers of authorised officers.
9. Penalties.
10. Offences by bodies corporate.
11. Laying of regulations.
12. Expenses.
13. Short title and commencement.

ACTS REFERRED TO

Public Offices Fees Act, 1879	1879, c. 58
Criminal Procedure Act, 1967	1967, No. 12
Auctioneers and House Agents Acts, 1947 to 1973	



AN BILLE UM THRADAIL OCAIDEACH, 1979
OCCASIONAL TRADING BILL, 1979

BILL

entitled

AN ACT TO PROVIDE FOR THE CONTROL AND 5
REGULATION OF OCCASIONAL TRADING AND TO
PROVIDE FOR CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Definitions.

1.—In this Act—

“ authorised officer ” means a person appointed under *section 8* of 10
this Act to be an authorised officer;

“ the Minister ” means the Minister for Industry, Commerce and
Energy;

“ occasional trading permit ” means a permit granted under *section 4*
of this Act; 15

“ selling ” includes agreeing or offering to sell or inviting an offer to
buy.

Occasional
trading.

2.—(1) Subject to *subsection (2)* of this section, “ occasional
trading ” means selling goods by retail at a premises or place (not 20
being a public road or other place to which the public have access as
of right) of which the person so selling has been in occupation for a
continuous period of less than three months ending on the date of
such selling. 30

(2) Occasional trading does not include—

(a) selling by auction (other than by Dutch auction) by the 25
holder of a licence or permit for the time being in force
under the Auctioneers and House Agents Acts, 1947 to
1973,

(b) selling at a trade, commercial, agricultural or industrial fair
or show that is held wholly or mainly for a purpose other 30
than the selling of goods,

(c) selling of agricultural or horticultural produce (including
livestock) by the producer thereof or his servants or agents
acting as such,

- (d) selling to a person at, or at a place adjacent to, the place where he resides or carries on business,
- (e) selling by or on behalf of the State or a Minister of the Government,
- 5 (f) selling of ice-cream, sweets, chocolate confectionery, cooked foods (other than those cooked at the place of sale), fruit or non-alcoholic beverages from a tray, basket, barrow, trolley or other similar device at an event to which the public are admitted whether subject to or free of charge,
- 10 or on the day on which, and at or in the immediate vicinity of the place at which, there takes place, such an event,
- (g) selling of ice-cream (with or without wafers, biscuits or cornets), newspapers, periodicals, magazines or other printed matter or pious or religious objects,
- 15 (h) selling of fish,
- (i) selling the profits of which are used for charitable or other purposes from which no private profit is derived or intended to be derived,
- 20 (j) selling of hand-crafted goods by the maker thereof or the spouse or child of such maker.

(3) The Minister may, by regulations, amend *subsection (2)* of this section and that subsection shall have effect in accordance with any such regulations.

- 25 3.—(1) A person shall not engage in occasional trading unless he is, or is the servant or agent acting as such of, a person who holds an occasional trading permit for the time being in force and the occasional trading is in accordance with the permit. Restriction on occasional trading.

30 (2) This section does not apply to occasional trading engaged in by a person within three months after the commencement of this Act at a premises or place of which the person has been in continuous occupation for a period of less than three months ending at the time of such trading.

35 (3) (a) This section does not apply to occasional trading engaged in by a person at a premises or place of which he has been in occupation for a continuous period of less than three months ending on the date of such trading if—

40 (i) he intends to occupy the premises or place for a continuous period of three months or more that includes the time of the trading aforesaid,

(ii) before he commences such trading, he makes, and gives to the Minister, a statutory declaration stating that intention, and

45 (iii) he occupies the premises or place for a continuous period of three months or more that includes the time of the trading aforesaid.

(b) A person who makes a statutory declaration for the purposes of this subsection without having reasonable

grounds for the statement therein that he intends to occupy the premises or place referred to in the declaration for a continuous period of three months or more that includes the time of the trading referred to in the declaration shall be guilty of an offence; and if he does not occupy the said premises or place for the continuous period aforesaid it shall be presumed until the contrary is shown that the person did not have reasonable grounds for the statement aforesaid. 5

(4) A person who contravenes this section shall be guilty of an offence. 10

Occasional trading permits.

4.—(1) Subject to the subsequent provisions of this section, the Minister shall, on the application in writing of a person therefor and on payment of a fee of £50, together with a further fee of £25 for each day or part of a day on which the person proposes to engage in the occasional trading to which the application relates, grant to the person a permit (referred to subsequently in this Act as “an occasional trading permit”), in such form and specifying such matters as the Minister may determine, authorising the person to engage in occasional trading at a specified premises or place on specified days. 15 20

(2) An application for an occasional trading permit shall be made to the Minister not less than 30 days before the first day on which it is intended to engage in the occasional trading to which the application relates. 25

(3) (a) An occasional trading permit shall contain such conditions (if any) as the Minister determines and specifies in the permit. 25

(b) A person who holds an occasional trading permit shall comply with the conditions of the permit. 30

(c) A person who contravenes *paragraph (b)* of this subsection shall be guilty of an offence. 30

(4) The Minister may refuse to grant an occasional trading permit to a person who has been convicted of an offence under *section 3 (1)* of this Act. 35

(5) The Minister may revoke an occasional trading permit if he is satisfied that a condition of the permit has been or is being contravened or if the person to whom it was granted is convicted of an offence under *section 3 (1)* of this Act. 35

(6) The Minister shall not grant an occasional trading permit to a person who was convicted more than once of an offence under *section 3 (1)* of this Act if the latest conviction occurred less than five years before the first day on which the person proposes to engage in the occasional trading to which the application for the permit relates and two, at least, of the convictions occurred after the expiration of the last period (if any) of disqualification by virtue of this subsection for being granted an occasional trading permit. 40 45

(7) A person who applies to the Minister for the grant of an occasional trading permit shall furnish to the Minister such information as the Minister may request for the purpose of the exercise of 50

his powers and functions under this section and if the person fails to comply with this subsection, the Minister may refuse to grant the permit to him.

5 (8) Where a person is granted an occasional trading permit in respect of occasional trading at a specified premises or place on specified days and pays to the Minister the fees payable in respect of the permit and the person remains in occupation of the premises or place for a period of not less than three months and the period includes the days on which the trading to which the permit relates
10 was carried on, the Minister shall upon proof to his satisfaction of such occupation, return the fees paid in respect of the grant of the permit to the person.

15 (9) Where the number of days or parts of days for which the holder of a permit engages in occasional trading pursuant to an occasional trading permit is less than the number of days or parts of days specified in the permit, the amount of the fees paid or payable under *subsection (1)* of this section shall be adjusted accordingly by the making of appropriate repayments by the Minister.

20 (10) Where a person fails to pay to the Minister a fee in accordance with this section, he shall be guilty of an offence.

(11) Fees paid to the Minister under this section shall be disposed of in accordance with the directions of the Minister for Finance.

(12) The Public Offices Fees Act, 1879 shall not apply in respect of any fees charged or levied under this section.

25 (13) The Minister may by regulations, vary the amounts of the fees specified in *subsection (1)* of this section and that subsection shall have effect in accordance with any such regulations and different fees may be fixed under this subsection in respect of different classes of persons.

30 5.—(1) A person engaging in occasional trading to which *section 3* of this Act applies shall display the occasional trading permit relating to the trading in such a position at or near the place where he is carrying on the trading as to be clearly visible and easily legible to members of the public at the place.

Display of occasional trading permits.

35 (2) A person who contravenes this section shall be guilty of an offence.

6.—(1) A person shall not give false information to the Minister in relation to an application for the grant of an occasional trading permit.

Prohibition of false information and alteration of permits.

40 (2) A person shall not with intent to deceive either alter or use an occasional trading permit.

(3) A person shall not forge a document purporting to be an occasional trading permit.

45 (4) A person who contravenes *subsection (1)* or (2) of this section shall be guilty of an offence.

(5) It shall be a defence for a person charged with an offence under this section in relation to the giving of false information to the Minister to show that he did not know and could not, with the exercise of reasonable care, have known that the information was false.

Advertising of
occasional
trading.

7.—(1) An advertisement relating to occasional trading to which **5**
section 3 of this Act applies shall not be published unless there is in force an occasional trading permit authorising the trading and the advertisement contains the number of the permit and the name and address of the person to whom it was granted.

(2) Where, in relation to an advertisement, there is a contravention **10**
of *subsection (1)* of this section, the person carrying on or proposing to carry on the occasional trading to which the advertisement relates and the person who published the advertisement shall be guilty of an offence.

(3) In this section “advertisement” includes a catalogue, a circular **15**
and a price list.

Powers of
authorised
officers.

8.—(1) The Minister may appoint officers of the Minister to be authorised officers for the purposes of this Act.

(2) An authorised officer may—

(a) enter, inspect and examine any place or premises where **20**
he has reasonable cause to believe that occasional trading is being engaged in,

(b) take with him a member of the Garda Síochána if he has reasonable cause to apprehend any serious obstruction **25**
in the execution of his duty,

(c) require any person whom he has reasonable cause to believe to be engaging in occasional trading—

(i) to produce, if it is not being displayed, an occasional trading permit authorising such trading, and

(ii) if he fails, neglects or refuses to produce such a **30**
permit in a case in which it is not being displayed, to furnish to the officer his name and address, and, if he is the servant or agent of another person, the name and address of that other person,

(d) make such examination and inquiry as may be necessary **35**
to ascertain whether the provisions of this Act are being complied with,

(e) require any person whom he has reasonable cause to believe to be engaging in occasional trading in contravention of this Act to give such information as is in his power **40**
to give as to the ownership of any goods being sold in the course of, or used for the purpose of, such trading,

(f) require any person whom he has reasonable cause to believe to be engaging in occasional trading in contravention of this Act to produce to him documents, books or records **45**
relating to such trading in his power, possession or control and give to him such information as he may request

in relation to entries in those documents, books or records and examine, copy or take extracts from any such document, book or record.

5 (3) A person shall not obstruct or interfere with, or give false information to, an authorised officer in the performance of his functions under this Act.

(4) (a) A person shall not fail, refuse or neglect to comply with a requirement of an authorised officer under this section.

10 (b) A person shall be deemed not to have failed or refused to comply with a requirement of an authorised officer under this section to produce an occasional trading permit if he gives to the officer his name and address and, if he is the servant or agent of another person, the name and address of that other person.

15 (5) (a) A person who contravenes *subsection (3) or (4)* of this section shall be guilty of an offence.

20 (b) It shall be a defence for a person charged with an offence under this section in relation to the giving of false information to an authorised officer to show that he did not know and could not, with the exercise of reasonable care, have known that the information was false.

(6) An authorised officer shall be furnished with a certificate of his appointment and when performing any function under this Act shall, if so required, produce the certificate to any person affected.

30 **9.—**(1) A person guilty of an offence under *section 3 (1)* of this Act shall be liable, on conviction on indictment, to a fine not exceeding £5,000 together with, in the case of a continuing offence, a fine not exceeding £250 for each day or part of a day on which the offence is continued after the first such day or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both the fine or fines and the imprisonment.

Penalties.

(2) A Justice of the District Court shall have jurisdiction to try summarily an offence under *section 3 (1)* of this Act if—

35 (a) the Justice is of opinion that the facts proved or alleged against a defendant charged with such an offence constitute a minor offence fit to be tried summarily,

(b) the Director of Public Prosecutions consents, and

40 (c) the defendant (on being informed by the Justice of his right to be tried by a jury) does not object to being tried summarily,

and, upon conviction under this subsection, the said defendant shall be liable to a fine not exceeding £500.

45 (3) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence under *section 3 (1)* of this Act as if, in lieu of the penalties specified in subsection (3) of the said section 13, there were specified therein the penalty provided for by *subsection (2)* of this section, and the reference in subsection (2) (a) of the said section 13 to the penalties provided for in the said subsection (3) shall be construed and have effect accordingly.

(4) A person guilty of an offence under this Act (other than section 3 (1)) shall be liable, on summary conviction, to a fine not exceeding £500.

(5) The result of proceedings in any court in respect of an offence under this Act shall be communicated by the registrar, county registrar or District Court Clerk concerned to the Minister. 5

(6) A summary offence under this Act may be prosecuted by the Minister.

Offences by
bodies
corporate.

10.—Where an offence under this Act is committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any person who when the offence was committed, was a director, member of the committee of management or other controlling authority of the body concerned, or the manager, secretary or other officer of the body, that person shall also be deemed to have committed the offence and may be proceeded against and punished accordingly. 15

Laying of
regulations.

11.—Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 20

Expenses.

12.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. 25

Short title
and
commencement.

13.—(1) This Act may be cited as the Occasional Trading Act, 1979.

(2) This Act shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions. 30

BILL

BILLE

(in English)

(in Gaelic)

entitled

all rights

to be provided for the control and regulation of occasional trading and to provide for connected matters.

an Act to provide for the control and regulation of occasional trading and to provide for connected matters.

Enacted by the House of Commons in the sixth year of the reign of Her Majesty Queen Elizabeth the Second.

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BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú chun trádáil ócáideach a rialú agus a rialáil agus do dhéanamh socrú i dtaobh nithe a bhaineann leis na nithe sin.

An tAire Tionscail, Tráchtála agus Fuinnimh a thíolaic, 2 Deireadh Fómhair, 1979

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

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(as initiated)

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Presented by the Minister for Industry, Commerce and Energy, 2nd October, 1979

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