

Peddling & The Pedlar's Act 1871

Contents

1. Section 3 Pedlar's Act 1871
2. Stevenage Council v Wright 1996
3. London Borough of Croydon v William Burden 2002
4. Advice to Pedlars

1. Section 3 of the Pedlar's Act 1871 defines a pedlar as follows;

“any hawker, pedlar, petty chapman, tinker, caster of metals, mender of chairs, or other person who, without any horse, or other beast of bearing or drawing burden, travels and trades on foot and goes from town to town or to other men's house, carrying or selling or exposing for sale any goods, wares, merchandise immediately to be delivered, or selling or offering his skill in handicraft.”

The Law of Street Trading Including Markets and Fairs by Barry Hough states;

The 1871 Act required the pedlar to “travel and trade on foot”. The effect of the conjunctive “and” was to make the legal definition of “pedlar” synonymous with the popular view which would regard a pedlar as an individual who sells whilst on the move. Hutchinson J observed: “If the distinction is to be encapsulated in an aphorism, one might say that a pedlar is one who trades as he travels as distinct from one who merely travels to trade. I do not mean that he must not stop...the chair mender stops in order to mend chairs: but the feature which makes him a pedlar is that he goes from place to place, mending a chair here and a chair there: He comes to the owners of distressed chairs, rather than setting up his pitch and allowing them to come to him.”

This means that the trader who stands by a portable stall, that is, who trades on foot in that more limited sense, is not a pedlar. He must move on.

Essentially this requires a pedlar to go to his customers. He is permitted to stop and then to trade, but he is not permitted to set up a stall in a pre-selected location inviting customers to come to him.

2. Stevenage Council v. Wright 1996

Queen' Bench Division 10th April 1996.

W had a valid pedlar's certificate. Whilst acting as a true pedlar he would normally be exempt from the prohibition against street trading under Paragraph 10(1) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

W stood in one place in a Stevenage street (where street trading was prohibited without a consent) and sold Christmas wrapping paper from a bag at his feet for over one hour before being approached by local authority officials. He claimed to be acting as a pedlar and the magistrate dismissed the case against him. The prosecution appealed and HELD, W was not a pedlar but was acting as a street trader. A pedlar 'travels or trades on foot and goes from town to town or to other men's houses', thus he cannot set up a 'pitch'. Whether or not a pitch has been set up depends on the circumstances-an

individual does not have to have a stall. A pedlar, by definition, is a person who sells to a customer and moves along to the next sale.

3. London Borough of Croydon v. William Burden 2002

Street trading officers observed B, a licensed pedlar, selling in Croydon, usually outside a shopping centre, and moving only a few yards during each visit. The judgement stated:

“It seems to me that the crucial point in this case is to look at the periods of time of which B was stationary, the distances that he moved and the nature of his conduct whilst he was stationary for the purposes of selling. Looking at the evidence which was before the magistrates, it is my judgement that someone who **is**:

- habitually stationary for periods of certainly at least 15 minutes;
- often in excess of half an hour; and on one occasion in excess of an hour;
- who during those stationary periods sells intermittently to members of the public; but has not stopped for the purpose of selling to a specific member of the public, is properly to be described as someone who is engaged in street trading and not being a pedlar.

In other words, he **is not** someone:

- carrying and selling goods as he moves around,
- stopping for the limited purpose of conducting a sale and then moving on, rather
- he is someone who is stationary in a succession of different places for longer than is necessary to effect a particular sale or sales
- The fact that the distances covered by B, when he did move, were to be measured in terms of feet or single figure yards, rather than moving up and down a street or around a trading square, in my judgement underscores the impression of him as engaging in street trading from a series of different pitches rather than engaging in peddling; that is to say moving and selling as he moves, stopping for the purpose of conducting a particular sale.”

4. Pedlar's Advice

1. You must “ go from town to town”- so you must not frequent Leamington, Warwick or Kenilworth Town Centres everyday.
2. You must trade as you travel as distinct from someone who merely travels to a particular location to trade. A trader who sells or exposes for sale, goods from a portable stall in a street is not classed as a pedlar.
3. You must carry your goods, continually moving from area to area and not just staying in one street such as The Parade, Leamington Spa. By remaining in this street for long periods of time you may be illegally street trading.
4. The Council in partnership with Warwickshire Police will take formal action against Illegal Street Trading.
5. You should not use large wheeled trolleys or similar as a device to carry and expose for sale all, or the vast majority of your goods.
6. The Council's town centres are monitored by CCTV (Closed Circuit Television).
7. Pedlar's Certificates can be obtained from any police station. It is an offence to peddle without a certificate and an offence to lend a certificate or use someone else's.
8. A Pedlar is;
 - a) A pedlar is a pedestrian
 - b) A pedlar trades whilst travelling rather than travelling to trade
 - c) A pedlar goes to customers rather than allowing them to come to the pedlar

- d) A pedlar is a seller rather than a mender
- e) A pedlar must not remain stationary for long periods of time
- f) A pedlar must not set up a stall and wait for people to approach

9. It is an offence to illegally street trade.