

**CORK CITY COUNCIL
ENGLISH MARKET BYE-LAWS 2015**

WHEREAS CORK CITY COUNCIL being the local authority for the City of Cork has by virtue of Part 19 of the Local Government Act 2001 power to make Bye-Laws for and in relation to the use, operation, protection, regulation or management of any land, services or any other matter provided by or under the control or management of Cork City Council or in relation to any matter connected therewith.

BE IT KNOWN THAT CORK CITY COUNCIL in exercise of the said powers **HEREBY MAKE** the following Bye-Laws for or in relation to the control and management of trading within its premises situated at and known as the English Market, Grand Parade/Princes Street in the City of Cork.

1. These Bye-Laws shall be cited as follows: **Cork City Council English Market Bye-Laws 2015.**
2. **Commencement of Bye-Laws:** These Bye-Laws shall come into force on the 2nd day of November 2015.
3. **Area of Application:** These Bye-Laws shall apply to the entire of Cork City Council's premises situated at and known as the English Market, Grand Parade/Princes Street, Cork.
4. **Interpretation:** In these Bye-Laws
 - A. "*an Authorised Officer*" means an employee of Cork City Council or any other person appointed as such by Cork City Council and in particular shall include the Managing Agent and its employees;
 - B. "*Common Areas*" mean all and every area within the Market which has not been allocated by Cork City Council to a Trader for the purposes of trading or which is not reserved as offices or private areas, which areas shall be clearly intended to be areas over which members of the public will have access while in the Market and which areas are clearly not intended to form any part of a Stall which a Trader is permitted to occupy;
 - C. "*Cork City Council*" means the administrative body for the city of Cork as set out in Sections 10 and 11 and Schedule 5 of the Local Government Act 2001;
 - D. "*Employee of Cork City Council*" shall include every Superintendent, Supervising Official, Foreman, Warden, Servant, Agent or other person employed by and duly authorised by Cork City Council to administer and enforce these Bye-Laws;
 - E. "*encroachment*" means unauthorised occupation of any nature;
 - F. "*the Managing Agent*" means the agent engaged by Cork City Council to manage and control the Market, and who at the time of the making of these Bye-Laws is

Aramark Property Services Limited, and shall mean any other agent so engaged by Cork City Council for that purpose from time to time;

- G. “*the Market*” means all and every part of the premises situated at and known as the English Market, Grand Parade/Princes Street in the City of Cork;
- H. “*obstruction*” means occupation of any nature which prevents or in any way limits free and safe access;
- I. “*Payments*” mean all and every payment payable by a Trader to Cork City Council and/or the Managing Agents howsoever arising including but not limited to rent, service charges, management fees, security costs and all and any other incidental charges, costs or fees which may arise;
- J. “*permission of Cork City Council*” means the permission in writing of an Authorised Officer;
- K. “*Policies and Procedures*” mean all and every policy and procedure put in place by Cork City Council, or by the Managing Agent with the authority of Cork City Council, in respect of the proper and safe management and operation of the Market, which said Policies and Procedures shall be notified to the Traders from time to time;
- L. “*Stall*” means an area within the Market allocated by Cork City Council to a Trader for the purposes of trading which area shall be clearly identifiable by means of its description and delineation on the deed or document by virtue of which Cork City Council has granted permission to the Trader to occupy and trade from the Stall;
- M. “*Trader*” means a person or persons who by deed or document Cork City Council has granted permission to occupy and trade from a Stall in the Market;
- N. “*Trader’s Representative*” means a person who is present at and/or in occupation of and/or trading from a Trader’s Stall in the Market either in the presence or the absence of the Trader whom the Trader has expressed or implied knowledge of;
- O. “*Waste Room*” means the area within the Market allocated for the siting of waste collection bins and other equipment used to process waste for use by the Traders solely in connection with trade carried out within the Market;
- P. any reference to the masculine gender includes reference to the feminine gender and any reference to the neuter gender includes the masculine and feminine genders.
- Q. any reference to the singular includes reference to the plural;
- R. any reference to these Bye-Laws means the Bye-Laws set out hereunder.

5. Purposes of these Bye-Laws

The purpose of these Bye-Laws is to ensure the orderly running and management of the Market and in particular to ensure there are no obstructions of the Common Areas which impact on the safety of all persons trading, visiting and conducting business in the Market.

6. Prohibition on a Trader occupying an area outside his Stall

No Trader or Trader's Representative shall display or deposit goods, equipment, signage or any other item beyond the perimeter of the Trader's Stall and in particular in a manner which would result in encroachment into the Common Areas. A Trader or Trader's Representative must at all times, and in particular during the Market's opening hours, conduct business from within the perimeter of the Trader's Stall.

7. Prohibition on a Trader occupying an area of the Waste Room

No Trader or Trader's Representative shall display or deposit goods, equipment, signage or any other item in the Waste Room. A Trader or Trader's Representative shall only use the Waste Room for the purposes of depositing waste in the bins provided and in accordance with the waste room procedures which apply at any given time. A Trader or Trader's Representative shall not display or deposit goods, equipment, signage or any other item in or adjacent to the Waste Room in a manner which would result in encroachment into the Common Areas

8. Permitted Occupation of areas outside Stalls on Written Permission

Without prejudice to the provisions of Bye-Law 6, a Trader or Trader's Representative shall not be considered to be in breach of these Bye-Laws if permission has been granted by Cork City Council to the occupation of an area beyond the perimeter of the Trader's stall. Any such permission shall be granted at the sole discretion of Cork City Council and in deciding whether or not to grant such permission, due regard shall be had by Cork City Council to the circulation space in that area, health and safety issues, and any Policies or Procedures in place at that time. Any such permitted occupation shall require formalisation in writing and payment of all proportionate Payments which the City Council requires to be paid for use of area in respect of which Cork City Council has granted the Trader permission to occupy.

9. Powers of Authorised Officers to ask for Breach to be Remedied

Where an Authorised Officer has reasonable grounds for believing that a Trader or a Trader's Representative or any invitee of a Trader or any other person operating or at a Trader's Stall with the Trader's permission is contravening or has contravened a provision of these Bye-Laws, such Authorised Officer may direct, either orally or in writing, such Trader or Trader's Representative or person to do either or both of the following:

- (i) desist from such breach, and
- (ii) remove immediately all goods and items which are obstructing the Common Areas.

Failure to comply with a direction shall be an offence under these Bye-Laws.

Without prejudice to the foregoing, a Trader shall comply with the lawful directions of any Authorised Officer given in the carrying out of their functions and duties as provided for in these Bye-Laws and a Trader shall not engage with any Authorised Officer in a threatening or abusive manner. Without prejudice to the generality of Bye-Law 11, contravention of this Bye-Law shall be an offence and, in the event of seriously threatening behaviour, may result in a Trader being criminally prosecuted.

10. Powers of Authorised Officers to Remove Items

In the event of failure by a Trader or Trader's Representative or other person to comply with a direction given by an Authorised Officer as provided for in Bye-Law 9, an Authorised Officer shall have the right, at his sole discretion, to remove goods, equipment, signage or any other item displayed or deposited beyond the perimeter of a Stall which, in the opinion of the Authorised Officer, is/are causing a nuisance, obstruction, or hazard.

Any such items removed shall either be placed within the perimeter of the Stall occupied by the Trader or Trader's Representative or person who has failed to comply with the direction or removed to storage. If removed to storage, such items shall be stored for a maximum period of twenty-eight (28) days, after which, if the items are not reclaimed, they shall be disposed of as Cork City Council or the Managing Agent shall see fit. The cost of such storage shall be discharged by the Trader or the Trader's Representative prior to the release of any items. In the event the items are not reclaimed, the cost of their storage and disposal shall be charged to the Trader.

In the case of perishable goods, an Authorised Officer shall have the right to dispose of the goods immediately and to charge the Trader the costs of such disposal.

In the event items or goods are sold for a profit, Cork City Council shall be entitled to retain any and all proceeds of sale and the Trader shall not be entitled to claim any of the said proceeds.

11. Offence to Contravene these Bye-Laws

It shall be an offence for any Trader or person to contravene any of the provisions of these Bye-Laws.

12. Service of Notices by an Authorised Officer

Where an Authorised Officer is of the opinion, with reasonable cause, that an offence is being or has been committed in contravention of any provision of these Bye-Laws, the Authorised Officer may serve a Trader or Trader's Representative or other person suspected of committing the offence with a notice, specifying the fixed penalty payment in respect of a contravention of these Bye-Laws and the timeframe and manner in which the fixed penalty payment shall be paid.

13. Fixed Penalty Payment

The amount of the fixed penalty payment payable on the service of a notice under Bye-Law 11 shall be €75.00. In the event of non-payment within the prescribed time frame as set out in the notice, Cork City Council reserves the right to institute proceeding under these Bye-Laws without further notice or communication.

14. Service of Notices

Any Notice required to be served by or under these Bye-Laws shall be served in one of the following ways:

- (i) by delivery to the person to be served,
- (ii) by handing to any person permitted to be present at or in occupation of a Stall,
- (iii) by leaving it at the address at which the person ordinarily resides, if known,
- (iv) by sending it by post in a pre-paid registered letter addressed to the person at the address at which the person ordinarily resides, if known,

- (v) if an address for the service of Notice has been furnished by the person, by leaving it at, or sending it by pre-paid registered post addressed to the person at that address.

15. Penalties

A person who contravenes a provision of these Bye-Laws shall be guilty of an offence and shall be liable for each such offence on summary conviction to a fine not exceeding €1,904.61.

In addition, Cork City Council reserves the right to revoke any and all permissions granted by it to a Trader to occupy a Stall and/or any other area in the Market in the event a Trader repeatedly and continuously contravenes these Bye-Laws or contravenes these Bye-laws in a manner which causes a serious danger and/or disruption in the Market.

Made and adopted under the Common Seal of Cork City Council this day of 2015.

PRESENT when the Common Seal of **CORK CITY COUNCIL** was affixed hereto; **THE LORD MAYOR** also being present:

LORD MAYOR

CHIEF EXECUTIVE

LAW AGENT