



Comhairle Baile Chill Ruis

Kilrush Town Council

**Adopted Casual Trading
Bye-Laws 2011**

made under

Casual Trading Act, 1995

Kilrush Town Council

Casual Trading Bye-Laws 2011

The Méara Baile Chill Ruis and members of Kilrush Town Council, in exercise of its powers under Section 6 of the Casual Trading Act, 1995 (No. 19 of 1995) hereby make the following Bye-Laws in relation to the control, regulation, supervision and administration of Casual Trading within the functional area of the town of Kilrush.

Preliminary and General

1. **Citation:**

These bye-laws may be cited as the Kilrush Town Council Casual Trading Bye-Laws 2011.

2. **Commencement:**

These bye-laws shall come into operation on 1st October 2011

3. **Revocations:**

Urban District Council of Kilrush Bye Laws made the _____ are hereby revoked.

4. **Definitions**

In these bye-laws, the following definitions shall apply:-

"The Act" means the Casual Trading Act, 1995.

"The Council" means Kilrush Town Council.

"Authorised Officer" means any person appointed by Kilrush Town Council under Section 10 of the Act to be an authorised officer.

"Casual Trading" has the meaning assigned to it in Section 2 of the Act.

"Casual Trading Area" means the lands designated as an area, as per these bye-laws and the schedules attached hereto, where casual trading may take place, within the functional area of the town of Kilrush.

"Casual Trading Space/Bay" means the maximum single area that may be occupied in a Casual Trading Area by a person engaged in casual trading.

"Casual Trader/Licence holder" means any person licensed to carry out casual trading pursuant to "the Act" and these bye-laws and shall include his/her servants or agents, if authorised in writing in accordance with these bye-laws.

"Licence" means licence under Section 4 of The Casual Trading Act, 1995 and for the time being in force.

"Sell, Selling or Sale" includes agreeing to offer to sell or displaying for sale or inviting an offer to buy.

"Stall" shall include any wheeled or moveable stall or box, barrow, cart, trailer, caravan or other vehicle or both or other stand or conveyance used for casual trading.

"Vehicle" means and includes every means of conveyance, whether mechanically propelled or not, of persons, market produce or any goods or article.

"Event" shall mean any event to which the public are admitted, whether subject to or free of charge, taking place in the administrative area of the Council including festivals and fairs.

"Event Licence" shall mean a Casual Trading Licence granted by the Council to carry out casual trading at an Event or Events specified in the Event Licence pursuant to Section 4(1)(a)(iii) of the Act.

"Event Licensee" shall mean any person who is granted an Event Licence and is licensed to carry out casual trading at an event specified in the Event Licence pursuant to the Act and these bye-laws and shall include the person's employees, servants or agents, if authorised in writing in accordance with these bye-laws.

Exemptions:

5. In these bye-laws, in addition to the classes of selling specified in Section 2 of The Act, casual trading does not include:
 - (a) The selling of newspapers, periodicals, magazines or other printed matter or pious or religious objects at or in the immediate vicinity of a church or place of worship on days on which service or other religious ceremonies take place therein.
 - (b) Selling of ice-cream from mobile vans.
 - (c) Selling of periwinkles.

These exemptions do not relieve the seller of the responsibility of complying with all requirements specified in other legislation.

Designation:

6. Kilrush Town Council hereby designates the areas indicated and defined on the drawing attached as the lands on which casual trading may be carried on (in these bye-laws referred to as "the casual trading area").

Horse trading shall only be carried out on the the Market Square in the area defined in and as outlined on the Drawing attached. Horses must be corralled within this area and owners will be responsible for the proper restraint and control of their animals, subject to the Control of Horses legislation. Casual trading is not be permitted on any part of this area.

Casual trading shall only be carried out at the locations designated for that purpose in these bye-laws or at a specified event or events at such other locations as may be approved by the Council in an event licence issued pursuant to Section 4(1)(a)(iii) of the Act.

General:

7. A person shall not engage in casual trading unless:-
- (i) He/she holds a Casual Trading Licence for a specified event / events and the casual trading is carried out in accordance with the licence.
 - (ii) (a) An application for an Annual Event Casual Trading Licence shall be made not less than thirty days in advance of which trading is to take place.
(b) An application for a Casual Trading Licence for the selling of Christmas Trees during the month of December shall be made not less than seven days in advance of which trading will commence.
(c) An application for a Special Event Casual Trading Licence shall be made not less than thirty days in advance of which trading is to take place.
 - (iii) Only goods listed on the licence application and approved by Kilrush Town Council shall be sold from the stall ("Stall" shall include any wheeled or moveable stall or box, barrow, cart, trailer, caravan or other vehicle or both or other stand or conveyance used for casual trading) of a casual trading licence holder.
 - (iv) Casual trading shall be confined to the trading space at the designated Casual Trading Area in accordance with the licence issued and stalls are to be wholly within the trading spaces in the Casual Trading Area.
 - (v) The type of stall shall be specified in the application and must be approved by the Council to ensure uniformity.
 - (vi) The minimum height of the counter of any fixed or moveable stall used in relation to the sale of food shall be 0.9m above the level of the ground. The overall height of each stall above ground level shall not exceed 2.2m.

- (vi) The allocation of a trading space/bay shall not confer upon the licence holder any tenancy or right to occupy or transfer said trading space/bay.

8. A person engaged in Casual Trading:-

- (i) shall not cause or suffer any foul or feathered game to be plucked at or about his/her stall
- (ii) shall not cause or suffer any fish to be trimmed, gutted or cleaned at or about his/her stall

Food, prepared or unprepared shall not be displayed, stored or kept in any other manner except and in accordance with the Food Hygiene Regulations, or any further regulations that may be made in that regard and applicants for a Casual Trading Licence relating to the sale of food must produce evidence of compliance with such regulations.

9. A person engaged in casual trading:-

- (i) shall not use or cause to be used for the purpose of Casual Trading any stall, the dimensions of which shall cause to be obstructed in any way the free passage to or from the immediate approaches thereto.
- (ii) shall not obstruct or cause to be obstructed in any way the entrance to any premises in the vicinity of the casual trading.
- (iii) shall not obstruct or cause to be obstructed in any way a public road, footpath or public right of way.
- (iv) shall not conduct trading in a manner that causes or is likely to cause offence.

10. The maximum area that may be occupied in the casual trading area by a person engaged in casual trading shall be the maximum area of the casual trading space the subject matter of the casual trading licence granted by KilrushTown Council.

11. A person shall not park a vehicle in the casual trading area during trading hours unless such vehicle is for the time being in use for the purpose of casual trading and is wholly parked within the area of the Casual Trading Space the subject matter of the Casual Trading Licence.

- 12.** The orientation and positioning of the trading stalls located in the designated trading areas shall be in accordance with the layout as indicated on the attached Drawing.
- 13.** (i) The allocation of a bay, in the Casual Trading Area shall be a matter for the Council. The Council shall allocate individual trading spaces by such methods that it may, at its discretion, decide. This shall not exclude allocation by lot.
- (ii) Casual trading shall take place between the hours of 9.00am and 6.00pm.
- (iii) (a) The Annual Event Casual Trading Licence shall only permit trading to take place on Horse Fair Days i.e. 25th March, 1st Thursday in June, 10th October and 23rd November in the areas indicated and as outlined on the Drawing attached.
- (b) Trading shall be permitted during the month of December only in the area indicated and as outlined on the Drawing attached and shall be limited to the selling of Christmas Trees only.
- (c) The Special Event Casual Trading Licence shall only permit trading for special occasions, as determined and agreed by the Council, in an area designated by the Council and indicated and as outlined on the Drawing attached.
- 14.** No broadcasting or speech or music from a mechanical or electronic amplification system shall take place from any stall or any vehicle and no loud playing of radios or music reproduction appliances shall take place at any stall.
- 15.** A person carrying on casual trading shall display by a notice in the prescribed form the number of the casual trading licence.
- (a) The notice displayed pursuant to these bye-laws shall be painted or inscribed or printed in legible form and affixed on a durable material, and
- (b) shall be so displayed in a conspicuous position while casual trading as to be clearly visible and easily legible to members of the public at such place.
- (c) Form No. 1 set out in the Second Schedule to these bye-laws shall be the prescribed form of the notice required to be displayed under this bye-law for casual trading at an event or events.

- 16.** (i) For the purpose of this regulation Casual Trading is an event which attracts a large assembly of persons, and a member of An Garda Síochána is empowered to use his/her powers under Section 91 of the Road Traffic Act 1961 as amended which includes: direct, regulate and control traffic; and regulate and control the parking of vehicles, and in so doing is empowered to do all or any of the following:-
- (a) prohibit the passage of traffic,
 - (b) indicate the direction in which traffic is to proceed,
 - (c) prohibit the parking of vehicles and in particular prohibit the parking of vehicles in any particular place in the Casual Trading Area for the purpose of the loading or unloading of goods or produce onto or from a Casual Trading Space specified in a Casual Trading Licence,
 - (d) indicate places for the parking of vehicles and in particular indicate places for the parking of vehicles in the Casual Trading Area for the purposes of the loading or unloading of goods or produce onto or from a Casual Trading Space specified in a Casual Trading Licence,
 - (e) make any other prohibitions or indications which he/she considers necessary for the purpose of the regulation of access to the Casual Trading Area and in particular for the purposes of the regulation of the parking of vehicles in the Casual Trading Area for the purposes of loading or unloading of goods or produce onto or from a Casual Trading Space specified in the Casual Trading Licence,
- (ii) A person shall comply with a direction given by a member of the Garda Síochána under this bye-law.
- 17.** A Casual Trading Licence shall only be used by the person or persons to whom the licence was issued or by such agent of such person(s) as agreed in writing by the Council. The holder(s) of a Casual Trading Licence shall be restricted to trading in the space/bay, allocated for that specific licence.
- 18.** A person carrying on casual trading shall keep the area in which he/she is casual trading in a clean and tidy condition and for that purpose shall:-
- (a) cause the stall to be properly cleansed and removed immediately after the sale of goods for the day and no later than 18:00p.m.

- (b) as often as is necessary and, when directed by the Council or its servants or agents, cause all refuse arising from his trade or business to be placed in a suitable and sufficient receptacle to be provided by him/her in close connection with such stall.
- (c) as often as is necessary cause the contents of any receptacle provided for the reception of refuse to be promptly removed, without creating a nuisance or obstruction, to any other person or persons.
- (d) remove all refuse arising from his/her trade and stall at the end of each day's trading and dispose of this refuse to a licensed facility.

Failure to comply with Bye-law 18 shall result in a litter fine being issued under the Litter Pollution Act 1997 as amended.

- 19.** The Council shall not be held responsible for any property belonging to any person whatsoever deposited or left at any place while Casual Trading, nor for any loss, damage or injury caused by the negligence of any trader, their agents, employees or customers.
- 20.** All generators, used in conjunction with Casual Trading stalls, shall conform to acceptable noise levels (i.e. 55db(A) by day and 45db(A) by night – where db(A) means decibel level.) and a manufacturer's certificate will be required to confirm specification.
- 21.** A person engaged in casual trading shall indemnify KilrushTown Council against any claim whatsoever by any person for damages for personal injuries, loss or damage caused by any act or omission of the said person holding a licence or his/her servants or agents in and about the carrying on of casual trading. Evidence of Public Liability Insurance must be provided.
- 22.** A person applying to the Council for a Casual Trading Licence shall furnish to the Council, the information requested in the prescribed form, together with such further information as the Council may request for the purposes of the exercise of its powers and functions under the Act and, if a person fails to comply with this Article, the Council may refuse to grant the person the licence.
- 23.** The Council may revoke a Casual Trading Licence if it is satisfied that a condition of the licence is being or has been contravened or if the person to whom it was granted is convicted of an offence in relation to the importation, possession or sale of goods committed while he/she was the holder of a casual trading licence or an offence under the Act.

24. No trading stall or part thereof will be permitted to be erected in a Casual Trading Area prior to a specified trading day. The trading stall may only be erected during the hours of 9:00 a.m. and 18:00 p.m. The Council may revoke a Casual Trading Licence if this is not adhered to.

Authorised Officers:

25. The Council shall appoint an Authorised Officer or Officers for the purposes of the control, regulation, supervision and administration of Casual Trading.
26. A Casual Trader shall comply with all lawful requests and directions by an authorised officer or a member of the Garda Siochana.
27. An Authorised Officer appointed by the Council or a Member of the Garda Siochana may:-
- (a) enter, inspect and examine any place where he/she has reasonable cause to believe that casual trading is being carried out.
 - (b) require any person whom he/she has reasonable cause to believe to be engaging in casual trading:
 - (i) to produce, if it is not being displayed, a casual trading licence authorising such trading and to permit the Officer or member of the Garda Siochana to examine the licence, and if he/she fails, neglects or refuses to produce such a licence or, in a case in which it is not being displayed, to furnish to the officer his/her name and address and, if he/she is the servant or agent of another person, the name and address of the other person.
 - (c) make such examination and inquiry as may be necessary to ascertain whether the provisions of the Act or of these bye-laws are being complied with.
 - (d) require any person whom he/she has reasonable cause to believe to be engaging in casual trading in contravention of the Act to give such information as is in his/her power to give as to the ownership of any goods being sold in the course of such trading.
28. A person shall not obstruct or interfere with, or give false information to an Authorised Officer or member of the Garda Siochana in the performance of functions under these bye-laws.

Special Event Trading:

29. (a) Kilrush Town Council reserves the right to award casual trading licences to traders for events. A casual trading licence may be issued to a person carrying on casual trading at an event or events specified in the Casual Trading Licence to which the public are admitted, whether subject to, or free of charge, or at or in the immediate vicinity of the place where and on the day in which the event takes place. Such Licence will prescribe the location for trading and will be subject to the regulations and conditions as specified by the Council.
- (b) Applications for event licences shall be made not less than thirty days in advance of the date on which trading is to take place.
- (c) KilrushTown Council reserves the right to limit the number of licences awarded for each event.
- (d) KilrushTown Council reserves the right to allow trading to take place outside of the hours specified in Bye-Law 13(iii) above for certain events.
- (e) Only goods approved by KilrushTown Council shall be sold by the licensee at these events.
- (f) Trading shall be carried out in accordance with specific conditions attached to the event licence and all conditions of such licence shall be strictly adhered to by the licensee.
- (g) All articles of these bye-laws shall apply to licensees licensed for event trading.

Fees:

30. A fee is payable in advance to the Council in respect of an application for the grant of a Casual Trading Licence to trade in the functional area of KilrushTown Council
- (i) A fee of €200 per annum shall be payable to Kilrush Town Council in respect of an application for the grant of an Annual Event Casual Trading Licence for 1 no. Casual Trading Bay, this includes the following trading days only 25th March, 1st Thursday in June, 10th October and 23rd November. An additional fee shall be payable in respect of an Annual Event Casual Trading Licence requiring a space greater than the size of a standard Casual Trading Bay, this will be calculated on a pro rata basis.

(ii) The fee for a Casual Trading Licence to sell Christmas Trees shall be €12.70 per day during month of December only.

(iii) The fee for a Casual Trading Licence for a special event shall be €50 per day. An additional fee shall be payable in respect of an Annual Event Casual Trading Licence requiring a space greater than the size of a standard Casual Trading Bay, this will be calculated on a pro rata basis.

The Council shall have discretion to review, in accordance with the Consumer Price Index, the licence fees set out under this section annually.

These fees shall be non-refundable in the event of revocation of a licence.

31. KilrushTown Council reserves the right to include any condition, within reason, on a Casual Trading Licence.

Offences:

32. A person who contravenes any of the Casual Trading Bye-Laws shall be guilty of an offence under Sub-Section (12) of Section 6 of the Act Furthermore, in accordance with the provisions of the Casual Trading Act, a person shall not engage in casual trading unless he/she is, or is the servant or agent acting as such of, a person who holds a casual trading licence that is for the time being in force and the casual trading is in accordance with the licence. A person who contravenes these provisions shall be guilty of an offence, the penalty for which may be a fine not exceeding €1,270. The Act also provides that a local authority may refuse to grant a casual trading licence to a person who has been convicted of an offence in relation to the importation, possession or sale of goods committed while he was the holder of a casual trading licence or an offence under the Act during the period of 3 years before the date of application for the licence, and that a local authority shall not grant a casual trading licence to a person who was convicted of two or more offences (each offence being either an offence in relation to the importation, possession or sale of goods committed while the person was the holder of a casual trading licence or an offence under the Act if two, at least, of the convictions occurred less than 3 years before the first day on which the person proposes to engage in casual trading to which the application for the licence relates.

Penalty:

33. Every person who shall offend against any of the foregoing bye-laws shall be liable for every such offence on summary conviction to a fine not exceeding €1,270 as specified in Section 14 of the Act.
34. Applications for Casual Trading Licences shall be made on the appropriate form addressed to the Town Clerk, Kilrush Town Council, Market Square, Kilrush, Co. Clare.
The Council reserves the right to grant or refuse a Casual Trading Licence.

Casual Trading Areas

First Schedule (Annual Event Licence – Horse Fairs)

Location
Frances Street, Kilrush

More particularly as delineated on Drawing No. 1 attached hereto.

Second Schedule (Christmas Tree Trading inc. Farmer's Market)

Location
Market Square, Kilrush

More particularly as delineated on Drawing No. 1 attached hereto.

Third Schedule (Special Event Licence)

Location
Frances Street, Kilrush

More particularly as delineated on Drawing No. 1 attached hereto.

Fourth Schedule (Horse Trading)

Location
Market Square, Kilrush

More particularly as delineated on Drawing No. 1 attached hereto.

Fifth Schedule

KilrushTown Council

FORM NO. 1

Form of Notice required to be displayed while engaged in Casual Trading.

KILRUSHTOWN COUNCIL

CASUAL TRADING ACT, 1995, BYE-LAWS 2011

Kilrush Town Council has granted an Annual Event Casual Trading Licence under Section 4 of The Casual Trading Act, 1995 authorising casual trading in the location at _____, Kilrush, Co. Clare.

**The number of the Event Casual Trading Licence is -----
(insert the number of the Licence)**

**The Casual Trading Licence is only valid for -----
(insert the date upon which the
Casual Trading licence is valid)**

**Signed: _____
Kilrush Town Council**

KilrushTown Council

FORM NO. 2

Form of Notice required to be displayed at an event or events specified in a Casual Trading Licence to which the public are admitted, whether subject to or free of charge, or at or in the immediate vicinity of the place where and on the day on which the event takes place.

KILRUSHTOWN COUNCIL

CASUAL TRADING ACT, 1995, BYE-LAWS 2011

KilrushTown Council has granted a Casual Trading Licence under Section 4 of The Casual Trading Act, 1995 authorising casual trading at a special event/events set out as follows:

Event(s): _____

(set out the event(s) and the location of such event(s))

Date of Event(s): _____

(set out the date(s) upon which casual trading is authorised Under the Casual Trading Licence)

The number of the Casual Trading Licence is -----
(insert the number of the Licence)

Signed: _____
KilrushTown Council

KilrushTown Council

FORM NO. 3

Form of Notice required to be displayed for Christmas Tree trading specified in a Casual Trading Licence, whether subject to or free of charge, or at or in the immediate vicinity or the place where and on the day on which the trading takes place.

KILRUSHTOWN COUNCIL

CASUAL TRADING ACT, 1995, BYE-LAWS 2011

KilrushTown Council has granted a Casual Trading Licence under Section 4 of The Casual Trading Act, 1995 authorising casual trading at the event/events set out as follows:

Event(s): _____

(set out the event(s) and the location of such event(s))

Date of Event(s): _____

(set out the date(s) upon which casual trading is authorised Under the Casual Trading Licence)

The number of the Casual Trading Licence is _____
(insert the number of the Licence)

Signed: _____
KilrushTown Council

These Bye-Laws shall be known as the Kilrush Town Council Casual Trading Bye-Laws, 2011 and shall come into operation on the _____ 2011.

Made and adopted under the Common Seal of KilrushTown Council this

_____ **Day of** _____ **2011**

PRESENT when the Common Seal of
Kilrush Town Council was affixed hereto.

Méara Baile Chill Ruis

Town Manager/Town Clerk