ELIZABETH II



1978 CHAPTER vi

An Act to make provision for the regulation and protection of Abingdon Market Place; and for other purposes.

[30th June 1978]

WHEREAS—

(1) The district of the Vale of White Horse (in this Act called "the district") is under the management and local government of the Vale of White Horse District Council (in this Act called "the district council"):

(2) The town of Abingdon (in this Act called "the town") in the district is under the management and local government of the Abingdon Town Council (in this Act called "the town council"):

(3) It is expedient to make further and better provision for the regulation, preservation and protection of the Abingdon Market Place in the town:

(4) It is expedient that the other provisions in this Act should be enacted:

(5) The purposes of this Act cannot be effected without the authority of Parliament:

1972 c. 70.

(6) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 have been observed:

(7) In the month of November, 1977, a map showing the Abingdon Market Place and the areas in the said market place referred to in this Act was deposited with the clerk of the district council and is in this Act called " the deposited map " and copies of that map were in the same month deposited in the office of the Clerk of the Parliaments, in the Private Bill Office, House of Commons, and with the town clerk of Abingdon respectively:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Citation and commencement.

1.—(1) This Act may be cited as the Abingdon Market Place Act 1978.

(2) The provisions of this Act other than those mentioned in subsection (3) shall come into force on 1st January, 1979.

(3) The following sections of this Act, namely:—

section 6 (Applications for permits);

section 7 (Vehicle and trading permits);

shall come into force on the passing of this Act.

Interpretation.

2.—(1) In this Act unless the context otherwise requires—

" the Bury " means the area known as the Bury being so much of the market place as lies within the outer edge of the blue line shown on the deposited map;

" the county hall precincts " means the arcade on the ground floor of the county hall, Abingdon, and the areas adjacent thereto lying within the outer edge of the yellow line shown on the deposited map;

" the deposited map " means the map referred to in the Preamble to this Act;

" the district " means the district of the Vale of White Horse;

" the district council " means the council of the district;

" enactment " includes an enactment in any Act, including this Act, and in any order, byelaw, scheme or regulation in force within the district;

" frontager " means a person having the lawful occupation of any of the premises shown hatched mauve on the deposited map;

" local authority " means the district council or the town council;

" the market place " means the area known as Abingdon Market Place being the area which lies within the inner edge of the red line shown on the deposited map;

" the market place carriageways " means that part of the market place highways which is from time to time provided as a carriageway;

" the market place highways " means the highways shown hatched green on the deposited map;

" permit " means a trading permit or a vehicle permit;

" special authorisation " means an authorisation given in writing by the town council under section 11 (Special events) of this Act in relation to a particular occasion;

" statutory undertakers " means the British Gas Corporation, the Southern Electricity Board, the Thames Water Authority, and the Post Office, or any of them as the case may be, and " statutory undertaker " shall be construed accordingly;

" the town " means the town of Abingdon;

" the town council " means the council of the town;

" trade " means to sell anything (including any living thing) and references to the selling of anything include references to the offering or exposing for sale of that thing;

" trading permit " means a permit under this Act to trade on the Bury;

" vehicle " means a vehicle of any description other than an invalid chair propelled by manual or electrical means or a perambulator;

" vehicle permit " means a permit under this Act to use or leave a vehicle on the Bury.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended or amended, by, or by virtue of, any enactment.

Bury and county hall precincts to be open space and public rights of way extinguished. 1906 c. 25.

3.—(1) Subject to the provisions of this Act the Bury and the county hall precincts shall be open spaces and the provisions of the Open Spaces Act 1906 shall apply as if the Bury and the county hall precincts were open spaces within the meaning of that Act and as if the town council had acquired control over them on the coming into force of this section:

Provided that nothing in—

(*a*) this section; or

1906 c. 25.

(*b*) the Open Spaces Act 1906 as applied by this section; or

(*c*) any byelaw made under the powers of the said Act of 1906 as so applied;

shall restrict the rights of access of pedestrians to any part of the Bury or the county hall precincts or empower the town council to enclose the Bury.

(2) Subject to the provisions of this Act, on the coming into force of this section all public rights of way over the whole or any part of the market place except the market place highways shall be extinguished and no part of the market place except the market place highways shall be a highway.

(3) Notwithstanding the provisions of this section, statutory undertakers shall have the same powers, rights and obligations in respect of the placing, inspecting, repairing, maintaining, renewing and removing apparatus in or under the Bury and the county hall precincts (other than the county hall arcade) as they would have if the same were highways and the town council were the highway authority.

Restrictions on use of vehicles.

4.—(1) Subject to the provisions of this Act no person shall except in case of emergency use or leave a vehicle on any part of the market place other than the market place carriageways except in accordance with a vehicle permit granted by the town council under this Act or a special authorisation.

(2) Subsection (1) above shall not apply to the use of a vehicle—

(*a*) for police, ambulance or fire brigade purposes;

(*b*) on behalf of a statutory undertaker exercising the powers and rights referred to in section 3 (3) of this Act;

(*c*) for refuse disposal purposes;

(*d*) for cleansing purposes;

(*e*) for maintaining and repairing the market place.

Restrictions on trading.

5.—(1) Subject to the provisions of this Act, no person shall trade in the market place.

(2) The restriction in subsection (1) above shall not apply to trading in the Bury for the purpose of supplying readily consumable food and drink in accordance with a trading permit or a special authorisation.

Applications for permits.

6. An application for the grant or renewal of a permit under this Act shall be made in such a form as the town council may by resolution prescribe (a copy of which form shall be supplied by the town council to any person on demand) and shall state—

(*a*) the full name and address of the applicant;

(*b*) (in the case of an application for a vehicle permit) a description of the class or type of vehicle and the place where the applicant intends the vehicle to be used or left if the permit is granted;

(*c*) (in the case of an application for a trading permit) the nature of the readily consumable food and drink which, and the place where, the applicant intends to sell under the authority of the permit if granted;

(*d*) such other information as the town council may reasonably require.

Vehicle and trading permits.

7.—(1) Upon the receipt of an application under section 6 (Applications for permits) of this Act for the grant or renewal of a permit, the town council shall give notice to the district council and shall take into consideration any representations made by the district council within twenty-eight days from the date of the service of the notice.

(2) After considering any representations made by the district council under subsection (1) above or (if no representations are made) after the expiration of the period of twenty-eight days mentioned in the said subsection (1), the town council shall—

(*a*) in the case of an application by a frontager for the grant or renewal of a vehicle permit, grant or renew the permit;

(*b*) in any other case grant or renew a permit or refuse the application;

and in any case shall notify the applicant of their decision.

(3) (*a*) If the town council grant or renew a permit they shall impose such conditions (if any) as they may have agreed with the district council and may impose such other conditions as they think fit.

(*b*) A condition imposed under this subsection may include a condition as to the duration of a permit.

(4) (*a*) Where a trading permit is granted or renewed the town council may make such reasonable charges as they think fit for the use of the place where the holder is authorised to trade.

(*b*) The town council shall notify the applicant of the charges which they decide to make under this subsection.

(*c*) If within twenty-eight days from the date of the service of a notice under paragraph (*b*) hereof the person on whom the notice was served (hereafter in this subsection called " the appellant ") gives notice in writing to the town council that he disputes the reasonableness of the charges the dispute shall be referred to and determined by a single arbitrator to be agreed upon between the parties, or, failing agreement, appointed by the President of the Royal Institution of Chartered Surveyors on the application of either party to the dispute after notice in writing to the other.

(*d*) In an arbitration under paragraph (*c*) hereof the arbitrator shall either determine that the charges are reasonable or shall specify such lesser charges as he determines to be reasonable.

(*e*) If the arbitrator's award specifies some lesser charges than those decided by the town council, those lesser charges shall be substituted and the town council shall refund to the appellant such charges as have been paid and as are in excess of those lesser charges.

(*f*) Notwithstanding a reference to arbitration under this subsection and without prejudice to the payment of any refund pursuant to paragraph (*e*) hereof the charges decided by the town council shall remain payable to them until they are varied by arbitration.

(*g*) A vehicle permit, if granted or renewed, shall be granted or renewed free of charge.

(5) The town council shall not—

(*a*) refuse to grant or renew a trading permit under subsection (2) above; or

(*b*) impose any conditions under subsection (3) above when granting or renewing a trading permit; or

(*c*) make a charge under subsection (4) (*a*) above; or

(*d*) revoke a trading permit under section 8 (Revocation of permits) of this Act;

unless they have afforded to the applicant or the holder of the permit an opportunity of being heard by the town council or a committee thereof, or (at his option) of making written representations to the town council:

Provided that the town council shall not impose a condition which has been agreed with the district council unless the applicant or the holder of the permit has been afforded (in addition to the opportunity mentioned above) an opportunity of being heard by the district council or a committee thereof, or (at his option) of making written representations to the district council.

(6) Except in accordance with the terms of a special authorisation no part of the Bury or the county hall precincts shall be used as a parking place for vehicles.

Revocation of permits.

8. If a person is convicted of contravening a condition imposed with respect to a permit other than a vehicle permit held by a frontager, the town council may, subject to the provisions of section 7 (5) of this Act, revoke the permit, and thereupon shall give notice of the revocation to the holder of the permit.

Offences.

9. Any person who contravenes the provisions of section 4 (Restrictions on use of vehicles) or section 5 (Restrictions on trading) or is in breach of a condition imposed on a permit granted under section 7 (Vehicle and trading permits) of this Act or a condition imposed on a special authorisation shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

Defence of due diligence.

10.—(1) In proceedings for an offence of contravention of the provisions of section 4 (Restrictions on use of vehicles) or section 5 (Restrictions on trading) of this Act or breach of a condition imposed on a permit granted under section 7 (Vehicle and trading permits) thereof it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) If in any case the defence provided under subsection (1) above involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of that other person.

Special events.

11. The town council may grant a special authorisation (subject to such conditions as they may think fit to impose) to persons—

(*a*) to use the Bury and the county hall precincts; and

(*b*) to use or leave vehicles thereon; and

(*c*) to trade thereon;

for the purpose of civic or public ceremonies, displays or exhibitions and for the purpose of sales organised by any registered charity or by any other body undertaking to devote the whole of the net proceeds of sale for charitable purposes.

Penalty for obstruction.

12. Any person who intentionally obstructs any officer of a local authority acting in execution of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

Application of general provisions of Public Health Act 1936.
1936 c. 49.

13. The sections of the Public Health Act 1936 mentioned in the Schedule to this Act shall have effect as if references therein to that Act included references to this Act.

Saving for legal markets or fairs.
1953 c. xli.

14. Nothing in this Act shall affect the sale or offer or exposure for sale of goods in any market or fair held in pursuance of Part X of the Berkshire County Council Act 1953 or any other statute or any royal licence, royal charter or letters patent or the right to use or leave vehicles in the market place for the purposes of any such market or fair.

SCHEDULE

Section 13.

SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED TO THIS ACT

1936 c. 49.

Section	*Marginal note*
283 (1)	Notices to be in writing; forms of notices, &c.
285	Service of notices, &c.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR BERNARD M. THIMONT
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

30p net

ISBN 0 10 510678 X



Abingdon Market Place Act 1978

CHAPTER vi

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14. Saving for legal markets or fairs.

SCHEDULE—Sections of Public Health Act 1936 applied to this Act.