CHAPTER xliv.

An Act to enable the mayor aldermen and councillors of the metropolitan borough of Bermondsey to control the carrying on of trading in the streets of the borough and for other purposes. [15th July 1926.] A.D. 1926.

WHEREAS the metropolitan borough of Bermondsey (hereinafter referred to as "the borough") is subject to the London Government Act 1899 and the other Acts relating to metropolitan boroughs and the mayor aldermen and councillors of the borough are the local sanitary authority for the borough:

And whereas it is expedient that the provisions contained in this Act with respect to the carrying on of trading in the streets of the borough should be made:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

And whereas in relation to the promotion of the Bill for this Act the requirements of the Borough Funds Acts 1872 and 1903 have been observed:

May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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 (that is to say):—

1. This Act may be cited as the Bermondsey Borough Council (Street Trading) Act 1926. Short title.

[*Price* 6*d. Net.*]

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Interpretation.

2. In this Act unless otherwise expressly provided or the context otherwise requires :—

"The borough" means the metropolitan borough of Bermondsey;

"The Council" means the mayor aldermen and councillors of the borough;

"The town clerk" means the town clerk of the borough;

"Daily penalty" means a penalty to accrue for each day on which an offence is continued after conviction thereof.

Licensing of street traders.

3. From and after the first day of November one thousand nine hundred and twenty-six it shall not be lawful for any person to sell or expose or offer for sale any article or thing from or upon any barrow cart stall or other receptacle occupying a stationary position at a place in the carriageway or footway of any street in the borough without a licence from the Council authorising him so to do Provided that this section shall not apply to any person selling or exposing or offering for sale any article or thing from or upon any barrow cart stall or other receptacle which he ordinarily moves from place to place in pursuit of and while conducting his trade.

Applications for licences &c.

4.—(1) A person requiring a licence or the renewal of a licence under this Act shall make application in writing to the Council and shall in such application state his full name and address and the nature of the articles and things which he intends to sell or expose or offer for sale under the authority of the licence if granted and the street or streets or area in which he intends so to sell or expose or offer for sale In the case of any person intending to sell or expose or offer for sale as aforesaid any article or thing on or within one month after the first day of November one thousand nine hundred and twenty-six such application shall be made not later than the first day of October one thousand nine hundred and twenty-six.

(2) The Council shall as soon as reasonably practicable after the receipt of an application under the provisions of this section grant or renew a licence to the applicant under and for the purposes of this Act Provided that

the Council may refuse to grant or renew a licence or may at any time revoke or vary a licence granted to any person if—

(*a*) on account of misconduct or for any other sufficient reason he is in their opinion unsuitable to hold such licence; or

(*b*) the space available in the street or streets or area to which the application relates or which is or are prescribed by the licence is at the date of such application or becomes at any time after the grant of such licence insufficient for the selling or exposing or offering for sale by the applicant or licensee of any articles or things under the authority of a licence under this Act or of the particular articles or things referred to in the application or licence without causing undue interference with or inconvenience to the traffic in such street or streets or area

but shall not refuse to grant or renew a licence or revoke a licence on the ground only that the applicant for or holder of the licence does not reside in the borough.

Provided that where the Secretary of State has declared after consultation with the Council that the presence of persons licensed under this Act causes or is calculated to cause undue interference with or inconvenience to traffic in any street or part of a street the Council shall not grant or renew any licences authorising any person to sell or expose or offer for sale any article or thing in such street or part of a street whether such street or part of a street is prescribed in the licences or not except in such number and under such conditions as may be fixed by the Council with the concurrence of the Secretary of State and the refusal of a licence in pursuance of this proviso shall not be a ground for an appeal under subsection (2) of the section of this Act of which the marginal note is "Appeals against refusal or revocation of licences."

(3) Any such licence may prescribe—

(*a*) the street or streets or area in which and the position or place in any such street or area at which the licensee may sell or expose or offer for sale articles or things as aforesaid;

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(*b*) the articles or things which may be sold or exposed or offered for sale as aforesaid;

(*c*) the day or days on which the licensee may sell or expose or offer for sale articles or things as aforesaid; and

(*d*) the number of barrows carts stalls or other receptacles which may be used for those purposes under the authority of the licence;

and on any occasion of the renewal of a licence the Council may vary such prescriptions.

(4) The Council shall not refuse to renew or shall not revoke or vary any such licence unless they shall have given to the person applying for such renewal or holding the licence proposed to be revoked or varied not less than seven days' previous notice in writing that objections have been or will be taken to such renewal or that a revocation or variation is proposed and unless on written application made within three days after the receipt of such notice they have afforded to such person an opportunity of being heard against such refusal revocation or variation.

Fees on licences.

5. Any person making application for the grant or renewal of a licence under this Act shall when making the same pay to the Council in respect of such application a fee of five shillings.

Duration of licences.

6. Every licence granted or renewed under this Act shall unless revoked be valid for a period of one year or in the case of any licence granted or renewed otherwise than at any annual meeting fixed by the Council for the purpose of considering applications under this Act for a period expiring on the thirty-first day of December next after the date of such grant or renewal Provided that every such licence granted before the thirty-first day of December one thousand nine hundred and twenty-six shall unless revoked be valid until the thirty-first day of December one thousand nine hundred and twenty-seven or the date of any annual meeting held by the Council in the year one thousand nine hundred and twenty-seven for the purpose of considering applications under this Act (whichever of those dates shall be the earlier).

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Appeals against refusal or revocation of licences.

7.—(1) If the Council refuse to grant or renew a licence or revoke or vary a licence under this Act they shall if required by the applicant or holder (as the case may be) deliver to him within seven days of the receipt of such requirement particulars in writing of the ground or grounds for such refusal revocation or variation.

(2) Any person aggrieved by such refusal revocation or variation or by any prescription made by the Council under subsection (3) of the section of this Act of which the marginal note is "Applications for licences &c." may appeal to a petty sessional court provided that such appeal is made within fourteen days from the date on which such refusal revocation variation or prescription is notified to him and that notice in writing of such appeal is sent to the Council not less than seven days before the hearing thereof.

Byelaws as to trading under licences.

8.—(1) The Council may make byelaws prescribing the days on which and the times during which articles or things may be sold or exposed or offered for sale under the authority of a licence granted or renewed under this Act and making provisions and requirements with respect to the deposit and removal of refuse the allocation dimensions and arrangement of barrows carts stalls or other receptacles the storage and sanitary supervision (while at the place of intended sale or exposure or offering for sale) of articles of food intended to be sold or exposed or offered for sale under the authority of the licence and generally as to the conditions under which articles or things may be sold or exposed or offered for sale under such authority.

(2) The provisions of sections 182 to 186 of the Public Health Act 1875 as set out in the First Schedule to the Public Health (London) Act 1891 shall apply to all byelaws made under this section with the substitution of the Secretary of State for the Minister of Health as the confirming authority Provided that before confirming any byelaw relating to the storage and sanitary supervision of articles of food the Secretary of State shall consult the Minister of Health.

Power to Council to make charges for

9. The Council may make and recover from persons licensed by them under the provisions of this Act such reasonable charges as they may think fit for the removal

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of refuse or any other services rendered by the Council Any such charge shall be recoverable summarily as a civil debt.

certain services.

Power to licensees to employ other persons.

10. Any person holding a licence under this Act may employ any other person to assist him in the conduct of his business without any further licence under this Act being required.

Penalties for offences in respect of trading required to be licensed.

11.—(1) Every person who or whose assistant after the first day of November one thousand nine hundred and twenty-six without a licence under this Act authorising him so to do or contrary to any prescription of such licence sells or exposes or offers for sale any article or thing from or upon any barrow cart stall or other receptacle occupying a stationary position at a place in the carriageway or footway of any street in the borough or obtains a licence or the renewal of a licence by wilful misrepresentation shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(2) Provided that a person who has appealed to a petty sessional court in accordance with the provisions of the section of this Act of which the marginal note is "Appeals against refusal or revocation of licences" or to a court of quarter sessions in accordance with the provisions of the section of this Act of which the marginal note is "As to appeal" shall not be liable to any proceedings under this section for the offence of selling or exposing or offering for sale any article or thing as aforesaid without a licence until such appeal has been heard and determined or has been abandoned.

Saving for holders of pedlars' certificates and hawkers' licences.

12. Nothing in this Act shall restrict the right of any person holding a pedlar's certificate or a hawker's licence to carry on the business of a pedlar or of a hawker (as the case may be) in accordance with such certificate or licence.

Saving for London Traffic Act 1924 and other enactments.

13. Nothing in this Act shall exempt any person from or shall alter or affect the operation of the London Building Acts 1894 to 1923 or any Act amending or extending the same or any byelaw or regulation in force thereunder or any of the provisions of the London Traffic Act 1924 or of any enactment relating to obstruction of traffic in highways.

Expenses of execution of Act.

14. All expenses incurred by the Council in carrying into execution the provisions of this Act shall be paid out of the general rate leviable by them.

Authentication and service of notices &c.

15.—(1) Where any notice or demand under this Act or under any byelaw made under this Act for the time being in force within the borough requires authentication by the Council the signature of the town clerk or other duly authorised officer of the Council shall be sufficient authentication.

(2) Notices demands orders or other documents required or authorised to be served under this Act or under any byelaw made under this Act for the time being in force within the borough may be served in the same manner as notices under the Public Health (London) Act 1891 are by section 128 of that Act authorised to be served Provided that in the case of any company any such notice demand order or document shall be delivered or sent by post addressed to the secretary of the company at their principal office or place of business.

Penalties to be paid to authority taking proceedings.

16. Notwithstanding anything contained in the Metropolitan Police Courts Act 1839 or in any other Act every penalty recovered under or in pursuance of this Act or any byelaw made thereunder shall be payable to the authority taking the proceedings leading to the recovery of the penalty.

Persons acting in execution of Act not to be personally liable.

17. No matter or thing done or contract entered into by the Council nor any matter or thing done by the town clerk or by any member or officer of the Council or by any person whomsoever acting under the direction of the Council shall if the matter or thing be done or the contract be entered into bona fide for the purpose of executing this Act subject them or any of them personally to any action liability claim or demand whatsoever and any expense incurred by the Council or town clerk member officer or person acting as last aforesaid shall be borne and repaid out of any of the funds at the disposal of the Council.

As to appeal.

18. Any person deeming himself aggrieved by any conviction or order by a court of summary jurisdiction under any provision of this Act may appeal to the next practicable court of quarter sessions under and according to the provisions of the Summary Jurisdiction Acts.

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Recovery of penalties &c.

19. Save as otherwise expressly provided all offences against this Act or any byelaw made thereunder and all fines forfeitures penalties costs and expenses imposed or recoverable thereunder or under any such byelaw may be prosecuted and recovered in a summary manner Provided that costs and expenses except such as are recoverable along with a fine shall not be recovered as penalties but may be recovered summarily as civil debts.

Informations by whom to be laid.

20. Save as herein expressly provided all informations and complaints under or for the breach of any of the provisions of this Act or of any byelaw made thereunder may be laid and made by any officer of the Council duly authorised in that behalf or by the town clerk or by any officer of the metropolitan police and the Council may appear before any court in any legal proceedings under this Act by the town clerk or any officer authorised generally by resolution of the Council.

Judges not disqualified.

21. A judge of any court or a justice shall not be disqualified from acting in the execution of this Act by reason of his being liable to any rate.

Powers of Act cumulative.

22. All powers rights and remedies given to the Council by this Act shall be deemed to be in addition to and not in derogation of any other powers rights or remedies conferred on them by any other Act or any Order and the Council may exercise such other powers and shall be entitled to such other rights and remedies as if this Act had not been passed Provided that no person shall incur more than one penalty (other than a daily penalty) for the commission of the same offence.

As to future general Act relating to street trading.

23. If within five years from the passing of this Act an Act shall be passed (in this section referred to as "the general Act") embodying general legislation dealing with the control of street trading for all the metropolitan boroughs or all the metropolitan boroughs other than the city of London the provisions of this Act shall cease to have effect on and from the date on which the provisions of the general Act become operative and the general Act shall have effect in the borough Provided that any licences granted under the provisions of this Act and in force at the said date shall notwithstanding anything contained in this section continue to be valid until the expiration of the period for which such licences

were granted or renewed and shall for the purposes of the general Act be deemed to have been granted or renewed under that Act Provided also that any bye-laws made by the Council under the provisions of this Act and in force at the said date shall continue to have effect and be enforceable until the expiration of three months after the general Act shall become operative but no longer.

Costs of Act.

24. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council out of the general rate fund and general rate.

Printed by EYRE and SPOTTISWOODE, LTD.,
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