ELIZABETH II

1978 CHAPTER xi

An Act to make provision for the regulation and management of Kendal Market; and for other purposes. [20th July 1978]

WHEREAS—

(1) The District of South Lakeland (hereinafter referred to as " the District ") is under the management and local government of the South Lakeland District Council (hereinafter referred to as " the Council "):

(2) By charters granted in 1189 and 1309 the right to hold a market in Kendal was conferred on the Lords of the Manor and has been exercised by their successors for many centuries but evidence of the history of such market is sparse:

(3) By a conveyance dated 12th May, 1865, money was raised by public subscription in consideration of the payment of which the then Lords of the Manor conveyed the market tolls and stallage to trustees upon trust and to the intent and purpose that such

tolls and stallage should thenceforth cease to be collected and that the persons for the time being attending the markets and fairs in Kendal should be thenceforth freed and discharged from all claim and demand whatsoever in respect of such tolls and stallage:

(4) By conveyances dated 29th December, 1885, and 3rd June, 1886, the mayor, aldermen and burgesses of the borough of Kendal purchased the fairs and markets and from funds raised by public subscription to celebrate the Golden Jubilee of Her late Majesty Queen Victoria the Market Hall was erected on lands subsequently acquired by the mayor, aldermen and burgesses:

(5) The Council are the owners in fee simple of the markets held wholly in the District at the Market Hall, the Market Place, Stramongate and New Road, Kendal (hereinafter together referred to as " Kendal Market "):

(6) Neither the mayor, aldermen and burgesses of the borough nor the Council who succeeded them in 1974 have made any attempt to charge tolls or stallage in either the Market Hall or elsewhere in Kendal Market:

(7) Doubt exists as to the validity of the trusts created by the said conveyance of 12th May, 1865, and as to the beneficial ownership of the tolls and stallage thereby conveyed and it is desirable that such doubt should be resolved by the extinguishment of any rights which may subsist in such tolls and stallage so that the Council as the owners of Kendal Market may obtain the powers conferred by this Act:

(8) As the owners of the Market Hall and the authority responsible for the administration and management of Kendal Market the Council are concerned not only with the expense of discharging these functions but also with the cost of the maintenance and upkeep of the Market Hall, which expense and cost at present fall on the ratepayers of the District:

(9) It is expedient that better provision should be made for the regulation and management of Kendal Market and that the powers of the Council in regard thereto should be enlarged and extended as in this Act provided:

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

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

(12) 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:

1972 c.70.

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:—

Short title.

1. This Act may be cited as the Kendal Market Act 1978.

Interpretation.

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

" the Act of 1955 " means the Food and Drugs Act 1955; 1955 c.16

" the Council " means the South Lakeland District Council; (4 & 5 Eliz. 2).

" the District " means the district of South Lakeland;

" Kendal Market " means the markets held at the Market Hall, the Market Place, Stramongate and New Road, Kendal;

" the market " means any market which may be held by the Council in Kendal;

" the Market Hall " means the market hall comprising part of the markets undertaking and situate on the north side of the Market Place, Kendal;

" the markets undertaking " means the markets undertaking of the Council in Kendal.

(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 subsequent enactment, including this Act.

Application of Part III of Act of 1955.

3. Notwithstanding anything in any enactment or rule of law the market shall be deemed to have been established by the Council under section 49 of the Act of 1955 and accordingly the provisions of Part III of the Act of 1955 shall apply to the market and the markets undertaking shall be held by the Council under and subject to those provisions.

Special provision for certain traders.

4.—(1) Notwithstanding the powers of the Council under Part III of the Act of 1955 to demand stallages, tolls and charges from traders making use of the facilities of the market, the Council shall set aside such part of the Market Hall as may from time to time be necessary for the use of the traders to whom this section applies and shall provide such facilities free of charge.

(2) This section applies to traders who in the opinion of the Council traditionally use the market and fulfil the following requirements:—

(*a*) are resident in the District;

(*b*) offer for sale only their own home-produced goods, foodstuffs or garden produce; and

(*c*) occupy not more than three square metres of space in the Market Hall.

Cesser and extinguishment of rights.

5. Save as provided in this Act the beneficial ownership of, and any right to demand, stallages, tolls or charges in respect of Kendal Market shall cease and are hereby extinguished.

Costs of Act.

6. The costs, charges and expenses preliminary to, and of and incidental to, the preparing, obtaining and passing of this Act may be defrayed by the Council in whole or in part indifferently out of revenue.

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