



City of Newcastle upon Tyne Act 2000

2000 CHAPTER viii

An Act to confer powers on the Council of the City of Newcastle upon Tyne for the better control of street trading in the city of Newcastle; for the registration of door supervisors and second-hand goods dealers in the city; for controlling the distribution of free literature in the city; and for other purposes. [21st December 2000]

WHEREAS—

- (1) The City of Newcastle upon Tyne (hereinafter called “the city”) is a metropolitan district under the management and local government of the council of the city (hereinafter called “the council”):
- (2) Certain powers relating to street trading in the city are exercisable by the council under the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) and for their better enforcement it is expedient to amend that Act in its application to the city and supplement those powers:
- (3) It is expedient that the council should have power to register and control door supervisors within the city:
- (4) It is expedient to authorise the registration of second-hand goods dealers within the city:
- (5) It is expedient to provide for the control of the distribution of free literature within the city:
- (6) It is expedient that the other provisions contained in this Act should be enacted:
- (7) The purposes of this Act cannot be effected without the authority of Parliament:
- (8) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 (c. 70) have been observed:

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:—

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PART 1

PRELIMINARY

1 Short Title

This Act may be cited as the City of Newcastle upon Tyne Act 2000.

2 Interpretation

In this Act, except as otherwise expressly provided or unless the context otherwise requires—

“Act of 1982” means the Local Government (Miscellaneous Provisions) Act 1982 (c. 30);

“authorised officer” means an officer of the council authorised by it in writing to act for the purposes of this Act;

“the chief constable” means the Chief Constable of the Northumbria police force;

“the city” means the City of Newcastle upon Tyne;

“the council” means the Council of the City of Newcastle upon Tyne; and

“proper officer” shall have the same meaning as in section 270(3) of the Local Government Act 1972 (c. 70).

3 Appointed Day

(1) In this Act the “appointed day” means such day as may be fixed by resolution of the council, subject to and in accordance with the provisions of this section.

(2) Different days may be fixed under this section for different Parts of this Act.

(3) The council shall cause to be published in a local newspaper circulating in the city notice—

(a) of the passing of any such resolution and of the day fixed thereby; and

(b) of the general effect of the provisions of this Act coming into operation on that day;

and the day so fixed shall not be earlier than the expiration of one month from the publication of the said notice.

(4) Either a photostatic or other reproduction certified by a proper officer of the council to be a true reproduction of a page or part of a page of any such newspaper bearing the date of its publication and containing any such notice shall be evidence of the publication of the notice and of the date of publication.

PART 2

STREET TRADING

4 Pedlars

In their application to the city pursuant to a resolution by the council under section 3 of the Act of 1982 the provisions of Schedule 4 to that Act shall on and from the

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appointed day apply as if in paragraph 1(2)(a) of that Schedule there were inserted after the reference to the Pedlars Act 1871 (c. 96) the words “, if the trading is carried out only by means of visits from house to house”.

5 Powers of seizure and forfeiture

(1) In this section—

- (a) “receptacle” includes a stationary van, car, barrow or other vehicle or a portable stall and any basket, bag, box, vessel, stand, easel, board, tray or thing which is used (whether or not constructed or adapted for such use) as a container for or for the display of any article or thing or equipment used in the provision of any service; and
- (b) “an offence” means an offence under paragraph 10 of Schedule 4 to the Act of 1982 or an offence of aiding, abetting, counselling or procuring the commission of an offence under that paragraph.

(2) If on or after the appointed day an authorised officer or a constable has reasonable grounds for suspecting that a person has committed an offence he may seize—

- (a) any article or thing being offered for sale, displayed or exposed for sale; or
- (b) any other article or thing of a similar nature to that being offered or exposed for sale which is in the possession of or under the control of any person who is displaying an article or thing; or
- (c) any receptacle or equipment being used by that person;

which may be required to be used in evidence in any proceedings in respect of that offence, or may be the subject of forfeiture under subsection (6) below, provided that no article or thing which is of a perishable nature shall be seized under the provisions of this subsection.

(3) An authorised officer shall produce his authority if required to do so by the person having care or control of anything seized in pursuance of the powers in subsection (2) above.

(4) (a)

The following provisions of this subsection shall have effect where any article or thing (including any receptacle or equipment) is seized under subsection (2) above and references in those provisions to proceedings are to proceedings in respect of the alleged offence in relation to which the article or thing is seized;

- (b) Subject to paragraph (c) below, following the conclusion of the proceedings the article or thing shall be returned to the person from whom it was seized unless the court orders it to be forfeited under subsection (5) below;
- (c) If no proceedings are instituted before the expiration of a period of 56 days beginning with the date of seizure, or any proceedings instituted within that period are discontinued, at the expiration of that period or, as the case may be, on the discontinuance of the proceedings, the article or thing shall be returned to the person from whom it was seized unless it has not proved possible, after diligent enquiry, to identify that person and ascertain his address;
- (d) Where the article or thing is not returned because it has not proved possible to identify the person from whom it was seized and ascertain his address the council or the chief constable (whether the article or thing was seized by an authorised officer or a constable) may apply to a magistrates' court for an order as to the manner in which it should be dealt with.

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- (5) Subject to subsection (6) below the court by or before which a person is convicted of an offence may on or after the appointed day order anything produced to the court, and shown to the satisfaction of the court to relate to the offence, to be forfeited and dealt with in such manner as the court may order.
- (6) The court shall not order anything to be forfeited under subsection (5) above where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made and in considering whether to make such an order a court shall have regard—
- (a) to the value of the property; and
 - (b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).

(7) (a)

This subsection shall have effect where—

- (i) an article, thing, receptacle or equipment is seized under subsection (2) above; and
- (ii) either—
 - (A) not less than six months have passed since the date of the seizure and no information has been laid against any person for an offence in respect of the act or circumstances which occasioned the seizure; or
 - (B) proceedings for an offence have been brought and either the person charged has been acquitted (whether or not on appeal) and the time for appealing against or challenging the acquittal (where applicable) has expired without an appeal or challenge being brought, or the proceedings (including any appeal) have been withdrawn by, or have failed for want of prosecution by, the person by whom the original proceedings were brought;
- (b) When this subsection has effect a person who has or at the time of seizure had a legal interest in the article, thing or receptacle seized may recover compensation from the council or (where it is seized by a constable) the chief constable by civil action in the County Court in respect of any loss suffered by him as a result of the seizure;
- (c) The court may only make an order for compensation under paragraph (b) above if satisfied that seizure was not lawful under subsection (2) above.

PART 3

REGISTRATION OF DOOR SUPERVISORS

6 Interpretation of Part 3

In this Part of this Act—

“door supervisor” means any person employed at or near the entrance to licensed premises to ascertain or satisfy himself as to the suitability of customers to be allowed on those premises or any person employed to maintain order on those premises but, in respect of premises in respect of which there is in

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force for the time being a justices' on-licence within the meaning of section 1(2) of the Licensing Act 1964 (c. 26), does not include the holder of that licence;

“licensed premises” means any premises in respect of which there is in force for the time being a justices' on-licence within the meaning of section 1(2) of the Licensing Act 1964 or an occasional licence within the meaning of section 180(1) of that Act or any premises in respect of which there is in force a licence under the Private Places of Entertainment (Licensing) Act 1967 (c. 19) or any premises in respect of which there is in force a licence under Schedule 1 to the Act of 1982 or an occasional permission granted under section 1 of the Licensing (Occasional Permissions) Act 1983 (c. 24) but does not include any such premises—

- (a) in respect of which there is in force a licence under the Cinemas Act 1985 (c. 13) provided that the premises to which such licence relates are in use wholly or mainly for the purpose authorised by such licence; or
- (b) in respect of which there is in force—
 - (i) a licence under the Theatres Act 1968 (c. 54); or
 - (ii) letters patent of the Crown by virtue of which it is lawful for those premises to be used for the public performance of plays without a licence under the Theatres Act 1968;

except when a play as defined in the said Act of 1968 is not being performed and the premises are being used for a purpose for which a licence is required under the Private Places of Entertainment (Licensing) Act 1967 or under Schedule 1 to the Act of 1982 other than a concert of classical music; or

- (c) in respect of which there is in force a licence under Part II of the Gaming Act 1968 (c. 65); or
- (d) which from time to time are by resolution of the council excluded from the operation of this Part of this Act; or
- (e) which are kept open wholly or mainly as a tenpin bowling establishment; and

“registration” means registration as a door supervisor under section 7 (Registration of door supervisors) of this Act.

7 Registration of door supervisors

On and from the appointed day no person may be employed on licensed premises within the city as a door supervisor unless he holds a valid current registration from the council.

8 Power to register

- (1) The council may register an applicant and from time to time renew a registration on such terms and conditions and subject to such restrictions as may be specified.
- (2) Without prejudice to the generality of subsection (1) above, such conditions may relate to—
 - (a) the wearing of an identification card whilst on duty;
 - (b) an obligation to notify the council of an arrest or prosecution for a relevant offence, or any caution by a police officer for such an offence during the period of registration; and
 - (c) training.