



Maidstone Borough Council Act 2006

2006 CHAPTER iv

An Act to confer powers on Maidstone Borough Council for the better control of street trading in the borough of Maidstone. [11th July 2006]

WHEREAS—

- (1) The borough of Maidstone (hereinafter called “the borough”) is a district under the management and local government of Maidstone Borough Council (hereinafter called “the council”):
- (2) Certain powers relating to street trading in the borough 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 Maidstone and supplement those powers:
- (3) The objects of this Act cannot be attained without the authority of Parliament:
- (4) 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:—

1 Citation

This Act may be cited as the Maidstone Borough Council Act 2006.

2 Interpretation

- (1) In this Act, except where the context otherwise requires—
“the Act of 1982” means the Local Government (Miscellaneous Provisions) Act 1982;

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

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

“the borough” means the borough of Maidstone;

“the council” means the Maidstone Borough Council;

“equipment” means equipment used for the purposes of street trading;

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

“receptacle” includes—

(a) any vehicle, trailer or barrow; and

(b) any basket, bag, box, vessel, stall, stand, easel, board, tray or other thing, which is used (whether or not constructed or adapted for such use) as a container for or for the display of any article;

“a relevant offence” means an offence—

(a) under paragraph 10 of Schedule 4 to the Act of 1982; or

(b) of aiding, abetting, counselling or procuring the commission of an offence under that paragraph,

committed on or after the appointed day fixed for the purpose of the application of section 5 (street trading: seizure) of this Act.

3 Application and appointed day

- (1) This Act applies so long as any resolution by the council under section 3 of the Act of 1982 remains in force.
- (2) 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.
- (3) Different days may be fixed under this section for the purpose of the application of different provisions of this Act.
- (4) The council shall cause to be published in at least two newspapers circulating in the borough notice—
 - (a) of the passing of any such resolution and of a day fixed by them; 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 that notice.
- (5) A photostatic or any 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—
 - (a) bearing the date of its publication; and
 - (b) containing any such notice,
 shall be evidence of the publication of the notice and of the date of publication.

4 Pedlars

In their application to the borough, the provisions of Schedule 4 to the Act of 1982 shall on and from the appointed day apply as if in paragraph 1(2)(a) of that Schedule

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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 Street trading: seizure

- (1) Subject to the following provisions of this section, if on or after the appointed day an authorised officer or a constable has reasonable grounds for suspecting that a person has committed a relevant offence, the authorised officer or constable may seize—
 - (a) any article in relation to which he suspects an offence has been committed and which is being offered or exposed for sale or displayed; or
 - (b) any other article which—
 - (i) is in the possession of or under the control of any person who is offering or exposing for sale or displaying an article; and
 - (ii) which is of a similar nature to the article being offered or exposed for sale or displayed, as the case may be; or
 - (c) any receptacle or equipment being used by that person.
- (2) No article, receptacle or equipment shall be seized under subsection (1) above unless the conditions of subsection (3) below apply.
- (3) The conditions are that the article, receptacle or equipment—
 - (a) may be—
 - (i) required to be used in evidence in any proceedings in respect of the suspected offence; or
 - (ii) the subject of forfeiture under section 7 (forfeiture of seized items) of this Act; and
 - (b) in the case of an article is not of a perishable nature.
- (4) 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 (1) above.
- (5) An authorised officer or a constable shall, forthwith after seizing any article, receptacle or equipment under subsection (1) above, give to the person from whom the article, receptacle or equipment was seized a certificate containing the following information—
 - (a) the name and address of the person who the authorised officer or constable suspects has committed the suspected offence;
 - (b) if different from the name and address of the person mentioned in paragraph (a) above, the name and address of the owner of the article, receptacle or equipment;
 - (c) the type of article, receptacle or equipment seized; and
 - (d) information about subsection (2) of section 7 (forfeiture of seized items) of this Act.
- (6) If an authorised officer or constable is unable, after reasonable inquiry of the person who he suspects has committed the suspected offence, to ascertain the name or address of—
 - (a) that person; or
 - (b) the owner of the article, receptacle or equipment,