

Proposed amendments to the Reading B C Bill and others
to reduce the burden on the petitioner

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Reading Borough Council Bill

Introductory

1 Citation

This Act may be cited as the Reading Borough Council Act 2008.

2 Interpretation

In this Act—

"the 1982 Act" means the Local Government (Miscellaneous Provisions) Act 1982 (c. 30);

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

"the borough" means the borough of Reading;

"the chief constable " means the Chief Constable of the Thames Valley police force;

"community support officer " means a person designated by the chief officer of police as a community support officer under section 38 of the Police Reform Act 2002 (c. 30) (police powers for police authority employees);

"the council " means the Reading Borough Council;

"equipment " means equipment used for the purposes of street trading;

"house to house" means the trading is ambulant and not static trading;

"perishable item " means an item which is of a perishable nature;

"the police " means the Thames Valley police force;

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

"receptacle" includes for the purposes of street trading —

(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 1982 Act; or

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

committed on or after the day on which this Act came into force;

"services" means any self-employed economic activity;

"street" has the same meaning as in Schedule 4 to the 1982 Act;

"ticket" includes any document, token or other item required for the purposes of effecting entry to an entertainment or sporting event.

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3 Application

This Act applies so long as any resolution by the council under section 3 of the 1982 Act remains in force.

Application of 1982 Act

4 Meaning of "street trading "

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- (1) In their application to the borough, the provisions of Schedule 4 to the 1982 Act shall apply with the following modifications.
- (2) In paragraph 1(1), for the definition of "street trading ", there is substituted—
 "street trading " means, subject to sub-paragraph (2) below—
- (a) the selling or exposing or offering for sale of any article (including a living thing) in a street **subject to exemptions in Schedule 4 provision 1 (2); or** 10
 - (b) the purchasing of or offering to purchase any ticket for gain or reward; or
 - (c) the supplying of or offering to supply any service in a street for gain or reward **subject to exemptions in Schedule 4 provision 1 (2); and** 15
 - (d) **street trading may only be carried out on a static position allocated by licence on a street; and**
 - (e) **"acting as a pedlar" is not street trading; and**
- (3) In paragraph 3(2)(c) after "articles " in both places where it appears there is inserted "or services ".
- (4) In paragraph 3(6)(b) after "goods" there is inserted "or services ".
- (5) In paragraph 3(7)(b) after "goods" there is inserted "or services ".
- (6) In paragraph 4(1)(b) after "articles " there is inserted "or services ". 20
- (7) In paragraph 5(2)(b) after "goods" there is inserted "or services ".
- (8) In paragraph 9(2)(c) after "articles " there is inserted "or services ".

5 Pedlars

In their application to the borough, the provisions of Schedule 4 to the 1982 Act shall apply as if—

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- (a) in paragraph 1(2)(a) of that Schedule there were inserted, after the reference to the Pedlars Act 1871 (c. 96), the words "provided the trading is carried out in accordance with sub-paragraph (2A) below "; and
- (b) after paragraph 1(2) of that Schedule, the following sub-paragraphs were inserted— 30
 - "(2A) Trading is carried on in accordance with this sub-paragraph if—
 - (a) it is carried out only by means of visits from house to house, **or any other place as consistent with the Pedlars Act; or**
 - (b) the following applies— 35
 - (i) all items used for any purpose connected with the trading are carried **as a pedestrian, or, in a wheeled vehicle (with a carrying capacity of no greater than 1 cubic metre) pushed or pulled by him**
~~—without any other means of support, by the holder of the certificate during the time in which the trading takes place; and~~
 - move this clause down** (ii) the trading does not include the trading of tickets. 40

- (ii) a pedlar may not stop on one "static position" for more than 15 minutes before moving unless otherwise allowed by case law and whilst engaged with trading, and
- (iii) the pedlar may thus move on if the previous condition is satisfied, and should move, as possible, to indicate that he is not a static trader but a mobile, ambulant trader, and
- (iv) whilst moving from one fixed position to another, he may stop for specific sales and to carry out other allowable activities, and
- (v) he may not return to a static position that he has previously occupied within 1 hour unless satisfying all previous conditions, and
- (vi) the trading does not include the trading of tickets.

- (2B) For the purposes of sub-paragraph (2A)(b) above, "trading" includes ~~the display or offer of items for sale.~~ ^{those activities provided in Section 3 of the Pedlars Act 1871 (c.96)"}

Seizure and forfeiture

6 Seizure

- (1) Subject to the following provisions of this section, ^{competent} if an authorised officer or a constable has reasonable grounds for ^{believing} ~~suspecting~~ that a person has committed a relevant offence, the authorised officer or constable may seize—
- (a) any article in relation to which he ^{believes} ~~suspects~~ such 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) 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) unless the conditions of subsection (3) apply.
- (3) The conditions are that the article, receptacle or equipment may be—
- (a) required to be used in evidence in any proceedings in respect of the suspected offence; or
- (b) the subject of forfeiture under section 9.
- (4) ^{competent} 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).
- (5) ^{competent} An authorised officer or a constable shall, forthwith after seizing any article, receptacle or equipment under subsection (1), give to the person from whom the article, receptacle or equipment was seized a document containing the following information—
- (a) the name and address of the person who the ^{competent} authorised officer or constable ^{believes} ~~suspects~~ has committed the suspected offence;
- (b) if different from the name and address of the person mentioned in paragraph (a), 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 section 9 (2).
- (6) If ^{competent} an authorised officer or constable is unable, after reasonable enquiry of the person who he ^{believes} ~~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,
- or has reasonable cause to suspect that a name or address provided to him is incorrect, he need not comply with paragraph (a) or (b), as the case may be, of subsection (5).

11 Touting

~~strike this clause from the bill~~

18 Powers of Community Support Officers

~~strike this clause from the bill~~