

# Greater London Council (General Powers) Act 1984

1984 CHAPTER xxvii

*An Act to confer further powers upon the Greater London Council and other authorities; and for other purposes*

[31st October 1984]

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:-

## **PART VI PROVISIONS RELATING TO THE SALE OF GOODS BY COMPETITIVE BIDDING**

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### Part VI

#### Provisions relating to the sale of goods by competitive bidding

##### **23 Commencement**

This Part of this Act shall come into operation at the expiration of two months beginning with the date on which it is passed.

##### **24 Interpretation and application**

In this Part of this Act unless the context otherwise requires—

“the Act of 1936” means the Public Health Act 1936;

“contravention” includes a failure to comply and “contravene” shall be construed accordingly;

“premises” includes land;

“prescribed articles” means any plate, plated articles, linen, china, glass, books, prints, furniture, jewellery, articles of household or personal use or ornament or any musical or scientific instrument or apparatus;

“sale of goods by way of competitive bidding” means any sale of prescribed articles at which the persons present, or some of them, are invited to buy articles by way of competitive bidding, references to selling goods by way of competitive bidding shall be construed accordingly and “competitive bidding” includes any mode of sale whereby prospective purchasers may be enabled to compete for the purchase of articles, whether by way of increasing bids or by the offer of articles to be bid for at successively decreasing prices or otherwise;

“stall” includes any stand, marquee, tent, vehicle (whether mobile or not), site or pitch from which prescribed articles are sold.

## **25 Prohibition of unregistered premises and stalls**

(1) Subject to the provisions of section 30 (Exemptions) of this Act, it is an offence to sell or permit the sale of goods by way of competitive bidding—

- (a) on premises in a borough which are not registered under this Part of this Act;
- (b) on premises in a borough which are so registered, but in breach of a condition upon which they are so registered;
- (c) from a stall in a borough which is not registered under this Part of this Act with the borough council;
- (d) from a stall in a borough which is so registered, but in breach of a condition upon which it is registered.

(2) A person is not guilty of an offence under subsection (1)(a) or (c) above—

- (a) by virtue of section 44 of the Magistrates' Courts Act 1980 (aiders and abettors); or
- (b) consisting of permitting a sale;

unless at the time of the offence he knows that the premises or stall are not registered under this Part of this Act.

(3) A person is not guilty of an offence under subsection (1)(b) or (d) above if he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(4) If in any case the defence provided under subsection (3) above involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession, identifying, or assisting in the identification of that other person.

## **26 Application for registration**

(1) Application for registration of premises or a stall under this Part of this Act shall be made to the borough council of the borough in which the premises are situated or in which the stall is or is proposed to be situated, in the case of premises, by the occupier of, or a person proposing to occupy, the premises or, in the case of a stall, the proprietor of, or a person proposing to become the proprietor of, the stall, stating—

- (a) the name and address of the applicant;
- (b) the address or situation of the premises or stall to which the application relates; and
- (c) such other information regarding the premises or stall, the persons concerned or intended to be concerned in the conduct or management of any sale of goods by way of competitive bidding thereon or therefrom, and the manner in which the premises or stall are to be used as the borough council may reasonably require.

(2) With his application for registration under this Part of this Act the applicant shall pay such reasonable fee as the borough council may by resolution prescribe which shall be sufficient in the aggregate taking one year with another to cover the costs of—

- (a) carrying out inspections of premises or stalls for the purpose of determining whether they should be registered or exempted from registration under this Part of this Act;
- and

(b) reasonable administrative or other expenses in connection with the consideration by the borough council of applications for registration or exemption from registration.

(3) If any person knowingly or recklessly makes a false statement or omits any material particular in giving information under this section he is guilty of an offence.

## **27 Penalties**

A person guilty of an offence under either of the last two foregoing sections of this Act is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## **28 Registration of premises and stalls**

(1) A borough council shall, on considering an application for the registration of premises or a stall under this Part of this Act, take into account the suitability of the premises or stall for conducting the sale of goods by way of competitive bidding having regard to the matters referred to in subsection (2) below.

(2) A borough council may refuse to register premises or a stall under this Part of this Act if they are satisfied that it is reasonable to do so on any of the following grounds:—

- (a) the premises or stall are unsuitable for the use of conducting the sale of goods by way of competitive bidding;
- (b) the intended use of the premises or stall is likely to cause nuisance;
- (c) the premises or stall have been used for the purpose of conducting the sale of goods by way of competitive bidding otherwise than in good faith;

(d) the applicant, occupier or the proprietor for the time being of the premises or stall is not a fit and proper person to be concerned in the conduct or management of any sale of goods by way of competitive bidding.

(3) A borough council may, on registering premises or a stall under this Part of this Act, or at any other time in respect of premises or a stall so registered, impose such conditions as may be reasonable and may make any reasonable variation of a condition so imposed.

(4) A borough council may at any time revoke a registration under this Part of this Act on any ground upon which, by subsection (2) above, they are authorised to refuse to register the premises or stall, or if they are satisfied that a condition imposed under subsection (3) above has not been complied with.

(5) Before refusing to register premises or a stall under this Part of this Act, revoking a registration, or imposing or varying any condition, a borough council shall give to the person who applied for registration, or, in the case of a revocation or the imposition or variation of a condition, the person in whose name the premises or stall are registered, an opportunity of appearing before and of being heard by a committee or sub-committee of the borough council and, if so required by him, the borough council shall within 14 days after their decision give him notice thereof containing a statement of the grounds upon which it was based.

### **29 Appeals**

(1) A person aggrieved by—

(a) a refusal to register premises or a stall under this Part of this Act;

(b) the revocation of a registration of premises or a stall under this Part of this Act;

(c) a condition imposed under this Part of this Act; or

(d) the variation of a condition imposed under this Part of this Act;

may, not later than 21 days after the day on which notice is given to him under subsection (5) of section 28 (Registration of premises and stalls) of this Act, appeal to a magistrates' court.

(2) On any such appeal the court may, by order—

(a) confirm or set aside such refusal or revocation and, on setting aside a refusal or revocation, impose any condition which the borough council would have been entitled to impose; or

(b) confirm, vary or set aside any condition imposed or subsequently varied; and make directions for giving effect to its decision:

Provided that, where conditions have been imposed or varied by a borough council, the court shall not vary any such condition, or impose any new condition, so as to make the conditions more onerous than those imposed by the borough council.

(3) Sections 300 to 302 of the Act of 1936 shall apply in respect of appeals to a magistrates' court under this Part of this Act.

### **30 Exemptions**

(1) Notwithstanding anything in section 25 (Prohibition of unregistered premises and stalls) of this Act sales by way of competitive bidding of the under-mentioned classes may be conducted on premises or from stalls which are not registered under this Act, that is to say—

(a) any sale of goods by way of competitive bidding so long as no substantial part of the prescribed articles was brought onto the premises or stall for the purposes of the sale;

(b) any sale for the purpose of assisting the funds of any voluntary organisation if the whole, or substantially the whole, of the proceeds of sale are devoted to the funds of the organisation;

(c) any sale of goods by way of competitive bidding conducted or managed by a person who has provided such relevant information and paid such fees as the borough council of the borough in which the sale is to take place may reasonably require by virtue of subsection (2) of section 26 (Application for registration) of this Act and to whom the borough council has granted a certificate of exemption from the registration requirements of this Part of this Act;

but the exemption provided by paragraph (a) above shall not be available where a sale by way of competitive bidding has taken place on those premises or from that stall within the preceding six months.

(2) In this section "voluntary organisation" means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

### **31 Powers of entry, inspection and examination**

(1) An authorised officer of a borough council on producing if so required a duly authenticated document showing his authority, or any constable may at all reasonable times enter upon, inspect and examine any premises or stall which he has reasonable cause to believe is used, or is intended to be used, for the sale of goods by competitive bidding, and may do all such things as are reasonably necessary for the purpose of ascertaining—

(a) whether there is, or has been, in or in connection with the premises or stall, a contravention of the provisions of this Part of this Act or any condition imposed under this Part of this Act; or

(b) whether or not circumstances exist which would authorise the borough council to take action under this Part of this Act.

(2) The powers of this section may be exercised in respect of a dwelling-house believed to be used for the sale of goods by competitive bidding and which is not registered under this Part of this Act only on the grant of a warrant by a justice of the peace.

(3)

(a) A justice may grant a warrant under this section only if he is satisfied either—

(i) that notice of intention to apply for a warrant has been given to the occupier of the premises or stall; or

(ii) that the case is one of urgency or the occupier is temporarily absent, or that the giving of notice of intention to apply for a warrant would defeat the object of entry.

(b) A warrant under this section shall authorise entry, if need be, by force, but shall cease to have effect at the expiration of a period of 7 days beginning with the day on which it is granted.

### **32 Restriction on right to prosecute**

The written consent of the Director of Public Prosecutions is needed for the laying of an information of an offence created by or under this Part of this Act other than the laying of such an information by the borough council or a constable.

### **33 Liability of directors, etc**

(1) Where an offence under this Part of this Act, committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

### **34 Obstruction**

(1) Any person who knowingly obstructs any person acting in pursuance of this Part of this Act or of any warrant made or issued thereunder or without reasonable cause fails to give such a person so acting any assistance or information which he may reasonably require of him for the purpose of the performance of his functions under this Part of this Act shall be guilty of an offence.

(2) If any person in giving such information as is mentioned in the preceding subsection makes any statement which he knows to be false he shall be guilty of an offence.

(3) Nothing in this section shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him.

(4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **35 Application of general provisions of Act of 1936**

The sections of the Act of 1936 mentioned in Part I of Schedule 1 to this Act shall have effect as if references therein to that Act included references to this Part of this Act.