



Birmingham Assay Office Act 1995

1995 CHAPTER vi

An Act to amend section 16 of the Hallmarking Act 1973 in its application to the Birmingham Assay Office; to extend the functions of the Office; and for other purposes incidental thereto. [19th July 1995]

WHEREAS—

- (1) By the Plate Assay (Sheffield and Birmingham) Act 1772 (hereinafter called “the Act of 1772”) a corporate body, to be known as The Guardians of the Standard of Wrought Plate, within the Town of Birmingham, was established for the assaying and marking of wrought silver plate:
- (2) By the Birmingham Assay Office Act 1824 (hereinafter called “the Act of 1824”) the Act of 1772 was repealed so far as it related to the town of Birmingham, and within 20 miles thereof, and the present Birmingham Assay Office (hereinafter called “the Company”), of which the full name is The Guardians of the Standard of Wrought Plate in Birmingham, was established as a corporate body for receiving and assaying wrought gold and silver plate:
- (3) By the Birmingham Assay Office Act 1902 (hereinafter called “the Act of 1902”) certain further powers were conferred upon the Company:
- (4) Certain of the provisions of the Act of 1824 were repealed by the Hallmarking Act 1973 (hereinafter called “the Act of 1973”) which (inter alia) made fresh provision as to assay offices including provision that their functions should extend to the assaying of gold, silver, platinum and any other metal which might be prescribed under the provisions of section 17 of that Act:
- (5) Section 16 of the Act of 1973 authorised the Secretary of State to make orders (inter alia) for constituting and conferring powers on assay offices; and in exercise of that power the Secretary of State made the Birmingham Assay Office Order 1989 (hereinafter called “the Order of 1989”), altering the constitution of the Company, conferring further powers upon it and making other provisions in relation to it:
- (6) The Order of 1989 repealed certain of the remaining provisions of the Act of 1824, repealed certain provisions of the Act of 1902 and made certain amendments to both Acts; and it provided that the Act of 1824, the Act of 1902 and the Order itself might be cited together as the Birmingham Assay Office Acts and Order 1824 to 1989:
- (7) The assaying of precious metals is believed to have been the earliest and, for a long time, the only form of consumer protection in the United Kingdom:

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- (8) It would be of public advantage if the Company could extend its activities to the independent and objective testing, examination, investigation and evaluation of materials and articles of any kind, and of firms, corporations, systems, programmes and procedures:
- (9) For those reasons, and in order that it may respond to changed market conditions resulting from the Single European Market, the Company wishes to have power to carry on, in addition to the business of an assay office, the other activities described in this Act, and to have, in relation to those activities, the ancillary powers so described:
- (10) Doubts have arisen as to the extent to which the making of the Order of 1989 was within the powers conferred upon the Secretary of State by section 16 of the Act of 1973, and it is desirable to set those doubts at rest, and to clarify the position for the future, by means of a retrospective amendment of that section in its application to the Company:
- (11) It is expedient that such provisions should be enacted as are contained in this Act:
- (12) The objects of this Act cannot be attained without the authority of Parliament:

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 Birmingham Assay Office Act 1995; and the Birmingham Assay Office Acts and Order 1824 to 1989 and this Act may be cited together as the Birmingham Assay Office Acts and Order 1824 to 1995.

2 Interpretation

In this Act, unless the subject or context otherwise requires—

“the Act of 1902” means the Birmingham Assay Office Act 1902;

“the Act of 1973” means the Hallmarking Act 1973;

“the Company” means the Birmingham Assay Office, of which the full name is The Guardians of the Standard of Wrought Plate in Birmingham;

“materials” includes liquids, gases, dusts, wastes and tangible and intangible substances of any kind; and

“the Order of 1989” means the Birmingham Assay Office Order 1989.

3 Section 16 of Hallmarking Act 1973

In its application to the Company, the Act of 1973 shall have effect, and be deemed always to have had effect, as if in section 16 (1) (c)—

(a) “confer” were omitted;

(b) for “under” there were substituted “by”; and

(c) there were added at the end thereof—

“; or, on such an application, impose new duties or confer new powers on, or make alterations or additions to or omissions from the constitution of, the assay office.”.

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4 Additional activities of Company

- (1) In addition to the functions which it has from time to time as an assay office, the Company shall have power, in any part of the world—
- (a) to undertake the provision of analytical services in relation to materials or articles of any kind, by means of chemical analysis or physical examination or testing or by any other method which is appropriate in the circumstances;
 - (b) to undertake investigation of the properties of materials or articles of any kind, their behaviour or likely behaviour under particular conditions, and their suitability for particular purposes;
 - (c) to undertake the examination of articles of any kind for the purpose of discovering whether and to what extent they comply with standards or other criteria which are published or have been made known to the Company;
 - (d) to undertake the investigation of firms, corporate bodies or other persons, or of systems, documentation, programmes or procedures, for the purpose of discovering whether and to what extent they comply with standards or other criteria which are published or have been made known to the Company;
 - (e) to undertake the valuation, on any basis and for any purpose, of materials or articles of any kind;
 - (f) to undertake any other activities of a kind which the Company may consider similar to, or suitable to be carried on with, the foregoing;
 - (g) to undertake or instigate, or join in undertaking or instigating, and to meet or contribute towards the cost of, research into, and the provision (including manufacture) and development of, plant, equipment, technology, methodology (including systems, procedures and computer and other programmes) and materials for use in, or in connection with, any of the foregoing activities; and
 - (h) to undertake, or join in undertaking, the marketing of, and the provision of maintenance, advisory, technical or other services in relation to, any plant, equipment, technology, methodology (including systems, procedures and computer and other programmes) and materials or articles of any kind used or capable of use in, or in connection with—
 - (i) any of the activities mentioned in paragraphs (a) to (f) above, or
 - (ii) any of the activities carried on in the course of the business of an assay office.
- (2) The Company may do anything which is calculated to facilitate or is incidental or conducive to the activities mentioned in subsection (1) above and (without prejudice to that generality) shall in particular have power—
- (a) to issue certificates as to the results of any analysis, examination, test or investigation carried out under subsection (1) above;
 - (b) to provide advisory and supervisory services and to provide expert evidence for the purpose of legal or other proceedings;
 - (c) to make members of its staff available to advise on, or participate in, the formulation of standards or criteria of the kind referred to in paragraphs (c) and (d) of subsection (1) above;
 - (d) to register, maintain, protect and enforce in any part of the world intellectual property rights, including patents, trade marks and other marks, and to authorise the use of such intellectual property on such lawful terms and conditions as it sees fit;

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- (e) to promote or establish, or join in promoting or establishing, or to acquire interests in and take part in the management of, bodies corporate or unincorporate in any part of the world, having as their object, or as a main object, the carrying on of any or all of the activities mentioned in subsection (1) above; and
- (f) to receive grants and to accept gifts of money or other property to be used in meeting its expenses in connection with, or in furthering, any or all of such activities.

5 Application and amendment of existing enactments

- (1) In this section references to the Company's other activities are references to the additional activities authorised by section 4 (Additional activities of Company) above or other the activities which the Company is for the time being authorised to undertake in addition to its business of an assay office.
- (2) Subject to the provisions of subsections (3) and (4) below, all the provisions of the Birmingham Assay Office Acts and Order 1824 to 1989 which relate to the Company and to its business of an assay office shall apply equally (so far as they are capable of doing so) to and in relation to its other activities, and to and in relation to the Company in so far as its undertaking includes them (but, save as respects the reference in article 7 of the Order of 1989, specific references to articles brought to be assayed shall not extend to articles received by the Company in the course of its other activities).
- (3) The Company shall keep accounts in respect of its other activities separate from the accounts kept in respect of its business of an assay office and—
 - (a) paragraph (5) of article 10 of the Order of 1989 shall not apply to the accounts kept in respect of its other activities,
 - (b) paragraph (8) of that article shall not apply in relation to the accounts kept in respect of its other activities, and references in that paragraph to emoluments shall not include emoluments paid for work done or time spent in connection with its other activities, and
 - (c) the other provisions of that article shall apply separately to or in relation to each set of accounts,but references in this subsection to accounts do not include balance sheets and nothing in this subsection shall prevent the Company from preparing a single balance sheet in respect of the whole of its undertaking.
- (4) In article 15 of the Order of 1989—
 - (a) in so far as the business of the Company consists of its other activities, the words “if so authorised by the British Hallmarking Council” shall not apply, and
 - (b) in the proviso, the reference to the principal place of business of the Company shall be taken to mean the principal place at which it carries on its business of an assay office.
- (5) Notwithstanding section 22 (2) of the Act of 1973, an order under section 16 (1) (c) of that Act in relation to the Company shall, except so far as it provides otherwise or the contrary otherwise appears, apply in relation to its other activities as well as to its business of an assay office; and such an order may consist of or include provisions which apply only to the Company's other activities.

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- (6) Section 4 (Provisions as to surplus income) of the Act of 1902 is hereby amended by the substitution in subsection (1) for “1989” of “1995”.