



City of Westminster Act 1996

1996 CHAPTER viii

An Act to make further provision for the control of unlicensed sex establishments in the City of Westminster. [24th July 1996]

WHEREAS—

- (1) The City of Westminster (hereinafter called “the city”) is a London borough under the management and local government of the lord mayor and citizens of the city:
- (2) The city has local, regional, national and international importance for shopping and tourism:
- (3) The council of the city have certain powers under the Local Government (Miscellaneous Provisions) Act 1982 to control sex establishments but those powers are inadequate to control unlicensed sex establishments in the city:
- (4) The purposes of this Act cannot be effected without the authority of Parliament:
- (5) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 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 Short title

This Act may be cited as the City of Westminster Act 1996.

2 Interpretation

In this Act—

“authorised officer” means an officer of the council authorised by the council in writing to act in relation to the relevant provision of this Act;

“the city” means the City of Westminster;

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- “the council” means the Westminster City Council;
- “closure notice” means a notice served under subsection (2) of section 3 (Closure notice) of this Act;
- “closure order” means an order made under section 4 (Closure order) of this Act;
- “person having an interest in the premises” means the owner, leaseholder, licensee or occupier of the premises;
- “premises” includes any premises, part of premises, vehicle, vessel or stall;
- “Schedule 3” means Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982;
- “sex establishment” has the same meaning as in Schedule 3.

3 Closure notice

- (1) Where the council are satisfied that premises in the city are being used as a sex establishment without a licence in breach of Schedule 3 they may serve a closure notice in respect of those premises.
- (2) Where a closure notice is served—
 - (a) it shall be served on—
 - (i) at least one person having control of or an interest in the business carried on in the premises; and
 - (ii) the occupier of any other part of the building in which the premises are situated and to which, in the opinion of the council, access would be impeded if an order under section 4 (5) (a) below were made in respect of the premises; and
 - (b) it may be served on any other person having an interest in the premises.
- (3) A closure notice shall—
 - (a) specify the matter alleged to constitute a breach of Schedule 3;
 - (b) specify any steps which may be taken in order to remedy the breach described in paragraph (a) above including—
 - (i) the immediate closure of the premises to the public for the time being; or
 - (ii) the immediate discontinuance of the use of the premises as a sex establishment; and
 - (c) state the effect of section 4 (1) below.
- (4) The council may at any time withdraw a closure notice by serving further notice to that effect on all persons on whom the closure notice was served.
- (5) For the purposes of subsection (2) above a person having an interest in the business carried on in the premises includes a person who—
 - (a) owns the business; or
 - (b) manages the business; or
 - (c) employs any person to manage the business; or
 - (d) is involved in the conduct of the business.

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4 Closure order

- (1) Subject to subsection (2) below, the council may, not less than 14 days and no later than 6 months after the service of a closure notice, make a complaint to a justice of the peace acting for the petty sessions area in which the premises are situated for a closure order in respect of that closure notice.
- (2) The council may not make a complaint under subsection (1) above if—
 - (a) (i) the premises have been closed to the public; or
(ii) they are satisfied that the use of the premises as a sex establishment has been discontinued; and
 - (b) they are satisfied that there is no reasonable likelihood that there will be a further breach of Schedule 3 in respect of those premises.
- (3) Where a complaint has been made under subsection (1) above the justice of the peace may issue a summons directed to all persons upon whom the closure notice was served under section 3 (2) (a) (i) above to answer to the complaint.
- (4) Where a summons issued under subsection (3) above is served a notice stating the date, time and place at which the complaint will be heard shall be served on all persons upon whom the closure notice was served under section 3 (2) (a) (ii) and (b) above.
- (5) If, on hearing the complaint, the court is satisfied that—
 - (a) the closure notice was properly served;
 - (b) at the time the closure notice was served the premises were being used as a sex establishment in breach of Schedule 3; and
 - (c) (i) the breach of Schedule 3 has not been remedied; or
(ii) the breach of Schedule 3 has been remedied but considers that there is a reasonable likelihood that there will be a further breach of Schedule 3;it may make an order under this section.
- (6) The court may make such order under this section as it thinks fit and in particular may order that—
 - (a) the premises in respect of which the closure notice was served shall be closed immediately and remain closed until the council issues a certificate under subsection (11) below;
 - (b) the use of those premises as a sex establishment be discontinued immediately;
 - (c) the defendant pay into court such sum as the court determines and that the sum will not be released by the court to the defendant until the other requirements of the closure order are met:Provided that no order may be made under paragraph (c) above unless the defendant has been convicted of an offence under Schedule 3 or this Act.
- (7) A sum which has been ordered to be paid under subsection (6) (c) above shall be paid to the clerk of the court.
- (8) Such conditions as the court thinks fit relating to the admission of specified individuals onto the premises may be applied by the court to an order made under subsection (6) (a) above.
- (9) An order under subsection (6) (a) above shall not be made if closure of the premises would result in any person other than the occupier of the premises being impeded in

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his access to any other part of the building in which the premises are situated and of which he is the occupier.

- (10) As soon as practicable after the making of a closure order the council shall give notice of the order by fixing a copy of it in a conspicuous position on the premises in respect of which it was made.
- (11) An order made under subsection (6) (a) or (b) above shall cease to have effect and any sum paid by the defendant under subsection (6) (c) above shall be released by the court on the issue by the council of a certificate to the effect that they are satisfied that the alleged breach of Schedule 3 has been remedied and that the premises will not be used subsequently as a sex establishment in breach of Schedule 3.
- (12) (a) Where a closure order has been made under subsection (6) (a) above, the defendant and any person having an interest in the premises may make a complaint to a justice of the peace acting for the petty sessions area in which the premises are situated for an order that the closure order be discharged.
- (b) Where a complaint is made under paragraph (a) above, the justice may issue a summons directed to the council requiring them to appear before the magistrates' court to answer to the complaint.
- (c) The court may not make an order under this subsection unless it is satisfied that the premises in respect of which the closure order was made would not be used as a sex establishment in breach of Schedule 3 if they were to be reopened.

5 Appeals

- (1) Any person—
- (a) upon whom a closure notice has been served under subsection (2) of section 3 (Closure notice) of this Act and in respect of which closure notice a closure order has been made; or
 - (b) having an interest in the premises in respect of which a closure order has been made but on whom a closure notice was not served;
- may at any time before the expiration of the period of 21 days beginning with the date on which the closure order was served appeal to the Crown Court.
- (2) An appeal under subsection (1) above may be brought on one or both of the following grounds:—
- (a) the person on whom the closure notice was served was not at the time at which it was served such a person as described in subsection (2) of the said section 3; or
 - (b) the premises in respect of which the closure order was made were not being used as a sex establishment in breach of Schedule 3 at the time at which the closure notice was served.
- (3) On an appeal to the Crown Court under this section the court may make such order as it thinks fit and it shall be the duty of the council to give effect to such order.

6 Enforcement

- (1) Where a closure order has been made requiring premises to be closed, any authorised officer (on production, if so required, of a duly authenticated document of his authority) or police officer may at all reasonable times enter upon those premises

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and may do all things reasonably necessary for the purpose of securing that such requirement is met.

- (2) Subsections (2), (3) and (4) of section 287 of the Public Health Act 1936 shall apply in respect of entry to premises for the purposes of subsection (1) above as they apply to entry to premises for the purposes of subsection (1) of that section.
- (3) Any person who intentionally obstructs any person acting in the exercise of his powers under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) If any premises are opened or kept open in breach of a closure order then any person upon whom the closure notice was served under subsection (2) (a) (i) or (b) of section 3 (Closure notice) of this Act shall, unless he has reasonable excuse, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months or to both.

7 Offences by bodies corporate

- (1) Where an offence under 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, any 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 that offence and shall be liable to be proceeded against and punished accordingly.
- (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 function of management as if he were a director of the body corporate.

8 Service of notices

- (1) Any notice, summons or other document required or authorised to be served or given under this Act may be served or given either—
 - (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
 - (b) by leaving it at the usual or last known place of abode or business of that person, or, in a case where an address for service has been given by that person, at that address; or
 - (c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode or business, or, in a case where an address for service has been given by that person, at that address; or
 - (d) in the case of a company or body incorporated in England or Wales, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.
- (2) Where the name of the person on whom the notice, summons or document is to be served cannot be ascertained after reasonable inquiry, or that person is a company or body incorporated outside England or Wales, the notice, summons or document shall

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be taken to be duly served if a copy of it is affixed conspicuously to some object on the premises and—

- (a) it is addressed to that person either by name or by the description of “the owner” or “the manager”, or as the case may be, “the occupier” of the premises (describing them) and is delivered or sent in the manner specified in subsection (1) (a), (b) or (c) above; or
 - (b) it is so addressed and is marked in such a manner that it is plainly identifiable as a communication of importance and—
 - (i) it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it; or
 - (ii) it is delivered to some person on those premises.
- (3) This section is without prejudice to section 233 of the Local Government Act 1972 (general provisions as to service of notices by local authorities).