



Torquay Market Act 1974

CHAPTER xxxii

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ELIZABETH II



1974 CHAPTER xxxii

An Act to confer powers on the Torquay Market Company in relation to the capital and management of their undertaking; to confer further powers on the Company; and for other purposes.

[12th December 1974]

WHEREAS—

(1) The Torquay Market Company (hereinafter called “the Company”) were incorporated by the Torquay Market Act 1849 1849 c. lvi. for the purposes of that Act:

(2) By the Torquay Market Act 1852 which repealed the said 1852 c. cxxxviii. Act of 1849 additional and further powers were conferred on the Company and by the Torquay Market Act 1855 the said Act 1855 c. xxvii. of 1852 was repealed and further and substituted powers were given to the Company who now carry on their undertaking under the said Act of 1855:

(3) Under the said Act of 1852 the Company had provided the borough of Torquay with a market place in the parish of Tormoham for the exposure and sale of marketable commodities

and by the said Act of 1855 the Company were empowered to enlarge the market place and raise further capital for this and other purposes:

(4) The Company propose to undertake the improvement of the facilities provided by them in the market place and to alter the nature of their undertaking to meet the current needs and requirements of the change in circumstances affecting the market place and the facilities provided therein:

(5) It is expedient, in order to enable the Company to carry on their business to the best advantage and in accordance with present-day requirements, that particular restrictions and limitations imposed on the Company by the said Act of 1855 should be modified or removed:

(6) It is expedient that further powers be conferred on the Company in relation to the capital and management of their undertaking as in this Act contained:

(7) It is further expedient that the other powers contained in this Act should be conferred on the Company and that the other provisions of this Act be enacted:

(8) 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:—

Short and
collective
titles.

1.—(1) This Act may be cited as the Torquay Market Act 1974.

(2) The Act of 1855 and this Act may be cited together as the Torquay Market Acts 1855 and 1974.

Interpretation.

2.—(1) In this Act, unless otherwise expressly provided or the subject or context otherwise requires—

- 1845 c. 16. “ the Act of 1845 ” means the Companies Clauses Consolidation Act 1845;
- 1852 c. cxxxviii. “ the Act of 1852 ” means the Torquay Market Act 1852;
- 1855 c. xxvii. “ the Act of 1855 ” means the Torquay Market Act 1855;
- 1863 c. 118. “ the Act of 1863 ” means the Companies Clauses Act 1863;
- “ the Company ” means the Torquay Market Company;

“ the market ” means the market place authorised to be constructed under the provisions of the Act of 1852 and the Act of 1855;

“ the undertaking ” means the undertaking of the Company as for the time being authorised.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment, including this Act.

3.—(1) The following enactments so far as the same are applicable to the purposes and are not inconsistent with the provisions of this Act are hereby incorporated with this Act, namely:—

(a) The Act of 1845 (except the provisions thereof with respect to the conversion of borrowed money into capital):

Provided that—

(i) section 11 of the Act of 1845 shall have effect as if the words “ Except as otherwise provided by the conditions of issue thereof ” were inserted at the beginning of that section;

(ii) section 15 of the Act of 1845 shall have effect as if for the words “ on demand ” there were substituted the words “ within two months after delivery thereof ”;

(b) The Act of 1863 (except the provisions thereof which limit the rate of dividend on preference capital, sections 17 to 21 and Part IV thereof):

Provided that in the application to the Company of the Act of 1863 the prescribed day for the purposes of section 14 of that Act shall be the 31st December and section 22 of that Act shall be read as if the words “ and to the same amount as ” were omitted therefrom;

(c) The Markets and Fairs Clauses Act 1847 (except section 14. 13 thereof).

(2) In the construction of the enactments incorporated with this Act the expression “ special Act ” shall be read as a reference to this Act and the expressions “ company ” and “ the undertakers ” shall mean the Company.

4. The Company may within the limits of the Act of 1855 alter, enlarge, improve, extend, reconstruct and rebuild the market together with shops, buildings, works, approaches and

Power to improve market.

conveniences forming part of the undertaking or they may within those limits erect or provide and maintain new shops, buildings, works, approaches and conveniences therefor.

Additional
capital.

5.—(1) (a) Notwithstanding the provisions of section XXIV of the Act of 1855 the Company may from time to time raise additional share capital not exceeding in the whole £250,000 by the creation and issue of ordinary shares or stock, or preference shares or stock, or wholly or partly by one or more of those modes respectively.

(b) It shall not be lawful for the Company to create and issue under the powers of this section any greater nominal sum of share capital than shall be sufficient to produce, including any premiums and allowing for any discounts which may be obtained or allowed on the issue thereof, £250,000.

(2) (a) The Company may without obtaining a certificate of a justice under section 40 of the Act of 1845 raise for the purposes of the undertaking, either by borrowing on mortgage of the undertaking or by the creation and issue of debenture stock or by both of these modes, or partly by one and partly by the other, any additional sum or sums of money not exceeding in the whole the amount (including premiums and allowing for discounts) of share capital for the time being created and issued under the powers of the Torquay Market Acts 1855 and 1974.

(b) The powers conferred by this subsection shall be without prejudice to the right of the Company to re-borrow from time to time any amounts which having been raised by borrowing on mortgage or by the creation and issue of redeemable debenture stock are thereafter paid off.

Additional
share capital
to be part
of general
capital.

6. The additional share capital authorised by section 5 (Additional capital) of this Act shall form part of the general share capital of the Company and, save as is otherwise expressly provided by the terms of issue thereof, the holders thereof respectively in proportion to the amount of their shares and stock shall be subject and entitled to the same powers, provisions, liabilities, rights, privileges and incidents in all respects as holders of share capital of the Company of the same class or description.

Issue of new
capital.

7. Any share capital created after the passing of this Act may, subject to the terms of the resolution by which it was created, be issued at such times, to such persons, on such terms and conditions and in such manner as the directors think advantageous to the Company.

8. The Company may in pursuance of a resolution passed at a general meeting of the Company sub-divide their shares, or any of them, into shares of smaller amount than is prescribed, so, however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is divided.

9.—(1) Notwithstanding anything contained in the Act of 1845, the provisions of section L of the Act of 1855 or any enactment from time to time relating to the Company, the Company may retain, hold or use and from time to time for such considerations or such rents and upon such terms (pecuniary or otherwise) and conditions as they may from time to time think fit, sell, exchange, lease or otherwise dispose of any lands from time to time belonging to them and which in the opinion of the Company either may be disposed of for the better advantage of the undertaking or may not be for the time being required for the purposes of the undertaking and (for such term or period as they may think proper) lease or grant the use or occupation of or easements or rights over or affecting any shop, building, work, approach or convenience for the time being belonging to or provided by them.

Power to
lease and
sell lands,
etc.

(2) The Company—

(a) may, for the purposes of the undertaking, manage, use or develop land belonging to them as they think fit; and

(b) in addition may, with a view to selling or otherwise disposing of any right or interest in the land after the development is carried out—

(i) retain any land belonging to them which is not required for the purposes of the undertaking and develop it or procure its development for use by other persons; and

(ii) where the use of land belonging to them for the purposes of the undertaking can be combined with its use for other purposes, develop the land or procure its development for use wholly or partly by other persons.

(3) Where the Company intend to develop or procure the development of land belonging to them for purposes other than the purposes of the undertaking and are of the opinion that the land cannot by itself be developed satisfactorily, they may acquire other land by agreement, whether by purchase, exchange, lease or otherwise, for the purpose of developing it or of procuring its development together with the land already belonging to them.

(4) Nothing in this section shall release the Company or any person purchasing or acquiring any land from them under this section from any rents, covenants, restrictions, reservations, terms or conditions made payable by or contained in any conveyance, lease or other deed or instrument by which the land has been conveyed or leased to or otherwise acquired by the Company or any persons from or through whom the Company have derived title to it.

Power to
make tolls,
etc.

10.—(1) The following paragraph shall be substituted for the first paragraph under the heading “ List of Tolls to be taken ” of Schedule (B.) to the Act of 1855:—

“ From the occupier of every stall within the market occupied for the sale of any commodity whatsoever not exceeding 45 superficial square feet a sum not exceeding five pounds per day and for each additional superficial square foot a sum not exceeding fifteen pence per day ”.

(2) The Company may, with the sanction of the Secretary of State, from time to time alter or add to the stallages, rents and tolls set out in Schedule (B.) to the Act of 1855 and any such altered stallages, rents and tolls shall as from the date on which they come into operation be substituted for the corresponding stallages, rents and tolls payable under this section and the said Schedule (B.).

(3) The Company may also from time to time in addition to the stallages, rents and tolls referred to in this section make such additional charges as the Secretary of State may sanction for or in respect of the provision of light, heat or water for the accommodation of persons using or occupying shops, stalls, standings, stands, benches, compartments or other conveniences or spaces of ground forming part of the undertaking and for the cleansing of and removal of refuse from any such shops, stalls, standings, stands, benches, compartments or other conveniences or spaces of ground.

Directors.

11. Section XVIII of the Act of 1855 shall have effect as if for the word “ Six ” there were substituted the words “ not less than Four and not more than Twelve ”.

Exception of
provisions of
certain
enactments.

12. The following provisions of the undermentioned Acts are excepted from application to the Company:—

The Act of 1845—

Section 85 (Qualification of directors);

Section 109 (Security to be taken from officers intrusted with money);

Section 143 (Distress against the treasurer and reimbursement of treasurer).

The Act of 1863—

Section 17 (If ordinary stock or shares be at a premium, new shares or stock to be offered to existing ordinary shareholders);

Section 18 (Offer to be made by letter);

Section 19 (New shares or stock to vest on acceptance);

Section 20 (As to disposal of new shares or stock to others—Power to enlarge time for accepting new shares or stock).

13. The costs, charges and expenses preliminary to and of and Costs of Act. incidental to the applying for and preparing, obtaining and passing of this Act shall be paid by the Company and may in whole or in part be defrayed out of revenue.



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