

Norwich Livestock Market Bill [HL]

[AS INTRODUCED]

EXPLANATORY MEMORANDUM

This Bill is promoted by Norwich City Council (“the Council”).

This Bill provides for the relocation of Norwich Livestock Market (“the Market”) to a new site and for connected purposes.

Clause 1 gives the short title of the Bill and provides for the date on which the Act comes into force.

Clause 2 defines certain expressions used in the Bill.

Clause 3 enables the Council to relocate the Market from time to time subject to certain conditions. Clause 3 is partially based on section 4 of the Hereford Markets Act 2003.

Clause 4 provides a power for the Council to determine that land forming any part of a new site which is not required for the purposes of the Market should no longer form part of a new site and fix a date when this is to happen; and from that date the land is released from any restriction, right or obligation due to its status or use as a market. However, this is subject to *subsection (2)*, which provides that this must not result in the area occupied by the market facility at a new site being smaller than 5.5 acres, taking into account any land incorporated under clause 5.

Clause 5 provides a power for the Council to incorporate adjoining land into a new site.

Clause 6 provides the Council with powers to operate and regulate a new site. *Subsection (1)* provides that the Council’s rights in relation to the existing site shall have effect in relation to a new site. *Subsection (2)* provides that Part III of the Food Act 1984 (which provides for the general operation of markets) is to apply to a new site. *Subsection (3)* provides the Council with powers to develop a new site. It also allows the Council to grant leases or licences in respect of a new site or sell or otherwise dispose of a new site and enter into a composition with any person with respect to the payment of any charges due under Part III of the Food Act 1984. *Subsection (4)* gives the Council power to appoint another person to operate or manage a new site, and to delegate in writing functions consequential on such an appointment, to such extent and subject to any conditions or restrictions that the Council considers appropriate. Clause 6 is substantially based on section 3 of the Hereford Markets Act 2003.

Clause 7 provides a power for an authorised person (including a constable or a person authorised by the Council) to give directions as to the use of a new site to ensure the safe and efficient operation of the Market. *Subsection (2)* provides that a fine may be issued for any failure to comply with a direction under clause 7.

Clause 8 provides a power to issue fixed penalty notices for traffic offences on roads within a new site or for breach of any byelaws made under the Food Act 1984, with certain notice requirements detailed in *subsections (3)-(5)*. *Subsection (6)* provides that no proceedings may be taken against a person to whom a fixed penalty notice is issued within 14 days of the notice being issued and that such a person cannot be convicted if a fixed penalty is paid before the end of that period. *Subsection (7)* provides that the amount of the fixed penalty is to be prescribed by the Council and *subsection (8)* prescribes the form of evidence applicable to the proceedings.

Clause 9 enables an authorised person (including a constable or a person authorised by the Council) to require a person suspected of committing an offence under section 7 or acting in breach of byelaws made under the Food Act 1984, to give their name and address so that enforcement action may be taken against the person. *Subsection (2)* provides that it is an offence to fail, without reasonable excuse, to provide such information.

Clause 10 provides that nothing in sections 4 and 8 of the Norwich City Council Act 1984 affects the operation of the Bill and that the provisions of that Act are to have effect subject to the Bill. The clause ensures that a relocation undertaken under clause 3 is not treated as a relocation for the purposes of the Norwich City Council Act 1984.

EUROPEAN CONVENTION ON HUMAN RIGHTS

In the view of Norwich City Council the provisions of Norwich Livestock Market Bill [HL] are compatible with the Convention rights.

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[AS INTRODUCED]

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Make provision for the relocation of Norwich Livestock Market; and for connected purposes.

WHEREAS –

- (1) Norwich City Council (“the Council”) is empowered to hold and regulate markets in Norwich City (“the City”):
- (2) The Council is responsible for markets and fairs in the City pursuant to the Norwich City Council Act 1984:
- (3) In exercise of these powers, various markets are held in the City, including a livestock market held at Hall Road, Norwich, Norfolk, NR4 6DW (“the Market”), principally taking place on Saturdays: 5
- (4) The location and physical constraints of the existing site of the Market render that site ill-suited for the purposes of the Market:
- (5) It is expedient that the Market should be relocated to a new site where facilities that meet modern market needs and practices can be provided: 10
- (6) The location of transport connections and the availability of suitable alternative sites means it is expedient to relocate the Market outside of the City:
- (7) The Council’s power to hold markets under the Norwich City Council Act 1984 is, under section 4 of that Act, limited to markets within the City: 15
- (8) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 (powers of joint and local authorities to promote Bills) have been observed:
- (9) 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 King’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:— 20

1 Citation and commencement

This Act may be cited as the Norwich Livestock Market Act 202[] and comes into force at the end of 28 days beginning with the day on which this Act is passed.

2 Interpretation

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In this Act—

“animal welfare officer” means an officer of a local authority who executes and enforces the provisions of the Welfare of Animals at Markets Order 1990 (SI 1990/2628) (or any substituted Order for equivalent purposes);

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“authorised person” means—

(a) a person acting in the course of that person’s duties who is authorised by the Council to exercise one or more of the functions under **sections 7, 8 and 9** of this Act; or

(b) a constable, a Police Community Support Officer, an officer of the Driver and Vehicle Standards Agency, an officer of the Health and Safety Executive, a person authorised for the purposes of section 44 (powers of fire-fighters etc in an emergency etc) of the Fire and Rescue Services Act 2004, a person accredited by or under section 41 (accreditation under community safety accreditation schemes) of the Police Reform Act 2002, a traffic officer or an animal welfare officer, each acting in the course of that person’s duties;

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“the City” means the city of Norwich which is administered by the Council for the purposes of the Local Government Act 1972 from time to time;

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“the Council” means Norwich City Council;

“existing site” means the site of the Market;

“lease” means the grant of a right to the exclusive possession of land for a determinable period of time;

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“the Market” means the livestock market (which is the “Cattle Market” as referred to in the Norwich City Council Act 1984) which—

(a) at the time of the passing of this Act and before the first relocation in accordance with **section 3** is held at Hall Road, Norwich, Norfolk, NR4 6DW; or

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(b) following the passing of this Act, is held at a site to which that market is relocated in accordance with **section 3**;

“the Market Act” means the Norwich City Council Act 1984;

“market facility” means any market place, market house, building, land or other facility used or intended to be used for the purposes of agriculture and associated services (including the Market); and

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“new site” means a site to which the Market is relocated in accordance with **section 3** and includes any land incorporated into a site under **section 5** but excludes land which is the subject of a resolution made under **section 4**.

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3 Relocation of the Market

- (1) Subject to the conditions in subsections (2) and (3), the Council may from time to time—
- (a) relocate the Market to a new site at any place outside of the City; and
 - (b) in connection with the relocation, discontinue the use of any land for the purposes of the Market. 5
- (2) A new site must—
- (a) be at least 5.5 acres in size;
 - (b) provide a market facility comparable to that provided at the existing site; and 10
 - (c) either be—
 - (i) within 16 miles of the existing site and within 3 miles by road of the A11, A47 or A140, or
 - (ii) within 1 mile by road of the A1270.
- (3) The Council must not relocate the Market under this section— 15
- (a) without first consulting the market traders at the existing site, and any other person that appears to the Council to be likely to be affected by the proposed relocation;
 - (b) until a new site is laid out for the purposes of the Market and available for use as a livestock market ensuring the continuity of the provision of the market facility; and 20
 - (c) unless it has fixed by resolution a date on which the Market is to be relocated and that date must be at least 90 days after the date of that resolution.

4 Power to determine that land is not to be part of a new site 25

- (1) Subject to subsection (2), the Council may determine by resolution that any part of a new site which the Council considers is not required for the purposes of the Market is to cease to be a part of a new site from such date as it determines.
- (2) A resolution may not be made under subsection (1) where it would, taking into account any land incorporated into a new site by way of determination under section 5, mean that the land made available for the market facility is less than 5.5 acres in size. 30
- (3) From such date as the Council determines under subsection (1)—
- (a) any restriction, right or obligation that attaches or relates to the land to which the determination relates, by virtue of it being part of the Market, ceases to apply, and 35
 - (b) references in this Act to a new site are to be read accordingly.
- (4) In subsection (3), “any restriction, right or obligation”—
- (a) means any restriction, right or obligation that attaches or relates to the land by virtue of this Act or any other enactment, or otherwise, by reason of the land’s status or use as a market facility, but 40

- (b) does not include such a restriction, right or obligation imposed by a lease.

5 Power to incorporate land into a new site

- (1) The Council may determine by resolution that designated land will form part of a new site from such date as it determines. 5
- (2) From such date as the Council determines under subsection (1)—
- (a) the designated land to which the determination relates will form part of a new site, and
- (b) references in this Act to a new site are to be read accordingly.
- (3) In this section “designated land” means land— 10
- (a) which adjoins a new site, and
- (b) in respect of which the Council has—
- (i) a legal estate, or
- (ii) the written agreement of any person who has a legal estate in the land, that the new land will form part of the new site, and whose agreement is necessary to operate a market on that land. 15

6 Operation and regulation of the market facility at a new site

- (1) Subject to the provisions of this Act, where the Market is relocated to a new site in accordance with **section 3**, all rights and privileges vested in the Council in relation to the Market at the existing site (excluding any lease, tenancy at will or licence at the existing site) are vested in the Council in respect of the Market at the new site. 20
- (2) Following relocation of the Market to a new site in accordance with **section 3**, Part III of the Food Act 1984 applies to the Market at a new site as if the Market had been established at that site under section 50 of that Act. 25
- (3) Without prejudice to any other powers available to it, the Council may—
- (a) use, lay out, maintain, hold and develop a new site for the purposes of a market facility, or for any other purpose that is consistent with the operation of a market facility in accordance with section 3(2)(b) of this Act; 30
- (b) provide, maintain, alter or improve any market facility belonging to the Council;
- (c) permit the new site to be used for such purposes as it sees fit (without prejudice to section 3(2)(b) of this Act);
- (d) grant a lease or licence for any period upon such terms and conditions as it determines in respect of— 35
- (i) a new site or any part of a new site (including any market facility belonging to the Council); or
- (ii) the right of selling or holding sales of things authorised to be sold at a new site; 40

- (e) where such a lease or licence is entered into, transfer to the lessee, on such terms as it sees fit, any functions of the Council or of any of its officers in relation to a new site;
 - (f) sell, lease, exchange or otherwise dispose of a new site, or part of it, in such manner and for such consideration as it determines; and 5
 - (g) enter into a composition with any person with respect to the payment of any charges which the Council may demand under Part III of the Food Act 1984.
- (4) The Council may—
- (a) appoint another person to operate a market facility on a new site or manage a new site, and 10
 - (b) delegate in writing any of its functions consequential on such an appointment to that person,
- to such extent, and subject to such conditions and restrictions, as the Council considers appropriate. 15

7 Directions in relation to the use of the site

- (1) Any authorised person may, for the purposes of ensuring the safe and efficient operation of the Market, give directions as to the use of a new site by members of the public or as to the movement, stopping, parking or placing for loading or unloading of any vehicle in a new site, on production of that person's authority if required by any member of the public or driver of a vehicle being so directed. 20
- (2) Any member of the public or driver of any vehicle who fails without reasonable excuse to comply with a direction given under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale. 25

8 Fixed penalty notices

- (1) An authorised person may issue a fixed penalty notice to any person who the authorised person has reason to believe has committed an offence under **section 7** or contrary to byelaws made under section 60 of the Food Act 1984. 30
- (2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to be convicted of the offence to which the notice relates by payment of a fixed penalty to the Council.
- (3) A fixed penalty notice must be in writing and state—
 - (a) the particulars of the circumstances alleged to constitute the offence to which the notice relates; 35
 - (b) the amount of the fixed penalty;
 - (c) the effect of subsection (6);
 - (d) the name and address of the person to whom payment of the fixed penalty may be sent; and 40
 - (e) the permissible methods of payment.

- (4) A fixed penalty notice may be issued in person or by post and must identify by name the person to whom it is issued, unless the authorised person cannot reasonably ascertain the person's name.
- (5) Where a fixed penalty notice is issued by post, it is deemed to have been issued to the person to whom it relates on the second business day after it was posted. 5
- (6) Where a person is issued with a fixed penalty notice—
- (a) no proceedings may be taken in respect of the alleged offence in relation to which the notice was issued before the end of the period of 14 days, beginning with the date on which the notice was issued; and 10
- (b) the person may not be convicted of that offence if the fixed penalty is paid before the end of that period.
- (7) The amount specified under subsection (3)(b) is to be an amount prescribed by the Council, which— 15
- (a) may prescribe different amounts in relation to different classes of cases, but
- (b) may not prescribe an amount exceeding level 1 on the standard scale.
- (8) In any proceedings, a certificate that— 20
- (a) purports to be signed by or on behalf of the officer responsible for the Council's financial affairs; and
- (b) states that payment of a fixed penalty was or was not received by the date specified in the certificate;
- is evidence of the facts stated.
- 9 Power to require name and address** 25
- (1) An authorised person who has reason to believe that a person ("P") has committed an offence under **section 7**, or contrary to byelaws made under section 60 of the Food Act 1984, may require P to give P's name and address with a view to—
- (a) the service of a summons on P, or 30
- (b) the issuing of a fixed penalty notice to P under **section 8**.
- (2) A person who, without reasonable excuse, fails to provide information required under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 10 Application of the Market Act** 35
- (1) Nothing in sections 4 or 8 of the Market Act affects the operation of this Act and without limitation the provisions of Part II of the Market Act have effect subject to this Act.
- (2) Without limitation to subsection (1)—
- (a) a market held at a new site is not to be construed as being held under section 4(1) of the Market Act; and 40

- (b) a relocation under this Act is not to be construed as a closure or discontinuance under section 8 of the Market Act.

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