

St. Austell Market Bill

[AS AMENDED IN COMMITTEE]

EXPLANATORY MEMORANDUM

This Bill provides for the vesting of the undertaking of The Commissioners of St. Austell Markets and Fairs in St. Austell Market House CIC, for the continuance of that undertaking and for the repeal of the St. Austell Market Act 1842 (“the 1842 Act”).

Clause 3 provides that, on a day to be appointed by The Commissioners of St. Austell Markets and Fairs (“the Commissioners”), the undertaking of the Commissioners shall transfer and vest in St. Austell Market House CIC (“the Company”), a community interest company registered at Companies House under number 06231251. The clause also provides that without prejudice to any other powers available to the Company but without imposing any obligation, the Company may hold and maintain St. Austell Market at the Market House and on any other land belonging to or held by the Company from time to time.

Clause 4 makes provision for an audit of the books of accounts of the undertaking of the Commissioners.

Clause 5 makes provision for books and other documents of the Commissioners to be admissible in evidence in relation to the Company.

Clause 6 makes provision that all agreements, deeds, bonds and such other documents affecting the undertaking of the Commissioners will, following the transfer of that undertaking to the Company, have effect in relation to the Company.

Clause 7 makes provision that all legal proceedings in relation to the undertaking of the Commissioners will, following the transfer of that undertaking to the Company, have effect in relation to the Company.

Clause 8 provides that, on the transfer of the undertaking of the Commissioners to the Company, the market house held by the Commissioners as part of that undertaking will be freed from all trusts that attached to it by reason of its use for a market pursuant to the 1842 Act; and the Commissioners will be freed from all trusts that attached to them by reason of their appointment as the Commissioners.

Clause 9 repeals the 1842 Act.

EUROPEAN CONVENTION ON HUMAN RIGHTS

In the view of the Commissioners, the provisions of the St. Austell Market Bill are compatible with the Convention rights.

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[AS AMENDED IN COMMITTEE]

To provide for the vesting of the undertaking of The Commissioners of St. Austell Markets and Fairs in St. Austell Market House CIC and for the continuance of that undertaking; to repeal the St. Austell Market Act 1842; and for connected purposes.

WHEREAS—

- (1) The Commissioners of St. Austell Markets and Fairs were appointed under the St. Austell Market Act 1842 and empowered to build, provide and maintain one or more market-places upon land to be purchased under that Act for such purposes, and empowered to hold and regulate public markets in such market-places: 5
- (2) In exercise of these powers, the Commissioners provided the town of St. Austell with a market building (“the Market House”) as a market-place for the holding of markets (“St. Austell Market”):
- (3) The Market House is used to this day for St. Austell Market and the said Act of 1842 continues to authorise and regulate the operation of St. Austell Market: 10
- (4) It is desirable, in order to enable St. Austell Market and the Market House to be managed to the best advantage, that the undertaking of the Market House and St. Austell Market be transferred from the Commissioners to a community interest company registered under the Companies Act 1985, and incorporated in particular for the purposes of ensuring continued trading activity in and around the Market House, enhancing the community use of the building and increasing awareness of the building’s heritage commensurate with its Grade II* listed status, and generally for carrying on activities which benefit the community: 15 20
- (5) The said Act of 1842 is out-dated and restrictive in scope and it is expedient, in order to secure the financial viability of St. Austell Market and the preservation of the Market House, that the said Act of 1842 should be repealed:

(6) 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:—

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1 Short title

This Act may be cited as St. Austell Market Act 2008.

2 Interpretation

In this Act—

“the St. Austell Market Act 1842” means an Act for taking down the Market House in the Town of Saint Austell in the County of Cornwall, and for erecting a more convenient Market House instead thereof; for providing a new Market Place; and for increasing and regulating the Markets and Fairs within the same Town (5 & 6 Vict. c. xiv); 10

“the 1842 Act” means the St. Austell Market Act 1842; 15

“the appointed day” means such day as the Commissioners may appoint by resolution for the purposes of section 3(1) of this Act;

“the books of account” means the books of account required to be kept in accordance with section 43 of the 1842 Act;

“the Commissioners” means The Commissioners of St. Austell Markets and Fairs, being those persons for the time being acting as commissioners in the execution of the 1842 Act; 20

“the Company” means St. Austell Market House CIC, a community interest company registered at Companies House under number 06231251;

“the Market House” means the lands, buildings and related facilities held by the Commissioners for the purpose of St. Austell Market; 25

“resolution” means a resolution of the Commissioners in accordance with the 1842 Act;

“St. Austell Market” means the market now operated by the Commissioners by virtue of the 1842 Act; and 30

“the undertaking” means the Market House and St. Austell Market.

3 Transfer and continuance of the undertaking

(1) Notwithstanding anything in the 1842 Act, the Commissioners may, on such day as they may by resolution appoint, transfer the undertaking to the Company; and the undertaking shall thereupon vest in the Company including— 35

(a) all that property vested in the Commissioners which immediately before the appointed day was held by them for the purposes of the undertaking; and

(b) subject to **section 8** (release from trusts) and **section 9** (repeals) of this Act, all rights, liabilities and obligations of the Commissioners subsisting immediately before the appointed day for the purposes of the undertaking. 40

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- (2) Not less than 28 days before the appointed day the Commissioners shall publish in The London Gazette and in at least one local newspaper circulating in St. Austell, a notice containing a copy of the resolution and explaining the effect of the resolution.
- (3) Without prejudice to any other powers available to the Company but without imposing any obligation, the Company may hold and maintain St. Austell Market at the Market House and on any other land belonging to or held by the Company from time to time. 5
- 4 Final accounts of the Commissioners**
- (1) The books of account shall be made up to the appointed day and shall be audited by an auditor appointed by the Commissioners. 10
- (2) The auditor's fee shall be payable by the Company.
- (3) Any sum certified by the auditor to be due from any person to the Commissioners shall be paid to the Company.
- 5 Books, etc., to remain evidence** 15
- All books and documents which, if this Act had not been passed, would have been evidence in respect of any matter for or against the Commissioners, shall be admissible in respect of that matter for or against the Company.
- 6 Saving of agreements, etc.**
- All sales, conveyances, leases, grants, assurances, deeds, contracts, bonds, agreements, notices and demands affecting the undertaking and in force immediately before the appointed day shall on and from that day be as binding and of as full force and effect in every respect and may be enforced as fully and effectively against or in favour of the Company as if the Company were a party thereto, bound thereby or entitled to the benefit thereof. 20 25
- 7 Pending actions not to abate**
- Any action, arbitration or proceeding and any cause of action, arbitration or proceeding pending or existing on the appointed day by or against or in favour of the Commissioners in relation to the undertaking shall not abate or be discontinued or be in any way prejudicially affected by the transfer to the Company of the undertaking or by anything in this Act, but it may be continued, prosecuted and enforced by, against or in favour of the Company as and when it might have been continued, prosecuted and enforced by, against or in favour of the Commissioners if this Act had not been passed, but not further or otherwise. 30 35
- 8 Release from trusts**
- (1) As from the appointed day the Market House shall be freed from all trusts and restrictions attaching to the Market House or its use by reason of its use for a market pursuant to the 1842 Act.

- (2) As from the appointed day the Commissioners shall be freed from all trusts and restrictions attaching to them by reason of their appointment as Commissioners under the 1842 Act.

9 Repeals

On the appointed day the 1842 Act shall be repealed.

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10 Costs of Act

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

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SESSION 2007–08

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