

## MARKETS AND OTHER EVENTS

### A Markets

1. Local councils, (but not parish or community meetings) can establish or acquire markets in their area under section 50 of the Food Act 1984 (1984 Act) (becoming “market authorities”). The general power to provide a market is, however, subject to one important exception set out in section 50(2) of the 1984 Act:

“A market shall not be established in pursuance of this section so as to interfere with any rights, powers or privileges enjoyed within the authority’s area in respect of a market by any person, without that person’s consent.”

These “rights, powers or privileges” are rights persons may have under ancient laws concerning markets and tolls. According to common law, a person who has a right to hold a market may have an exclusive right to do so within a distance of 7 miles. This ancient common law right was confirmed by the House of Lords in *R (on the application of Corporation of London) v Secretary of State for the Environment, Food and Rural Affairs and Others* [2006] UKHL 30 in respect of a dispute between the owners of the Covent Garden, Smithfield and Billingsgate markets. Similarly, in *Leeds City Council v Watkins* [2003] EWHC 598 (Ch) the Council was able to rely on these ancient laws to prevent car boot sales from operating near their own markets.

2. A local council considering establishing a new market would need to consider whether the new market would be within 7 miles of other markets in the area. The common law is practically set in stone on this point and the prospects of a change would seem to be highly remote. If in doubt, councils should seek further advice from NALC.

#### *i Associated Facilities*

3. Under s. 50(1) of the 1984 Act a local council can provide:
  - a. a market place with convenient approaches to it; and/or
  - b. a market house and other buildings convenient for the holding of a market.

*ii Miscellaneous Matters*

4. The 1984 Act also gives a market authority a number of other powers including:
- a. to charge fees for the use of the market (s. 53);
  - b. to recover unpaid fees (s. 55);
  - c. to provide a cold air store or refrigerator for the storage and preservation of meat and other articles of food (s. 53(2)); and
  - d. to make byelaws in respect of markets (s. 60) for :
    - regulating the use of the market place, and the buildings, stalls, pens and standings in the market place;
    - preventing nuisances or obstructions in the market place, or in the immediate approaches to it;
    - regulating porters and carriers at the market, and fixing the charges to be made for carrying articles from the market within the district; and,
    - preventing the spread of fires in the market (after consulting the fire and rescue authority for the area in which the market is situated).

*iii Further Information*

5. It would not be possible, within the scope of this Note, to set out all of the legal considerations that could apply to the many different types of markets, but councils wishing to become involved with farmers markets may wish to visit the website of the Food Standards Agency at: <http://www.food.gov.uk/>

**B Fetes, Agricultural, Horticultural and other Shows**

6. Under section 44 of the Public Health Acts Amendment Act 1890, a local council may close to the public the whole or part of any park or pleasure ground provided by them and may use it for or allow any public charity or institution to use it for:
- an agricultural or horticultural show;
  - any other type of show; or
  - any other public purpose.
7. Clearly, the wording of the section is quite broad and would cover fetes, festivals and carnivals. Entry to the events may be free of charge or by payment.
8. The grounds may be closed on any days the council sees fit but the closures must not:
- exceed twelve days in any one year;

- exceed four consecutive days on any one occasion; or
  - include a Sunday.
9. Section 145 of the Local Government Act 1972 (1972 Act) supplements this power by enabling a local council to do, arrange for, or contribute towards the expenses of, anything (whether inside or outside their area) “necessary or expedient” for:
- i. providing an entertainment of any nature or facilities for dancing;
  - ii. providing a theatre, concert hall, dance hall or other premises suitable for entertainments or dances;
  - iii. maintaining a band or orchestra;
  - iv. the development and improvement of the knowledge, understanding and practice of the arts and the crafts which serve the arts; or
  - v. any incidental purpose including the provision of refreshments or programmes and the advertising of any entertainment, dance or exhibition of arts or crafts held by them.
10. A local council may also:
- enclose or set apart any part of a park or pleasure ground belonging to the authority or under their control;
  - permit any theatre, concert hall, dance hall or other premises provided by them or any part of a park or pleasure ground enclosed or set apart to be used by any other person, on such terms as to payment or otherwise as the authority think fit, and may authorise that other person to make charges for admission thereto; or
  - itself make charges for admission to any entertainment given or dance or exhibition of arts or crafts held by them and for any refreshment or programmes supplied.
11. However, section. 145 of the 1972 Act does not authorise a council to contravene any covenant or condition attached to the land without the consent of the person entitled to the benefit of the covenant or condition.
12. Further, none of the powers set out above free councils from the need to obtain licences in respect of some activities, see LTN 88 - Event Licensing.

## **Village Greens**

13. NALC sees no reason why fetes etc should not take place on village greens but care should be taken to ensure that such events do not fall foul of the nineteenth century

legislation which protects greens. LTN 56 - The provision of play and sports equipment on village greens sets out the detail of section 12 of the Inclosure Act 1857 and section 29 of the Commons Act 1876.

**Other Legal Topic Notes (LTNs) relevant to this subject:**

<b>LTN</b>	<b>Title</b>	<b>Relevance</b>
14E	Byelaws (England)	Sets out the powers of local councils in England to make byelaws.
14W	Byelaws (Wales)	Sets out the powers of local councils in Wales to make byelaws.
56	The provision of play and sports equipment on village greens	Sets out relevant considerations in respect of offences related to village greens.
88	Event licensing	Sets out what activities require licensing and the exemptions for local council events.

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