



# Nottingham City Council Act 2003

## 2003 CHAPTER ii

### PART 4

#### MISCELLANEOUS AND GENERAL

#### **14 Power to enter premises and inspect and seize goods and documents**

- (1) Subject to subsection (2), an authorised officer, on production, if required, of his credentials, or a constable, may at all reasonable hours exercise the following powers—
  - (a) he may, for the purpose of ascertaining whether any offence under this Act has been committed, inspect any goods and records and enter any premises;
  - (b) if he has reasonable cause to suspect that an offence under this Act has been committed, he may, for the purpose of ascertaining whether it has been committed, require any person carrying on a trade or business or employed in connection with a trade or business to produce any records relating to the trade or business and may take copies of, or of any entry in, any such record;
  - (c) if he has reasonable cause to believe that an offence under this Act has been committed, he may seize and detain any goods for the purpose of ascertaining whether the offence has been committed;
  - (d) he may seize and detain any goods or records which he has reason to believe may be required as evidence in proceedings for an offence under this Act;
  - (e) he may, for the purposes of exercising his powers under this subsection to seize goods, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of this Act are duly observed, require any person having authority to do so to break open any container and, if that person does not comply with the requirement, he may do so himself.
- (2) An authorised officer or constable may not enter a dwelling in the exercise of his powers under this section without the consent of the occupier unless he has obtained a warrant under subsection (4).
- (3) An authorised officer or constable seizing any goods or documents in the exercise of his powers under this section shall inform the person from whom they are seized.

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- (4) If a justice of the peace, on sworn information in writing—
- (a) is satisfied that there is reasonable ground to believe either—
    - (i) that any goods or records which a duly authorised officer has power under this section to inspect are on any premises; or
    - (ii) that any offence under this Act has been, is being or is about to be committed on any premises; and
  - (b) is also satisfied either—
    - (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this subsection has been given to the occupier; or
    - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,
- the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise an officer of the council or a constable to enter the premises, if need be by force.
- (5) An authorised officer or a constable entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him necessary; and on leaving any premises which he has entered by virtue of a warrant under the preceding subsection he shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.
- (6) If any person who is not a duly authorised officer of the council or a constable purports to act as such under this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) Nothing in this section shall be taken—
- (a) to compel the production by any person of items subject to legal privilege, excluded material or special procedure material; or
  - (b) to authorise the taking of any such items or material in the possession of that person.
- (8) In this section, “items subject to legal privilege”, “excluded material” and “special procedure material” have the meaning given to them by Part II of the Police and Criminal Evidence Act 1984 (c. 60).

## 15 Defence of due diligence

- (1) In proceedings for any offence under this Act it shall be a defence for the person charged to prove that he took reasonable precautions and exercised due diligence to avoid the commission of the offence.
- (2) If in any case the defence provided under subsection (1) involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, no later than 7 clear days after entering a plea, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of that other person.

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## **16 Offence of obstruction**

- (1) Any person who—
- (a) intentionally obstructs any authorised officer acting in the exercise of his powers under this Act; or
  - (b) without reasonable cause fails to give any authorised officer any assistance or information which the officer may reasonably require of him for the purposes of the exercise of the officer’s functions under any provision of this Act;
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) Subsection (1)(b) applies in relation to a constable as it applies in relation to an authorised officer.

## **17 Liability of directors, etc.**

- (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, a 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 the offence.
- (2) Where the affairs of the body corporate are managed by its members, subsection (1) shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

## **18 Restriction on right to prosecute**

The written consent of the Director of Public Prosecutions is needed for the laying of an information of an offence created by this Act by any person other than the council or a constable.

## **19 Resolutions**

Where the council pass any resolution under this Act (other than a resolution bringing into effect section 4 (Registration of dealers in second-hand goods and premises) of this Act), they shall, no later than 28 days before the resolution comes into effect, either—

- (a) serve on every person registered under section 4 and affected by the resolution; or
- (b) cause to be published in a local newspaper circulating in the city, notice of the passing of any such resolution.

## **20 Service of notices, etc.**

- (1) Any notice or other document required or authorised to be served or given in writing 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

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- (c) by sending it by ordinary post 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 by ordinary post addressed to the secretary or clerk of the company or body at that office.
- (2) If the name or address of any person on whom any notice or other document required or authorised to be served under the provisions of this Act cannot after reasonable enquiry be ascertained, the document may be given or served by either—
- (a) leaving it in the hands of a person who appears to be the owner of, resident in or employed in; or
  - (b) leaving it conspicuously affixed to some part of,
- the premises being used or to be used for trading regulated under the provisions of this Act.