



North Yorkshire County Council Act 1991

1991 CHAPTER xiv

PART IV

MISCELLANEOUS AND GENERAL

8 Powers of entry, inspection and examination

- (1) A proper officer of the council, on producing if so required a duly authenticated document showing his authority, or any constable may—
 - (a) subject to subsection (2) below, enter and inspect any premises if he has reasonable cause to believe that they are being, have been or are intended to be, used for or in connection with an occasional sale, within the meaning of section 6 of this Act, for the purpose of ascertaining whether there is or has been, in, or in connection with, the premises a contravention of that section;
 - (b) at all reasonable times enter any premises for the purpose of serving a notice under subsection (5) of the said section 6;
 - (c) at all reasonable times enter and inspect any premises registered under section 7 of this Act and inspect any book kept in pursuance of that section and may do all such things as are reasonably necessary for the purpose of ascertaining whether there is, or has been, in, or in connection with, the premises, a contravention of that section; or
 - (d) subject to subsection (2) below, enter and inspect any premises not registered under the said section 7, if he has reasonable cause to believe they are being used for, or in connection with, the business of a dealer in second-hand goods, for the purposes of ascertaining whether in connection with such premises there is a contravention of that section.
- (2) The powers of subsection (1) (a) or (d) above may be exercised in respect of premises only on the grant of a warrant by a justice of the peace.
- (3) A justice may grant a warrant under subsection (2) above only if he is satisfied either—
 - (a) that notice of intention to apply for a warrant has been given to the occupier of the premises; or

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(b) that the case is one of urgency, or the occupier is temporarily absent, or that the giving of notice of intention to apply for a warrant would defeat the object of entry.

(4) A warrant under this section shall authorise entry, if need be, by force but shall cease to have effect at the end of a period of seven days beginning with the day on which it is granted.

9 Obstruction of authorised officer

(1) Any person who—

- (a) intentionally obstructs any authorised officer; 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 Part of this Act;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Subsection (1) (b) above applies in relation to a constable as it applies in relation to an authorised officer.

(3) A person shall be guilty of an offence if, in giving any information which is required of him by virtue of subsection (1) (b) above—

- (a) he makes any statement which he knows is false in a material particular; or
- (b) he recklessly makes a statement which is false in a material particular.

(4) A person guilty of an offence under subsection (3) above shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) In this section “authorised officer” means any officer of the council who is acting in pursuance of any provision of this Part of this Act.

10 Defence of due diligence

(1) In proceedings for an offence under section 6 or 7 (1), (3), (4) or (5) of this Act it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) In proceedings for an offence under section 7 (9) of this Act it shall be a defence for the person charged to prove—

- (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or
- (b) that he had no reason to suspect that the person from whom he acquired the second-hand goods was under the age of 16.

(3) If in any case the defence provided under subsection (1) or (2) above 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, within a period ending seven clear days before the hearing, 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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11 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.

12 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) above 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.