



# Medway Council Act 2001

## CHAPTER iv

### CONTENTS

#### PART 1

##### PRELIMINARY

- 1 Citation and commencement
- 2 Appointed day
- 3 Interpretation

#### PART 2

##### DEALERS IN SECOND-HAND GOODS

- 4 Interpretation of Part 2
- 5 Registration of dealers in second-hand goods
- 6 Information to be kept by registered dealers in second-hand goods
- 7 Offences under Part 2
- 8 Exemptions under Part 2
- 9 Application to existing dealers in second-hand goods
- 10 Renewal of registration

#### PART 3

##### OCCASIONAL SALES AND SQUAT TRADING

- 11 Notice of occasional sales and squat trading
- 12 Information to be kept by holder of certain occasional sales
- 13 Display of name and address
- 14 Offences under Part 3

## PART 4

## MISCELLANEOUS AND GENERAL

- 15 Powers of entry, inspection and examination
- 16 Obstruction of authorised officer
- 17 Defence of due diligence
- 18 Liability of directors, etc.
- 19 Restriction on right to prosecute
- 20 Reports
- 21 Resolutions
- 22 Service of notices, etc.



# Medway Council Act 2001

## 2001 CHAPTER iv

An Act to provide for the regulation of dealers in second-hand goods and the regulation of occasional sales and certain other trading in the borough of Medway; and for connected or other purposes. [10th April 2001]

**W**<sup>HEREAS—</sup>

- (1) It is expedient to make provision for the regulation in the borough of Medway of dealers in second-hand goods and the regulation of occasional sales:
- (2) It is expedient that the other provisions contained in this Act should be enacted:
- (3) The purposes of this Act cannot be effected without the authority of Parliament:
- (4) In relation to the Bill for this Act the requirements of section 239 of the Local Government Act 1972 (c. 70) have been observed:

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:—

### PART 1

#### PRELIMINARY

#### **1 Citation and commencement**

- (1) This Act may be cited as the Medway Council Act 2001.

- (2) Part 2 (Dealers in second-hand goods), Part 3 (Occasional sales and squat trading) and Part 4 (Miscellaneous and general) of this Act shall come into force on the appointed day.

## 2 Appointed day

- (1) In this Act “the appointed day” means such day as may be fixed by resolution of the council, subject to and in accordance with the provisions of this section.
- (2) Different days may be fixed under this section for the purpose of the application of different provisions of this Act.
- (3) The council shall cause to be published in at least two newspapers circulating in the borough and at least one national art and antiques trade periodical notice—
  - (a) of the passing of any such resolution and of a day fixed thereby; and
  - (b) of the general effect of the provisions of this Act coming into operation as from that day;and the day so fixed shall not be earlier than the expiration of six months from the publication of the said notice.
- (4) Either a photostatic or other reproduction certified by the officer appointed for that purpose by the council to be a true reproduction of a page or part of a page of any such newspaper or of any such art and antiques trade periodical bearing the date of its publication and containing any such notice shall be evidence of the publication of the notice, and of the date of publication.

## 3 Interpretation

- (1) In this Act, except where the context otherwise requires—
  - “authorised officer” means an officer of the council authorised by the council in writing to act in relation to the relevant provision of this Act;
  - “the borough” means the borough of Medway;
  - “the council” means the Medway Council;
  - “the county” means the county of Kent and “the county council” means the Kent County Council;
  - “dealer in second-hand goods” means a person who carries on a trade or business, the whole or part of which consists of transactions in second-hand goods;
  - “occasional sale” means an event held in the borough at which goods are exposed for supply or offered to the public by one or more sellers or suppliers in the course of a trade or business, but does not include—
    - (a) a market the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by statute;
    - (b) an event held wholly or mainly for the sale by auction of farm livestock or farm machinery, equipment or plant, or the contents of one or more buildings or other items associated with the building or buildings;
    - (c) an auction conducted by a person registered under subsection (1) of section 5 (Registration of dealers in second-hand goods) of this Act on premises registered under that subsection;

- (d) an event held wholly or mainly for the sale of books;
- (e) an event promoted or conducted by a body registered as a charity under section 3 of the Charities Act 1993 (c. 10) or excepted from registration by virtue of subsection (5) of that section;
- (f) an event which consists of a concourse of, and only of, persons selling goods in the course of a trade or business and comprising not less than five stalls, stands, vehicles or pitches from which the goods are sold and which is held by a person who has held such an event in the same location—
  - (i) on the same day of the week; or
  - (ii) on the same day of the month; or
  - (iii) in the same weekend of the month; or
  - (iv) on the same day in every first, second, third or fourth week in every month;in at least 7 out of the 10 weeks or, as the case may be, months preceding the date of the event in question; or
- (g) an event of a class which is by resolution of the council excluded from the operation of this section;

“record” includes a computer record and references in this Act to the production of a record means, in the case of a computer record, the production of a record in printed form;

“registered number” in respect of a vehicle means the number indicated by the registration mark (within the meaning of section 23 of the Vehicle Excise and Registration Act 1994 (c. 22)) assigned to the vehicle under that section by the Secretary of State;

“registration number” means the number which appears on a certificate of registration issued under subsection (2) of section 5 (Registration of dealers in second-hand goods) of this Act;

“squat trading” means a trade or business consisting of the selling, offering for sale, display or exposing for sale of any article by any person on any premises if that person occupies the premises without the consent of the owner or lawful occupier of the premises.

- (2) For the purposes of this Act a person who holds an occasional sale includes any person who—
  - (a) charges admission to the premises used for the sale; or
  - (b) receives or is entitled to receive, as a person promoting the sale or as the agent, licensee or assignee of such a person, payment in respect of goods sold to persons attending the sale or for the granting of rights to other persons to sell goods to persons attending the sale; or
  - (c) receives or is entitled to receive payment for any space or pitch hired or let on the site of the sale to persons wishing to trade at the sale.

**PART 2**

## DEALERS IN SECOND-HAND GOODS

**4 Interpretation of Part 2**

In this Part of this Act—

- “motor vehicle” means a mechanically propelled vehicle;
- “plant” includes any moveable equipment used for building or construction purposes or in carrying on any industrial process;
- “premises” means a building or part of a building and for these purposes, “building” includes a temporary or moveable structure;
- “vehicle” means a vehicle intended or adapted for use on the road.

**5 Registration of dealers in second-hand goods**

- (1) Subject to subsection (4) below and sections 9 (Application to existing dealers in second-hand goods) and 10 (Renewal of registration) of this Act, a person shall not in the borough carry on a trade or business the whole or part of which consists of transactions in second-hand goods when he is not registered by the council under this section or exempted from registration by section 8 (Exemptions under Part 2) of this Act and, when he is not so exempted, he shall not carry on such a business in premises in the borough which are occupied by him when the premises are not so registered.
- (2) On application for registration under this section the council shall register the applicant and, if the applicant specifies premises, those premises and issue to the applicant a certificate of registration on which there shall appear a registration number.
- (3) Registration under this section shall remain in force for four years from the date thereof.
- (4) The council may not impose a charge for registration under this section.
- (5) If a person is registered as a dealer in second-hand goods in respect of his trade or business as such under any enactment by the county council, he may carry on in the borough the trade or business of a dealer in second-hand goods despite not being registered by the council under subsection (1) above.

**6 Information to be kept by registered dealers in second-hand goods**

- (1) Subject to subsections (2) and (8) below, every person registered under section 5 (Registration of dealers in second-hand goods) of this Act shall, as respects every transaction under which he acquires an interest in, or takes charge of, any second-hand articles in the course of the business in respect of which he is registered whether or not the transaction took place in the borough, enter or cause to be entered forthwith, in a record kept by him—
  - (a) the date of the transaction;
  - (b) a description sufficient where reasonably possible to identify the articles;

- (c) either—
    - (i) the name and address of the person from whom the articles were acquired;
    - (ii) the person's registration number if he is registered under the said section 5 or is registered by the county council under any enactment as a second-hand dealer in respect of his business as such; or
    - (iii) some other entry, of a type approved by resolution of the council, with the approval of the Secretary of State, by means of which that person may be identified;
  - (d) in the case where the article concerned is a motor vehicle, the registered number (if any) of the vehicle and the reading on the odometer of the vehicle at the time of the transaction; and
  - (e) in the case where the article concerned is—
    - (i) plant; or
    - (ii) a motor vehicle which does not have a registered number; or
    - (iii) a vehicle other than a motor vehicle;any serial number or vehicle identification number, as the case may be, marked on the plant or vehicle.
- (2) Subject to subsection (3) below, subsection (1) above shall not apply in respect of any transaction in respect of which a person acquires an interest in, or takes charge of any second-hand article (or set of such articles) which will, in his reasonable opinion at the time of the transaction—
- (a) be disposed of by him for no value; or
  - (b) be sold or offered for sale by him for a price (which in the case of a set of articles means the total price of the articles, whether sold individually or as a set) less than the relevant amount.
- (3) Subsection (2) above shall not apply in relation to any electrically or battery powered goods or to any medium on or by which sound, images or other data are or may be stored or recorded and which is intended for use with any such goods.
- (4) For the purposes of subsection (2) above “the relevant amount” is—
- (a) £10 in the case of vehicle parts, jewellery, watches, photographic equipment, sports equipment, equestrian equipment, boating equipment, musical instruments, tools, bicycles, optical equipment, firearms and gardening equipment; and
  - (b) £50 in the case of all other articles to which that subsection applies;
- or in either case, such other amount (being no lower than the existing amount) as the council may, with the approval of the Secretary of State, determine.
- (5) Subject to subsection (8) below, where a person registered under the said section 5 sells in the course of his business any second-hand article (or set of such articles) for a price exceeding the relevant amount he shall enter in the record referred to in subsection (1) above—
- (a) the name and address of the person to whom the article (or set) was sold;

- (b) the person's registration number if he is registered under the said section 5 or is registered by the county council under any enactment as a second-hand dealer in respect of his business as such; or
  - (c) some other entry, of a type approved by resolution of the council, with the approval of the Secretary of State, by means of which that person may be identified.
- (6) For the purposes of subsection (5) above "the relevant amount" is—
  - (a) £100 in the case of electrically or battery powered goods, vehicles and vehicle parts, plant, jewellery, watches, photographic equipment, sports equipment, equestrian equipment, building materials, boats and boating equipment, musical instruments and gardening equipment; and
  - (b) £500 in the case of all other articles;or in either case, such other amount (being no lower than the existing amount) as the council may, with the approval of the Secretary of State, determine.
- (7) In the case of transactions under which a dealer in second-hand goods acquires an interest in, or takes charge of or sells articles at an auction the entry of the name and address of the auctioneer in the record referred to in subsection (1) shall suffice for the purposes of subsection (1)(c)(i) or, as the case may be, subsection (5)(a) above.
- (8) Subsections (1) and (5) above shall apply to transactions which take place outside the borough only if—
  - (a) the person acquiring an interest in, taking charge of or selling the articles in question occupies premises registered under the said section 5; or
  - (b) the usual place of residence of the person acquiring an interest in, taking charge of or selling the articles in question is within the borough (except if that person carries on his business as a dealer in second-hand goods primarily in premises occupied by him and situated outside the borough).
- (9) Every entry made in every record kept by a person in pursuance of this section shall be retained by him until the end of the period of two years beginning with the day on which the entry was made in the record.
- (10) A person registered under the said section 5 shall, on demand, unless he has a reasonable excuse not to do so, produce to an authorised officer or to a constable any record kept by him in pursuance of this section.

## 7 Offences under Part 2

- (1) Subject to subsection (2) below if any person contravenes subsection (1) of section 5 (Registration of dealers in second-hand goods) or subsection (1), (5), (9) or (10) of section 6 (Information to be kept by registered dealers in second-hand goods) of this Act, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.



- (2) If a person registered under the said section 5 enters any information in a record kept by him pursuant to the said section 6 which he knows is false in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A person registered under the said section 5 shall keep a copy of the certificate of registration displayed in a conspicuous position in a part (if any) of any premises, vehicle, vessel or stall which is situated in the borough and is open to the public and used for the time being for the purposes of the business in respect of which he is so registered and, if without reasonable excuse he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) Any person who, on selling second-hand goods to, or acquiring second-hand goods from, a person registered under the said section 5, intentionally gives that person—
  - (a) (in the case of subsections (1)(c)(i) and (5)(a) of the said section 6) a false name or false address; or
  - (b) (in the case of sub-paragraphs (ii) and (iii) of subsection (1)(c) and paragraphs (b) and (c) of subsection (5) of the said section 6) false information where that information is required to enable an entry under any of those paragraphs to be made,shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## 8 Exemptions under Part 2

This Part of this Act shall not apply to—

- (a) any person engaged in a business carried on by a group, organisation or body registered as a charity under section 3 of the Charities Act 1993 (c. 10) or excepted from registration by virtue of subsection (5) of that section; or
- (b) a person in respect of whom particulars are registered under the Scrap Metal Dealers Act 1964 (c. 69), in respect of his business as a scrap metal dealer; or
- (c) a person engaged in the business either of financing the acquisition of goods by means of hire-purchase agreements, conditional sale agreements or credit-sale agreements (as defined in section 189(1) of the Consumer Credit Act 1974 (c. 39)) or of financing the use of goods by means of bailment agreements, in respect of any such business or any transaction incidental thereto; or
- (d) a person engaged in business as a dealer in waste paper, cardboard, textiles, plastics in bulk or second-hand clothes, in respect of his business as such; or
- (e) a person engaged in business as a dealer in second-hand books, in respect of his business as such; or
- (f) a person engaged in business as a dealer in animals, in respect of his business as such; or
- (g) a pawnbroker, in respect of his business as such; or

- (h) a person engaged in the business of supplying new unused goods (other than motor vehicles) who accepts second-hand goods as part of the consideration for those new unused goods, in respect of any such business or any transaction incidental thereto; or
- (i) a person engaged in a business which includes the occasional purchase (but not the sale, supply or offering for sale or supply) of second-hand goods in the borough; or
- (j) a person of a class which is by resolution of the council excluded from the operation of this Part of this Act;

and for the purposes of this Part of this Act a person is not to be treated as carrying on the business of a dealer in second-hand goods merely because occasionally he enters into transactions appropriate to a business of that sort.

## 9 Application to existing dealers in second-hand goods

Where a person is carrying on the business of a dealer in second-hand goods on the appointed day and application for the registration of himself or, where he is carrying on that business in premises in the borough occupied by him, for the registration both of himself and of those premises is made within four weeks of that day it shall be lawful for him to carry on that business, and, where he is carrying on that business in premises specified in his application, to carry it on in those premises, until the issue of his certificate of registration.

## 10 Renewal of registration

It shall be lawful for a person who—

- (a) has obtained or renewed such registrations as are required under this Part of this Act; and
- (b) during the currency thereof has applied for the renewal thereof;

to continue to carry on the business of a dealer in second-hand goods and to continue to use for that purpose any premises specified in his last certificate of registration, until he is issued with a new certificate.

## PART 3

### OCCASIONAL SALES AND SQUAT TRADING

## 11 Notice of occasional sales and squat trading

- (1) Any person who intends—
  - (a) to hold an occasional sale in the borough; or
  - (b) to permit an occasional sale to be held on premises in the borough of which he is the occupier; or
  - (c) to carry out squat trading;

shall, not less than 21 days before the holding of the intended sale or the commencement of the trading, give to the council notice of his intention to hold the sale or to permit those premises to be so used or to carry out the trading, as the case may be.

- (2) A notice given under subsection (1) above shall be in writing and shall specify—
  - (a) the proposed date and time of commencement, expected duration and location of the intended occasional sale or squat trading;
  - (b) whether the occasional sale or squat trading is to be held on other days and if so, what days, and the time of commencement and expected duration on those days;
  - (c) the extent of the premises to be occupied or used for the purposes of the occasional sale or squat trading;
  - (d) the nature of the goods to be provided at the occasional sale or during the squat trading;
  - (e) the name and address (other than an address temporarily occupied for the purposes of the occasional sale) of every person who it is proposed will hold or promote the occasional sale or carry out the squat trading, and the name and address of a person appointed to receive and answer complaints about the sale or trading; and
  - (f) in the case of an occasional sale, an estimate of the number of persons expected to attend the sale.
- (3) If the council has reason to believe that an occasional sale is to be held or that squat trading is to be commenced in the borough but that no notice thereof has been given under subsection (1) above by the relevant person, they may as soon as reasonably practicable after the apparent intention to hold the sale or carry out the trading has come to their knowledge, serve on—
  - (a) the person who appears to be the relevant person; or
  - (b) the occupier of any premises on or in which it appears that such sale is to be, is being or was held;a notice requiring that person to give to the council the information required by subsection (2) above.
- (4) Any person on whom a notice given under subsection (3) above is served shall supply to the council the information required by subsection (2) above within 7 days after the service of the notice, whether or not the occasional sale or squat trading commences before the expiry of that period.
- (5) If the council has reason to believe that an occasional sale has been or is being held or that squat trading has been commenced in the borough but that no notice thereof has been given under subsection (1) above by the relevant person, they may as soon as reasonably practicable after the holding of the sale or the carrying out of the trading has come to their knowledge, serve on—
  - (a) the person who appears to be the relevant person; or
  - (b) the occupier of any premises on or in which it appears that such sale is being or was held;a notice requiring that person to give to the council the information mentioned in subsection (6) below.
- (6) The information required by subsection (5) above is—
  - (a) the date and time of commencement and location of the occasional sale or squat trading;
  - (b) the duration or (in the case where an occasional sale is being held or the squat trading is being carried out) expected duration of the occasional sale or squat trading;

- (c) whether the occasional sale or squat trading is to be held on other days and if so, what days, and the time of commencement and expected duration on those days;
  - (d) the extent of the premises occupied or used for the purposes of the occasional sale or squat trading;
  - (e) the nature of the goods provided at the occasional sale or during the squat trading;
  - (f) the name and address (other than an address temporarily occupied for the purposes of the occasional sale) of every person who is holding or held or is promoting or promoted the occasional sale or is carrying out or carried out the squat trading, and the name and address of a person (if any) appointed to receive and answer complaints about the sale or trading; and
  - (g) in the case of an occasional sale, an estimate of the number of persons attending, or who attended the sale.
- (7) The information required by subsection (5) above shall be supplied by the person on whom the notice is served within 7 days after the service of the notice, except in the case where the sale is being held or the trading is being carried out in which case the information should be supplied forthwith.
- (8) The “relevant person” for the purposes of subsections (3), (4) and (5) above is—
- (a) in the case of an occasional sale, the person who is intending to hold, is holding or held the occasional sale;
  - (b) in the case of squat trading, the person who is intending to carry out, is carrying out or carried out the trading.

## 12 Information to be kept by holder of certain occasional sales

- (1) In the case where an occasional sale (other than an auction) is an event at which there is more than one seller or supplier of goods (being persons other than the person who holds the sale), the person who holds the sale shall ensure that the following information is entered, in a record kept by him for the purpose of this section—
- (a) the name and address of every such seller and supplier;
  - (b) an entry describing whether the goods being exposed for supply or offered to the public by every such seller or supplier are new or second-hand goods or both; and
  - (c) either of the following:—
    - (i) the registered number in respect of any vehicle in or on which those goods were carried to the sale; or
    - (ii) if the seller or supplier is registered under section 5 (Registration of dealers in second-hand goods) of this Act or any other enactment of local application providing for the registration of dealers in second-hand goods, the number (if any) appearing on his certificate of registration.
- (2) Every entry made in every record kept by a person in pursuance of this section shall be retained by him until the end of the period of two years beginning with the day on which the entry was made in the record.

- (3) A person who keeps a record in pursuance of this section shall on demand, unless he has a reasonable excuse not to do so, produce the record to an authorised officer or to a constable.
- (4) In this section “seller” and “supplier” mean respectively a seller or supplier with whom the person who holds the sale has made arrangements (whether or not on payment of a charge or fee) for the right to sell or supply goods at the sale, whether or not from a stall or pitch.

### **13 Display of name and address**

- (1) Any person who holds, promotes or conducts an occasional sale or carries out squat trading shall in a prominent position on a part of the premises in which the sale or trading takes place and for the duration of the sale or trading display his full name and his business address or business telephone number and the full name and the business address or business telephone number of any other person concerned in the holding, or promotion of the occasional sale or, as the case may be, the carrying out of the trading.
- (2) Any person who holds or promotes an occasional sale or promotes or carries out squat trading shall display on all notices, leaflets and posters given, distributed or exhibited by him or on his behalf in connection with the sale or the trading, his full name and his business address or business telephone number.

### **14 Offences under Part 3**

- (1) Any person who contravenes 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 4 on the standard scale.
- (2) If a person who holds an occasional sale enters any information in a record kept by him pursuant to section 12 (Information to be kept by holder of certain occasional sales) which he knows is false in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (3) If, in response to a request made by the holder of an occasional sale for the purpose of ascertaining the information required to be kept by him pursuant to the said section 12, a seller or supplier of goods or services intentionally gives that person a false name or false address or a false registered number or false information relating to any certificate of registration, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**PART 4**

## MISCELLANEOUS AND GENERAL

**15 Powers of entry, inspection and examination**

- (1) An authorised officer, on producing if so required a duly authenticated document showing his authority, or any constable may—
  - (a) at all reasonable times enter and inspect any premises registered under section 5 (Registration of dealers in second-hand goods) of this Act and inspect or take copies of any record kept in pursuance of section 6 (Information to be kept by registered dealers in second-hand goods) of this Act 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;
  - (b) subject to subsection (2) below, at all reasonable times enter and inspect any premises situated in the borough and not registered under the said section 5 (other than premises used solely as a private dwelling-house), 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;
  - (c) subject to subsection (2) below, enter and inspect any premises situated in the borough (other than premises used solely as a private dwelling-house) 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 or the carrying out of squat trading, for the purpose of ascertaining whether there is or has been, in, or in connection with, the premises a contravention of any provision of Part 3 (Occasional sales and squat trading) of this Act;
  - (d) at all reasonable times enter any premises situated in the borough for the purpose of serving a notice under subsection (3) or (5) of section 11 (Notice of occasional sales and squat trading) of this Act; or
  - (e) at all reasonable times enter any premises situated in the borough for the purpose of inspecting or taking copies of any record kept in pursuance of section 12 (Information to be kept by holder of certain occasional sales) of this Act.
- (2) The powers of—
  - (a) paragraphs (a) and (e) of subsection (1) above in respect of premises used as a private dwelling-house; and
  - (b) paragraphs (b) and (c) of subsection (1) above in respect of any premises to which those paragraphs apply;may be exercised 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

- (b) that the case is one of urgency, or the occupier is temporarily absent, or that the giving of a notice of intention to apply for a warrant would defeat the object of the 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 the period of 7 days beginning with the day on which it is granted.

## 16 Obstruction of authorised officer

- (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 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 section 11 (Notice of occasional sales and squat trading) of this Act—
  - (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 5 on the standard scale.

## 17 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) 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, no later than 7 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.

## **18 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.

## **19 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, the county council or a constable.

## **20 Reports**

- (1) Not more than 3 years after the appointed day the council shall submit to the Secretary of State a report on the working of the provisions of this Act; and the Secretary of State shall lay any such report before Parliament.
- (2) The council shall submit further such reports, at such intervals, as the Secretary of State may require; and the Secretary of State shall lay any such report before Parliament.
- (3) In this section “the appointed day” means, in the case where different days are fixed for the purpose of different provisions of the Act, the earliest appointed day.

## **21 Resolutions**

Where the council pass any resolution under this Act (other than a resolution bringing into effect section 5 (Registration of dealers in second-hand goods) of this Act, they shall, no later than 28 days before the resolution comes into effect, serve notice of the passing of the resolution on every person registered under the said section 5.

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

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
- (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.
- 

© Crown copyright 2001

Printed in the UK by The Stationery Office Limited  
under the authority and superintendence of Carol Tullo, Controller of  
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament