



# Nottingham City Council Act 2003

## 2003 CHAPTER ii

### PART 2

#### REGISTRATION OF DEALERS IN SECOND-HAND GOODS

#### **4 Registration of dealers in second-hand goods and premises**

- (1) Subject to sections 8 (Application to existing dealers in second-hand goods) and 9 (Renewal of registration) of this Act—
  - (a) a person shall not in the city 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 7 (Exemptions under Part 2) of this Act; and
  - (b) when he is not so exempted, he shall not carry on such a business in premises in the city 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) An application for registration under this section shall be made in writing to the council and the applicant shall in the application state—
  - (a) his name and private address or, if the application is made by or on behalf of a body corporate or partnership, the registered or principal office of such body or partnership as the case may be and the names and private addresses of the directors, partners or other persons directly or indirectly responsible for the management thereof; and
  - (b) the address of each place in the city which is occupied by the applicant for the purposes of the business.
- (4) Where there is any alteration in the particulars mentioned in subsection (3)(a) or (b), the person registered shall within 14 days notify the council of the fact, and the council shall thereupon amend their register.

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- (5) Registration under this section shall remain in force for three years from the date of registration.

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

- (1) Subject to subsections (2) and (8), every person registered under section 4 (Registration of dealers in second-hand goods and premises) 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, 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 and their quantity;
  - (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 section 4; or
    - (iii) some other entry, of a type approved by resolution of the council, 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), subsection (1) 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) 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.
- (4) For the purposes of subsection (2) “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 amount specified in the relevant paragraph) as the council may by resolution determine.

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- (5) Subject to subsection (8), where a person registered under section 4 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)—
- (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 section 4; or
  - (c) some other entry, of a type approved by resolution of the council, by means of which that person may be identified.
- (6) For the purposes of subsection (5) "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 by resolution 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).
- (8) Subsections (1) and (5) shall not apply to transactions involving goods that—
- (a) are acquired outside the city;
  - (b) are neither sold nor offered for sale in the city; and
  - (c) are not kept within the city.
- (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 section 4 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.

## **6 Offences under Part 2**

- (1) If any person contravenes subsection (1) of section 4 (Registration of dealers in second-hand goods and premises) or subsection (1), (5), (9) or (10) of section 5 (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 4 on the standard scale.
- (2) If any person contravenes subsection (4) of section 4 he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) A person registered under section 4 shall be guilty of an offence if, in entering any information in a record kept by him pursuant to section 5—
- (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) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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- (5) A person registered under section 4 shall keep a copy of the certificate of registration displayed in a conspicuous position in or on any premises, vehicle, vessel or stall which—
- (a) is situated in the city;
  - (b) is open to the public; and
  - (c) is 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.
- (6) Any person who, on selling second-hand goods to, or acquiring second-hand goods from, a person registered under section 4, intentionally gives that person—
- (a) (in the case of subsections (1)(c)(i) and (5)(a) of section 5) 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 section 5) 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 4 on the standard scale.
- (7) A person registered under section 4 who acquires second-hand goods from a person under 16 years of age, whether those goods are offered by that person on his own behalf or on behalf of another person, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## 7 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 under the Vehicles (Crime) Act 2001 (c. 3), in respect of his business as a motor salvage operator; or
- (c) 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
- (d) a person engaged in the business of either 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
- (e) a pawnbroker, in respect of his business as such; or
- (f) a person engaged in a business of which the primary purpose is the supply of new unused goods and to which the supply of second-hand or used goods is merely incidental; or
- (g) a person engaged in business as a dealer in second-hand books, in respect of his business as such; or

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- (h) a person engaged in business as a dealer in animals, in respect of his business as such; or
- (i) 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.

## **8 Application to existing dealers in second-hand goods**

Where—

- (a) a person is carrying on the business of a dealer in second-hand goods on the appointed day; and
- (b) application for the registration of himself or, where he is carrying on that business in premises in the city 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.

## **9 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) prior to the expiry of any such registration has applied for its renewal;

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.