



# City of London (Various Powers) Act 2013

## 2013 CHAPTER vii

### *Street Trading*

#### **7 Enforcement**

(1) At the appropriate place in section 6 of the 1987 Act insert—

““authorised officer”, in relation to any function of the Corporation under sections 16A to 16G of this Act, means—

- (a) any officer or employee of the Corporation;
- (b) any person by whom, in pursuance of arrangements made with the Corporation, any enforcement functions under this Part fall to be discharged; or
- (c) any employee of any such person,

who is authorised in writing by the Corporation to act in relation to that function;”.

(2) After section 16 of the 1987 Act insert—

#### **“16A Seizure**

(1) Subject to subsection (2) and section 16E (seizure of perishable articles or things), if an authorised officer or a constable has reasonable grounds for believing that a person has committed an offence under section 16 (offence of unlawful street trading) the authorised officer or constable may seize—

- (a) any article or thing being offered for sale, displayed or exposed for sale; or
- (b) any other article or thing of a similar nature to that being offered or exposed for sale which is in the possession or under the control of any person who is displaying an article or thing; or
- (c) any receptacle or equipment being used by that person.

(2) An article or thing may only be seized under subsection (1) if it may be required to be used in evidence in any proceedings in respect of the offence

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in question, or may be the subject of forfeiture under section 16C (forfeiture of seized articles or things by court).

- (3) An authorised officer shall produce the authority under which the authorised officer acts if required to do so by the person having control or possession of anything seized in pursuance of the powers in subsections (1) and (2).

### **16B Return of seized articles or things**

- (1) The provisions of this section shall have effect where any article or thing is seized under section 16A (seizure).
- (2) In this section, references to proceedings are to proceedings in respect of the alleged offence in relation to which the article or thing is seized.
- (3) Subject to subsections (8) and (9), following the conclusion of the proceedings the article or thing shall be returned to the person from whom it was seized unless—
- (a) the court orders it to be forfeited under section 16C (forfeiture of seized articles or things by court); or
  - (b) any award of costs to the Corporation by the court, which may include removal, return and storage costs, have not been paid within 28 days of the making of the order.
- (4) Where after 28 days any costs awarded by the court to the Corporation have not been paid to the Corporation in full—
- (a) the article or thing may be disposed of;
  - (b) any sum obtained by the Corporation in excess of the costs awarded by the court shall be returned to the person to whom the article or thing belongs; and
  - (c) when any article or thing is disposed of by the Corporation under this subsection the Corporation shall have a duty to secure the best possible price which can reasonably be obtained for that article or thing.
- (5) Subject to subsection (6), where a receptacle seized under section 16A is a motor vehicle used for ice cream trading, the Corporation or the Commissioner of Police (as the case may be) shall, within 3 days of the receipt of an application in writing by the owner or registered keeper of the vehicle, permit the person to remove it.
- (6) Subsection (5) shall not apply where—
- (a) the owner or registered keeper of the vehicle has been convicted of an offence under this Act; and
  - (b) the offence was committed no more than 3 years before the seizure.
- (7) Subject to subsection (9) and, in the case of a motor vehicle, to section 16F (motor vehicles), the article or thing shall be returned to the person from whom it was seized—
- (a) if no proceedings have been instituted before the expiry of 28 days beginning with the date of seizure, at the expiration of that period; or
  - (b) if proceedings instituted within that period are discontinued, on such discontinuance taking place, unless it has not proved possible, after

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diligent enquiry, to identify that person or ascertain the person's address.

- (8) Subsection (9) applies where the article or thing is not returned because—
- (a) it has not proved possible to identify the person from whom it was seized or ascertain the person's address; or
  - (b) the person from whom it was seized and the owner (if different) have disclaimed or refused to accept it.
- (9) Where this subsection applies, the Corporation may make a complaint to the magistrates' court for a disposal order under section 16G (disposal orders) whether or not proceedings for an offence under this section have been commenced.

### **16C Forfeiture of seized articles or things by court**

- (1) Subject to subsection (2), the court by or before which a person is convicted of an offence under section 16 may order anything produced to the court, and shown to the satisfaction of the court to relate to the offence, to be forfeited and dealt with in such manner as the court may order.
- (2) The court shall not order anything to be forfeited under subsection (1) where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to that person to show cause why the order should not be made.
- (3) In considering whether to make an order under subsection (1), a court shall have regard—
- (a) to the value of the property; and
  - (b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).
- (4) The court may order forfeiture notwithstanding that the value of the article or thing exceeds the maximum penalty referred to in section 16.

### **16D Seizure: compensation**

- (1) This section shall have effect where—
- (a) an article or thing is seized under section 16A (seizure); and
  - (b) either—
    - (i) the circumstances in subsection (2) apply; or
    - (ii) not less than 6 months have passed since the date of the seizure and no proceedings have been instituted for an offence under section 16 in respect of the act or circumstances which occasioned the seizure.
- (2) The circumstances mentioned in subsection (1)(b)(i) are that proceedings for an offence under section 16 have been brought and either—
- (a) the person charged has been acquitted (whether or not on appeal) and the time for appealing against or challenging the acquittal (where applicable) has expired without an appeal or challenge being brought; or

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- (b) the proceedings (including any appeal) have been withdrawn, or have failed for want of prosecution, by the Corporation.
- (3) When this section has effect, a person who has, or at the time of seizure had, a legal interest in the article or thing seized may recover compensation from the Corporation or (where it is seized by a constable) the Commissioner of Police by civil action in the county court in respect of any loss suffered by that person as a result of the seizure.
- (4) The court may only make an order for compensation under subsection (3) if satisfied that seizure was not lawful under section 16A.
- (5) Any compensation payable under subsection (3) shall not be included in the computation for calculating charges under section 12 (charges to licensed street traders).

### **16E Seizure of perishable articles or things**

- (1) No article or thing which is of a perishable nature (in this section referred to as a “perishable article or thing”) shall be seized under the provisions of section 16A (seizure) unless the Corporation gives a notice in writing under subsection (2) to the person from whom the article or thing is seized.
- (2) Where a perishable article or thing is seized under section 16A, the person from whom it is seized shall be given a notice in writing—
  - (a) stating the effect of subsection (5) and section 16C (forfeiture of seized articles or things by court);
  - (b) giving the address from which the article or thing may be collected; and
  - (c) stating that if that person is not the owner of the article or thing, then that person should give the owner the information referred to in paragraphs (a) and (b).
- (3) The Corporation shall store any perishable article or thing seized under section 16A at an appropriate temperature.
- (4) If the person from whom a perishable article or thing was seized or the owner of the article or thing goes to collect the article or thing then it shall be returned to that person unless it has been disposed of under subsection (5).
- (5) If the person from whom a perishable article or thing was seized fails to collect it within 48 hours of the seizure, the Corporation may dispose of it.
- (6) When any perishable article or thing is disposed of by the Corporation under subsection (5), the Corporation shall have a duty to secure the best possible price which can reasonably be obtained for it.
- (7) Section 16B(1) to (4) (return of seized articles or things) and section 16C(1) and (2) shall apply to a perishable article or thing seized under section 16A only in cases where the article or thing concerned has not been disposed of by the Corporation at the conclusion of the proceedings in respect of the alleged offence in relation to which the article or thing was seized.
- (8) Section 16B(7) to (9) shall apply to a perishable article or thing seized under section 16A only in cases where the article or thing concerned has not been

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disposed of by the Corporation at the expiration of the period of 28 days beginning with the date of seizure; and otherwise subsections (10) to (12) shall apply.

- (9) Section 16D (seizure: compensation) shall, with the exception of subsection (4), apply in respect of a perishable article or thing in cases where the article or thing concerned has not been disposed of by the Corporation; and otherwise subsections (10) to (12) shall apply.
- (10) Subsection (12) shall have effect where the Corporation has disposed of a perishable article or thing under subsection (5) and the following condition applies.
- (11) The condition referred to in subsection (10) is that no proceedings in respect of the alleged offence in relation to which the article or thing was seized are instituted before the expiration of a period of 28 days beginning with the date of seizure of the article or thing, or any such proceedings instituted within that period are discontinued.
- (12) When this subsection has effect a person who has, or at the time of seizure had, a legal interest in the article or thing seized may recover compensation from the Corporation or (where it is seized by a constable) the Commissioner of Police by civil action in the county court in respect of any loss suffered by that person as a result of the seizure.
- (13) Any compensation payable under subsection (12) shall not be included in the computation for calculating charges under section 12 (charges to licensed street traders).

#### **16F Motor vehicles**

- (1) Subsection (4) applies where a motor vehicle has been seized under section 16A(1) (seizure) and the following conditions are met.
- (2) The first condition is that, in ascertaining the identity of the person from whom a vehicle was seized, the Corporation has, before the expiry of the period of 14 days from the date of the seizure, made a request to the Secretary of State for the supply of relevant particulars.
- (3) The second condition is that those particulars have not been supplied to the Corporation before the date after which the Corporation would, but for this section, have to return the vehicle in accordance with section 16B(7).
- (4) When this subsection applies and—
  - (a) no proceedings are instituted in respect of the alleged offence in respect of which the vehicle was seized before the expiry of the period of 14 days beginning with the date on which the relevant particulars are supplied; or
  - (b) any such proceedings instituted within that period are discontinued, the Corporation shall return the vehicle to its owner at the expiry of that period or on the discontinuance of the proceedings, as the case may be.
- (5) If the Corporation seeks to return a vehicle in accordance with subsection (4), but the person to whom the Corporation seeks to return the vehicle cannot be found or disclaims or refuses to accept the vehicle, the Corporation may

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make a complaint to the magistrates' court for a disposal order in respect of the vehicle under section 16G (disposal orders).

- (6) In this section, “relevant particulars” are particulars relating to the identity of the owner of the vehicle contained in the register of mechanically propelled vehicles maintained by the Secretary of State under the Vehicle Excise and Registration Act 1994.
- (7) The owner of a vehicle for the purposes of this section shall be taken to be the person by whom the vehicle is kept.
- (8) In determining who was the owner of a motor vehicle at any time, it shall be presumed that the owner is the person in whose name the vehicle is at that time registered under the said Act of 1994.

### **16G Disposal orders**

- (1) This section applies to a complaint made by the Corporation for a disposal order under—
  - (a) section 16B(9) (return of seized articles or things); or
  - (b) section 16F(5) (motor vehicles),
 and items in this section that are the subject of the complaint are referred to as “seized articles or things”.
- (2) On a complaint to which this section applies, the magistrates' court, if satisfied that the Corporation has made reasonable efforts—
  - (a) to identify the person from whom the seized article or thing was seized or its owner, as the case may be; or
  - (b) to return the seized article or thing,
 may make an order under this section.
- (3) An order under this section is an order authorising the Corporation—
  - (a) to dispose of the seized article or thing in question; and
  - (b) after payment out of any proceeds arising from the disposal of the expenses incurred in the seizure, storage and disposal, to apply the balance, if any, towards the costs of the Corporation as mentioned in section 12 (charges to licensed street traders).
- (4) The court shall not make a disposal order under this section where a person claiming to be the owner of or otherwise interested in the seized article or thing applies to be heard by the court, unless an opportunity has been given to that person to show cause why the order should not be made.
- (5) Subsection (6) applies where—
  - (a) a person appears before the court under subsection (4) to show cause why the order should not be made;
  - (b) the court makes a disposal order under this section authorising the Corporation to dispose of the article or thing;
  - (c) the seized item in question is not of sufficient value to defray the expenses of seizing and storing it; and
  - (d) the court is satisfied that the person mentioned in paragraph (a) was the owner of the seized item in question or was the person from whom it was seized, as the case may be.

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- (6) Where this subsection applies, the court may order the person mentioned in subsection (5)(a) to pay the expenses, or the balance of the expenses, reasonably incurred by the Corporation in seizing and storing the seized item in question.
- (7) In considering whether to make a disposal order under this section, a court shall have regard—
- (a) to the value of the seized article or thing;
  - (b) to the likely financial and other effects on any relevant person of the making of the order (taken together with any other order that the court contemplates making); and
  - (c) to any other circumstances considered to be relevant.
- (8) The court may make a disposal order under this section even though the value of the seized article or thing exceeds the maximum penalty for the offence in respect of which the seized article or thing had originally been seized had the said offence been prosecuted to conviction.
- (9) In this section,
- “owner”, in respect of a vehicle, has the same meaning as in section 16F; and
  - “relevant person” means the owner of the article or thing and (if different) the person from whom the article or thing was seized.

### **16H Provision of information by the Corporation**

The Corporation shall publish on its website information about—

- (a) the provisions of this Part; and
- (b) its policies as to enforcement of those provisions.

### **16I Training**

- (1) The Corporation shall not authorise an officer to exercise powers under—
- (a) section 16A, or
  - (b) section 15(1) of the London Local Authorities Act 2004 (fixed penalty offences) in respect of an offence under section 16(1) of this Act, unless it is satisfied that the officer has received adequate training in acting for those purposes.
- (2) The Corporation shall make the training referred to in subsection (1) available also to constables who carry out any enforcement functions under this Part.”.
- (3) In the London Local Authorities Act 2004, in Schedule 2 (which lists the offences in respect of which a fixed penalty notice can be given under section 15 (fixed penalty offences) of that Act), at the beginning insert—

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“A1	<a href="#">City of London (Various Powers) Act 1987 (c. xv)</a>	16(1) (part)	Unauthorised street trading”.
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