



London Local Authorities Act 2007

2007 CHAPTER ii

PART 2

PUBLIC HEALTH AND THE ENVIRONMENT

Advertising: seizure and forfeiture

13 Advertising: seizure

- (1) If an authorised officer or a constable has reasonable grounds for suspecting that a person has committed an advertising offence in Greater London and the conditions of subsection (2) below apply, the authorised officer or constable may seize any relevant object if the relevant object is in the possession of or under the control of that person at the time of the alleged offence.
- (2) The conditions are that the relevant object—
 - (a) may be required to be used in evidence in any proceedings in respect of the suspected offence; or
 - (b) may be the subject of forfeiture under section 16 (forfeiture of seized items) of this Act.
- (3) An authorised officer shall produce his authority if required to do so by the person having possession or control of any relevant object seized in pursuance of the powers in subsection (1) above.
- (4) An authorised officer or a constable shall, forthwith after seizing any relevant object under subsection (1) above, give to the person from whom the object was seized a certificate containing the following information—
 - (a) the name and address of the person who the authorised officer or constable suspects has committed the suspected offence;
 - (b) if different from the name and address of the person mentioned in paragraph (a) above, the name and address of the owner of the relevant object;
 - (c) the type of object seized (including, in the case of a vehicle, its make and registration mark); and

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- (d) information about subsection (2) of the said section 16.
- (5) If an authorised officer or constable—
 - (a) is unable, after reasonable inquiry of the person who he suspects has committed the suspected offence, to ascertain the name or address of—
 - (i) that person; or
 - (ii) the owner of the relevant object; or
 - (b) has reasonable cause to suspect that a name or address provided to him is incorrect,
 he need not comply with paragraph (a) or (b), as the case may be, of subsection (4) above.
- (6) The owner of a vehicle for the purposes of this section, shall be taken to be the person by whom the vehicle is kept.
- (7) In determining, for the purposes of this section, who was the owner of a vehicle at any time, it shall be presumed that the owner was the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994 (c. 22).

14 Return and disposal of seized items

- (1) The following provisions of this section shall have effect where any relevant object is seized under subsection (1) of section 13 (advertising: seizure) of this Act and references in those provisions to proceedings are to proceedings in respect of the alleged offence in relation to which the relevant object is seized.
- (2) Subject to subsections (3) to (6) below, following the conclusion of the proceedings the relevant object shall be returned to the person from whom it was seized unless—
 - (a) the court orders it to be forfeited under section 16 (forfeiture of seized items) of this Act; or
 - (b) any award of costs to the council by the court, which may include removal, return and storage costs, have not been paid within 28 days of the making of the order.
- (3) If—
 - (a) at the end of the period of 56 days beginning with the date of seizure—
 - (i) no proceedings have been instituted; or
 - (ii) any proceedings instituted within that period have been discontinued; or
 - (b) at any time after the end of that period any such proceedings are discontinued, the relevant object shall, at the appropriate time, be returned to the person from whom it was seized unless it has not proved possible, after diligent enquiry, to identify that person and ascertain his address.
- (4) In subsection (3) above, “the appropriate time” means—
 - (a) in the case of paragraph (a), the end of the period of 56 days mentioned in that paragraph;
 - (b) in the case of paragraph (b), the time when proceedings are discontinued.
- (5) Where the relevant object is not returned because it has not proved possible to identify the person from whom it was seized and ascertain his address or because the person from whom it was seized or the owner has disclaimed or refused to accept it—

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- (a) a magistrates' court may make an order as to the manner in which it should be dealt with (in the case where proceedings for an offence under this section have been commenced in relation to the article or thing); or
 - (b) the council or the Police Commissioner may make a complaint to the magistrates' court for a disposal order under section 15 (disposal orders) of this Act (whether or not such proceedings have been commenced).
- (6) Where after 28 days any costs awarded by the court to the council have not been paid to the council in full—
- (a) the relevant object may be disposed of in any way the council thinks fit; and
 - (b) any sum obtained by the council in excess of the costs awarded by the court shall be returned to the person to whom the relevant object belongs.
- (7) When any relevant object is disposed of by the council under subsection (6) above the council shall have a duty to secure the best possible price which can reasonably be obtained for it.

15 Disposal orders

- (1) This section applies in respect of a complaint made by a borough council or the Police Commissioner for a disposal order in respect of a relevant object under subsection (5) of section 14 (return and disposal of seized items) of this Act.
- (2) In the case of a relevant object which the council or the Police Commissioner has attempted to return to the person who the council believes is the person from whom it was seized or is its owner, and that person disclaimed or refused to accept it, a copy of the complaint shall be served on that person.
- (3) In respect of a complaint to which this section applies, a magistrates' court may, if it is satisfied that the council or the Police Commissioner has made reasonable efforts to identify the person from whom the relevant object was seized or its owner, as the case may be, or has made reasonable efforts to return the relevant object it may make an order authorising the complainant council or the Police Commissioner—
- (a) to dispose of the relevant object 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 retain the balance, if any.
- (4) In the case where a copy of a complaint has been served under subsection (2) above, if the relevant object in question is not of sufficient value to defray the expenses of seizing and storing it, the magistrates' court may order that the recipient of the copy of the complaint pay the expenses, or the balance of the expenses, reasonably incurred by the council or the Police Commissioner in seizing and storing it, if it is satisfied that the recipient was the owner of the relevant object in question or was the person from whom it was seized, as the case may be.
- (5) For the purposes of this section, “owner” in respect of a vehicle, has the same meaning as it has for the purposes of section 13 (advertising: seizure) of this Act.

16 Forfeiture of seized items

- (1) Subject to subsection (2) below, the court by or before which a person is convicted of an advertising offence may order any relevant object which the court is satisfied relates to the offence to be forfeited and dealt with in such a manner as the court may order.

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- (2) The court shall not order a relevant object to be forfeited under subsection (1) above 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 the owner or person interested in the object to show cause why the order should not be made.
- (3) In considering whether to make an order under subsection (1) above a court shall have regard—
- (a) to the value of the object; and
 - (b) to the likely financial and other effects on—
 - (i) the offender; or
 - (ii) the owner of the object,of the making of the order (taken together with any other order that the court contemplates making).

17 Compensation where seizure unlawful

- (1) Subsection (2) below shall have effect where—
- (a) any relevant object is seized under subsection (1) of section 13 (advertising: seizure) of this Act; and
 - (b) any of the following applies—
 - (i) not less than six months have passed since the date of the seizure and no information has been laid against any person for an advertising offence in respect of the act or circumstances which occasioned the seizure;
 - (ii) proceedings for an advertising offence have been brought and 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;
 - (iii) proceedings for an advertising offence have been brought and the proceedings (including any appeal) have been withdrawn by, or have failed for want of prosecution by, the person by whom the original proceedings were brought.
- (2) Where this subsection has effect a person who has or at the time of seizure had a legal interest in the object seized may recover compensation from the council or (where it is seized by a constable) the Police Commissioner by civil action in the county court in respect of any loss suffered by him as a result of the seizure.
- (3) The court may only make an order for compensation under subsection (2) above if satisfied that seizure was not lawful under the said section 13.