



# Medway Council Act 2001

## 2001 CHAPTER iv

### 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.

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- (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

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- 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

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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

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- (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.