



Medway Council Act 2001

2001 CHAPTER iv

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

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- (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

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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

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- (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.