



# Nottingham City Council Act 2003

CHAPTER ii

£3.50





# Nottingham City Council Act 2003

## CHAPTER ii

## CONTENTS

### **Part 1**

#### PRELIMINARY

- 1 Short title and commencement
- 2 Interpretation
- 3 Appointed day

### **Part 2**

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

- 4 Registration of dealers in second-hand goods and premises
- 5 Information to be kept by registered dealers in second-hand goods
- 6 Offences under Part 2
- 7 Exemptions under Part 2
- 8 Application to existing dealers in second-hand goods
- 9 Renewal of registration

### **Part 3**

#### OCCASIONAL SALES AND SQUAT TRADING

- 10 Notice of occasional sales and squat trading
- 11 Information to be kept by holder of certain occasional sales
- 12 Display of name and address
- 13 Offences under Part 3

### **Part 4**

#### MISCELLANEOUS AND GENERAL

- 14 Power to enter premises and inspect and seize goods and documents
- 15 Defence of due diligence
- 16 Offence of obstruction
- 17 Liability of directors, etc.

- 18 Restriction on right to prosecute
- 19 Resolutions
- 20 Service of notices, etc.



# Nottingham City Council Act 2003

## 2003 CHAPTER ii

An Act to confer powers on Nottingham City Council for the registration of second-hand goods dealers in the city of Nottingham; for the control of occasional sales and squat trading in the city; and for other purposes.

[10th July 2003]

**W**HEREAS—

- (1) The Nottingham City Council (“the council”) was established under the Local Government Act 1992 (c. 19) as a unitary authority for the city of Nottingham (“the city”):
- (2) The council wishes to reduce the incidence of offences under the Theft Act 1968 (c. 60) by regulating trade in second-hand goods:
- (3) It is expedient that the council should have the power to register dealers in second-hand goods within the city:
- (4) It is expedient that the council should have the power to obtain information about occasional sales and squat trading:
- (5) It is expedient that the other provisions contained within this Act should be enacted:
- (6) The purposes of this Act cannot be effected without the authority of Parliament:
- (7) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 (c. 70) have been observed:

May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART 1

### PRELIMINARY

#### 1 Short title and commencement

- (1) This Act may be cited as the Nottingham City Council Act 2003.
- (2) Part 2 (Registration of dealers in second-hand goods) and Part 3 (Occasional sales and squat trading) of this Act shall come into force on the appointed day.

#### 2 Interpretation

- (1) In this Act—
  - “appointed day” has the meaning given to it by section 3;
  - “authorised officer” means an officer of the council authorised by it in writing to act for the purposes of the Act;
  - “the city” means the City of Nottingham;
  - “the council” means Nottingham City Council;
  - “dealer in second-hand goods” means a person who carries on a trade or business, the whole or part of which consists of transactions in second-hand goods;
  - “motor vehicle” means a mechanically propelled vehicle;
  - “occasional sale” means an event held in the city at which goods are exposed for supply or offered to the public by one or more sellers or suppliers in the course of a trade or business, but does not include—
    - (a) a market the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by statute;
    - (b) an event held wholly or mainly for the sale by auction of farm livestock or farm machinery, equipment or plant, or the contents of one or more buildings or other items associated with the building or buildings;
    - (c) an auction conducted by a person registered under subsection (1) of section 4 (Registration of dealers in second-hand goods and premises) of this Act on premises registered under that subsection;
    - (d) an event held wholly or mainly for the sale of books;
    - (e) an event of a class which is by resolution of the council excluded from the operation of this section;
  - “plant” includes any moveable equipment used for building or construction purposes or in carrying on any industrial process;
  - “premises” means any land, building or part of a building and for these purposes, “building” includes a temporary or moveable structure;
  - “record” includes a computer record and references in this Act to the production of a record means, in the case of a computer record, the production of a record in printed form;
  - “registered number” in respect of a vehicle means the number indicated by the registration mark (within the meaning of section 23 (Registration marks) of the Vehicle Excise and Registration Act 1994 (c. 22)) assigned

to the vehicle under that section by the Secretary of State;

“registration number” means the number which appears on a certificate of registration issued under subsection (2) of section 4 (Registration of dealers in second-hand goods and premises) of this Act;

“squat trading” means a trade or business consisting of the selling, offering for sale, display or exposing for sale of any article by any person on any premises if that person occupies the premises without the consent of the owner or lawful occupier of the premises; and

“vehicle” means a vehicle intended or adapted for use on the road.

- (2) For the purposes of this Act a person who holds an occasional sale includes any person who—
  - (a) charges admission to the premises used for the sale; or
  - (b) receives or is entitled to receive, as a person promoting the sale or as the agent, licensee or assignee of such a person, payment in respect of goods sold to persons attending the sale or for the granting of rights to other persons to sell goods to persons attending the sale; or
  - (c) receives or is entitled to receive payment for any space or pitch hired or let on the site of the sale to persons wishing to trade at the sale.

### **3 Appointed day**

- (1) In this Act the “appointed day” means such day as may be fixed by the resolution of the council, subject to and in accordance with the provisions of this section.
- (2) Different days may be fixed under this section for different provisions of this Act.
- (3) The council shall cause to be published in the London Gazette and a local newspaper circulating in the city notice—
  - (a) of the passing of any such resolution and of the day fixed thereby; and
  - (b) of the general effect of the provisions of this Act coming into operation on that day;and the day so fixed shall not be earlier than the expiration of one month from the publication of the notice.
- (4) Either a photostatic or other reproduction certified by a proper officer (within the meaning of the Local Government Act 1972 (c. 70)) of the council to be a true reproduction of a page or part of a page of the London Gazette or any such newspaper bearing the date of its publication and containing any such notice shall be evidence of the publication of the notice and of the date of publication.

## **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.
- (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.
- (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.
- (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
- (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.

### **PART 3**

#### **OCCASIONAL SALES AND SQUAT TRADING**

## **10 Notice of occasional sales and squat trading**

- (1) Any person who intends—
  - (a) to hold an occasional sale in the city; or
  - (b) to permit an occasional sale to be held on premises in the city of which he is the occupier; or
  - (c) to carry out squat trading in the city;shall, not less than 21 days before the holding of the intended sale or the commencement of the trading, give to the council notice of his intention to hold the sale or to permit those premises to be so used or to carry out the trading, as the case may be.
- (2) A notice given under subsection (1) shall be in writing and shall specify—
  - (a) the proposed date and time of commencement, expected duration and location of the intended occasional sale or squat trading;
  - (b) whether the occasional sale or squat trading is to be held on other days and if so, what days, and the time of commencement and expected duration on those days;
  - (c) the extent of the premises to be occupied or used for the purposes of the occasional sale or squat trading;
  - (d) the nature of the goods to be provided at the occasional sale or during the squat trading;

- (e) the name and address (other than an address temporarily occupied for the purposes of the occasional sale) of every person who it is proposed will hold or promote the occasional sale or carry out the squat trading, and the name and address of a person appointed to receive and answer complaints about the sale or trading; and
  - (f) in the case of an occasional sale, an estimate of the number of persons expected to attend the sale.
- (3) If the council has reason to believe that an occasional sale is to be held or that squat trading is to be carried out in the city but that no notice has been given under subsection (1) by the relevant person, they may as soon as reasonably practicable after the apparent intention to hold the sale or carry out the trading has come to their knowledge, serve on—
  - (a) the person who appears to be the relevant person; or
  - (b) the occupier of any premises on or in which it appears that such sale is to be, is being or was held;a notice requiring that person to give to the council the information required by subsection (2).
- (4) Any person on whom a notice given under subsection (3) is served shall supply to the council the information required by subsection (2) within 7 days after the service of the notice, whether or not the occasional sale or squat trading commences before the expiry of that period.
- (5) If the council has reason to believe that an occasional sale has been or is being held or that squat trading has been or is being carried out in the city but that no notice has been given under subsection (1) by the relevant person, they may as soon as reasonably practicable after the holding of the sale or the carrying out of the trading has come to their knowledge, serve on—
  - (a) the person who appears to be the relevant person; or
  - (b) the occupier of any premises on or in which it appears that such sale is being or was held;a notice requiring that person to give to the council the information mentioned in subsection (6).
- (6) The information required by subsection (5) is—
  - (a) the date and time of commencement and location of the occasional sale or squat trading;
  - (b) the duration or (in the case where an occasional sale is being held or the squat trading is being carried out) expected duration of the occasional sale or squat trading;
  - (c) whether the occasional sale or squat trading is to be held on other days and if so, what days, and the time of commencement and expected duration on those days;
  - (d) the extent of the premises occupied or used for the purposes of the occasional sale or squat trading;
  - (e) the nature of the goods provided at the occasional sale or during the squat trading;
  - (f) the name and address (other than an address temporarily occupied for the purposes of the occasional sale) of every person who is holding or held or is promoting or promoted the occasional sale or is carrying out or carried out the squat trading, and the name and address of a person

- (if any) appointed to receive and answer complaints about the sale or trading; and
- (g) in the case of an occasional sale, an estimate of the number of persons attending, or who attended, the sale.
- (7) The information required by subsection (5) shall be supplied by the person on whom the notice is served within 7 days after the service of the notice, except in the case where the sale is being held or the trading is being carried out in which case the information should be supplied forthwith.
- (8) The “relevant person” for the purposes of subsections (3) and (5) is—
- (a) in the case of an occasional sale, the person who is intending to hold, is holding or held the occasional sale; and
  - (b) in the case of squat trading, the person who is intending to carry out, is carrying out or carried out the trading.

## **11 Information to be kept by holder of certain occasional sales**

- (1) In the case where an occasional sale (other than an auction) is an event at which there is more than one seller or supplier of goods (being persons other than the person who holds the sale), the person who holds the sale shall ensure that the information specified in subsection (2) is entered in a record kept by him for the purpose of this section.
- (2) The information to be entered under subsection (1) is, for each seller or supplier—
- (a) if the seller or supplier is registered under section 4 (Registration of dealers in second-hand goods and premises) of this Act or any other enactment of local application providing for the registration of dealers in second-hand goods, and a number appears on his certificate of registration, that number; or
  - (b) in any other case—
    - (i) the name and address of the seller or supplier;
    - (ii) an entry describing whether the goods being exposed for supply or offered to the public by the seller or supplier are new or second-hand goods or both; and
    - (iii) the registered number in respect of any vehicle in or on which those goods were carried to the sale.
- (3) 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.
- (4) A person who keeps a record in pursuance of this section shall on demand, unless he has a reasonable excuse not to do so, produce the record to an authorised officer or to a constable.
- (5) In this section “seller” and “supplier” mean respectively a seller or supplier with whom the person who holds the sale has made arrangements (whether or not on payment of a charge or fee) for the right to sell or supply goods at the sale, whether or not from a stall or pitch.

## 12 Display of name and address

- (1) Any person who holds, promotes or conducts an occasional sale or carries out squat trading shall in a prominent position on a part of the premises in which the sale or trading takes place and for the duration of the sale or trading display—
  - (a) his full name and his business address; and
  - (b) the full name and the business address of any other person concerned in the holding, or promotion of the occasional sale or, as the case may be, the carrying out of the trading.
- (2) Any person who holds or promotes an occasional sale or promotes or carries out squat trading shall display on all notices, leaflets and posters given, distributed or exhibited by him or on his behalf in connection with the sale or the trading, his full name and his business address.

## 13 Offences under Part 3

- (1) Any person who contravenes any provision of this Part of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) A person shall be guilty of an offence if, in giving any information which is required of him by virtue of section 10 (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.
- (3) A person who holds an occasional sale shall be guilty of an offence if, in entering any information in a record kept by him pursuant to section 11 (Information to be kept by holder of certain occasional sales) 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 (2) or (3) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (5) If, in response to a request made by the holder of an occasional sale for the purpose of ascertaining the information required to be kept by him pursuant to section 11, a seller or supplier of goods or services intentionally gives that person—
  - (a) a false name;
  - (b) a false address;
  - (c) a false registered number; or
  - (d) false information relating to any certificate of registration,he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**PART 4**

MISCELLANEOUS AND GENERAL

**14 Power to enter premises and inspect and seize goods and documents**

- (1) Subject to subsection (2), an authorised officer, on production, if required, of his credentials, or a constable, may at all reasonable hours exercise the following powers—
  - (a) he may, for the purpose of ascertaining whether any offence under this Act has been committed, inspect any goods and records and enter any premises;
  - (b) if he has reasonable cause to suspect that an offence under this Act has been committed, he may, for the purpose of ascertaining whether it has been committed, require any person carrying on a trade or business or employed in connection with a trade or business to produce any records relating to the trade or business and may take copies of, or of any entry in, any such record;
  - (c) if he has reasonable cause to believe that an offence under this Act has been committed, he may seize and detain any goods for the purpose of ascertaining whether the offence has been committed;
  - (d) he may seize and detain any goods or records which he has reason to believe may be required as evidence in proceedings for an offence under this Act;
  - (e) he may, for the purposes of exercising his powers under this subsection to seize goods, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of this Act are duly observed, require any person having authority to do so to break open any container and, if that person does not comply with the requirement, he may do so himself.
- (2) An authorised officer or constable may not enter a dwelling in the exercise of his powers under this section without the consent of the occupier unless he has obtained a warrant under subsection (4).
- (3) An authorised officer or constable seizing any goods or documents in the exercise of his powers under this section shall inform the person from whom they are seized.
- (4) If a justice of the peace, on sworn information in writing—
  - (a) is satisfied that there is reasonable ground to believe either—
    - (i) that any goods or records which a duly authorised officer has power under this section to inspect are on any premises; or
    - (ii) that any offence under this Act has been, is being or is about to be committed on any premises; and
  - (b) is also satisfied either—
    - (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this subsection has been given to the occupier; or



- (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,  
the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise an officer of the council or a constable to enter the premises, if need be by force.
- (5) An authorised officer or a constable entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him necessary; and on leaving any premises which he has entered by virtue of a warrant under the preceding subsection he shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.
- (6) If any person who is not a duly authorised officer of the council or a constable purports to act as such under this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) Nothing in this section shall be taken—  
(a) to compel the production by any person of items subject to legal privilege, excluded material or special procedure material; or  
(b) to authorise the taking of any such items or material in the possession of that person.
- (8) In this section, “items subject to legal privilege”, “excluded material” and “special procedure material” have the meaning given to them by Part II of the Police and Criminal Evidence Act 1984 (c. 60).

## 15 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) involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, no later than 7 clear days after entering a plea, 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.

## 16 Offence of obstruction

- (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 4 on the standard scale.

- (2) Subsection (1)(b) applies in relation to a constable as it applies in relation to an authorised officer.

### **17 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) 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.

### **18 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 or a constable.

### **19 Resolutions**

Where the council pass any resolution under this Act (other than a resolution bringing into effect section 4 (Registration of dealers in second-hand goods and premises) of this Act), they shall, no later than 28 days before the resolution comes into effect, either—

- (a) serve on every person registered under section 4 and affected by the resolution; or
- (b) cause to be published in a local newspaper circulating in the city, notice of the passing of any such resolution.

### **20 Service of notices, etc.**

- (1) 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
  - (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.

- 
- (2) If the name or address of any person on whom any notice or other document required or authorised to be served under the provisions of this Act cannot after reasonable enquiry be ascertained, the document may be given or served by either—
- (a) leaving it in the hands of a person who appears to be the owner of, resident in or employed in; or
  - (b) leaving it conspicuously affixed to some part of, the premises being used or to be used for trading regulated under the provisions of this Act.
- 

© Crown copyright 2003

Printed in the UK by The Stationery Office Limited  
under the authority and superintendence of Carol Tullo, Controller of  
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

Published by TSO (The Stationery Office) and available from:

**Online**

[www.tso.co.uk/bookshop](http://www.tso.co.uk/bookshop)

**Mail, Telephone, Fax & E-mail**

TSO

PO Box 29, Norwich NR3 1GN

Telephone orders/General enquiries 0870 600 5522

Fax orders 0870 600 5533

Order through the Parliamentary Hotline Lo-call 0845 7 023474

Email [book.orders@tso.co.uk](mailto:book.orders@tso.co.uk)

Textphone 0870 240 3701

**TSO Shops**

123 Kingsway, London WC2B 6PQ

020 7242 6393 Fax 020 7242 6394

68-69 Bull Street, Birmingham B4 6AD

0121 236 9696 Fax 0121 236 9699

9-21 Princess Street, Manchester M60 8AS

0161 834 7201 Fax 0161 833 0634

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

18-19 High Street, Cardiff CF10 1PT

029 2039 5548 Fax 029 2038 4347

71 Lothian Road, Edinburgh EH3 9AZ

0870 606 5566 Fax 0870 606 5588

**The Parliamentary Bookshop**

12 Bridge Street, Parliament Square,

London SW1A 2JX

Telephone orders/General enquiries 020 7219 3890

Fax orders 020 7219 3866

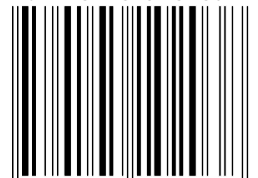
**Accredited Agents**

(see Yellow Pages)

*and through good booksellers*

LONDON: THE STATIONERY OFFICE

ISBN 0-10-510203-2



9 780105 102038