



Medway Council Act 2001

2001 CHAPTER iv

An Act to provide for the regulation of dealers in second-hand goods and the regulation of occasional sales and certain other trading in the borough of Medway; and for connected or other purposes. [10th April 2001]

Whereas—

- (1) It is expedient to make provision for the regulation in the borough of Medway of dealers in second-hand goods and the regulation of occasional sales:
- (2) It is expedient that the other provisions contained in this Act should be enacted:
- (3) The purposes of this Act cannot be effected without the authority of Parliament:
- (4) In relation to 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 Citation and commencement

- (1) This Act may be cited as the Medway Council Act 2001.
- (2) Part 2 (Dealers in second-hand goods), Part 3 (Occasional sales and squat trading) and Part 4 (Miscellaneous and general) of this Act shall come into force on the appointed day.

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2 Appointed day

- (1) In this Act “the appointed day” means such day as may be fixed by 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 the purpose of the application of different provisions of this Act.
- (3) The council shall cause to be published in at least two newspapers circulating in the borough and at least one national art and antiques trade periodical notice—
 - (a) of the passing of any such resolution and of a day fixed thereby; and
 - (b) of the general effect of the provisions of this Act coming into operation as from that day;and the day so fixed shall not be earlier than the expiration of six months from the publication of the said notice.
- (4) Either a photostatic or other reproduction certified by the officer appointed for that purpose by the council to be a true reproduction of a page or part of a page of any such newspaper or of any such art and antiques trade periodical 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.

3 Interpretation

- (1) In this Act, except where the context otherwise requires—
 - “authorised officer” means an officer of the council authorised by the council in writing to act in relation to the relevant provision of this Act;
 - “the borough” means the borough of Medway;
 - “the council” means the Medway Council;
 - “the county” means the county of Kent and “the county council” means the Kent County 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;
 - “occasional sale” means an event held in the borough 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 5 (Registration of dealers in second-hand goods) of this Act on premises registered under that subsection;
 - (d) an event held wholly or mainly for the sale of books;
 - (e) an event promoted or conducted by a 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;
 - (f) an event which consists of a concourse of, and only of, persons selling goods in the course of a trade or business and comprising not less than

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five stalls, stands, vehicles or pitches from which the goods are sold and which is held by a person who has held such an event in the same location—

- (i) on the same day of the week; or
- (ii) on the same day of the month; or
- (iii) in the same weekend of the month; or
- (iv) on the same day in every first, second, third or fourth week in every month;

in at least 7 out of the 10 weeks or, as the case may be, months preceding the date of the event in question; or

- (g) an event of a class which is by resolution of the council excluded from the operation of this section;

“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 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 5 (Registration of dealers in second-hand goods) 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.

- (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.

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;

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“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.
- (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;

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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 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—