
Nottingham City Council Act 2003

(as amended)

Guidance Notes for Dealers in Second-hand Goods



NOTTINGHAMSHIRE
POLICE
PROUD TO SERVE



Nottingham
City Council

Nottingham City Council Act 2003 (as amended) – Guidance Notes for Dealers in Second-hand Goods

The Nottingham City Council Act was passed to make it more difficult for criminals to sell stolen goods and to reduce crime within the city. It is a local Act of Parliament, covering the City Council area. It was promoted by Nottingham City Council, with the full co-operation and support of the local Police.

Dealers in second-hand goods have to register with the Council and keep records of some of the goods they buy and sell. Legitimate traders have nothing to fear from the Act, and in fact stand to gain in both trade and reputation as dishonest traders are forced out of the market.

The Act also regulates any occasional sales within the City, such as car boot sales, antique fairs and computer fairs; and squat trading.

CONTENTS

When did the Act come into force?	2
Why does it only cover the City of Nottingham?	2
What are the main requirements for dealers in second-hand goods?	2
What is the definition of a dealer in second-hand goods?	2
Are any businesses exempt from the Act?	3
How do I register or renew my registration?	3
What premises need to be registered?	4
Will my address be shown on the registration certificate?	4
What do I have to record when I buy, acquire or take charge of second-hand goods? ...	4
Do I have to record every single item I purchase?	5
What do I have to record when I sell goods?	5
In what form do the records have to be kept?	6
How long do I have to keep the records?	6
Will I have to keep records when buying or selling outside of Nottingham?	6
Can I buy goods from children?	7
I don't have a shop – I trade on the internet. How does the law affect me?	7
How does the law affect house clearances?	7
What is the situation regarding auctioneers?	7
What is the situation for book sellers and clothes shops?	7
Surely a thief selling stolen property will provide a false name and address?	7
What should I do if a customer does not wish to give their name and address?	8
What are the specific offences and penalties under the Act?	8
What powers will authorised council officers and police officers have?	8
How can I make sure I comply with this law?	9
Will the records that I am required to keep mean that I will have to notify (register) under the Data Protection Act?	9
What other areas does the Nottingham City Council Act cover?	10
How can I get more information about the Act?	10
Appendix 1 - Supplementary guidance for dealers in collections	11
Appendix 2 - Supplementary guidance for recycling centre and car boot traders	12

When did the Act come into force?

The part of the Act that deals with second-hand goods dealers came into force from 1st January 2004.

The part of the Act that deals with occasional sales and squat trading came into force from 1st April 2004.

Why does it only cover the City of Nottingham?

A local authority only has the power to promote legislation in its own area. Several other local authorities around the country have already got similar laws, and they find it a useful tool to help in the fight against crime. As there are no plans for national legislation on this subject, the City Council decided to promote the legislation itself.

What are the main requirements for dealers in second-hand goods?

- The provisions apply to anyone who deals in second-hand goods in Nottingham in the course of a business, with a few exemptions (see below).
- Dealers need to register both themselves and their business premises. The registration is free of charge and lasts for three years. If any of the details on the registration form change, the dealer must inform the Council within 14 days.
- They will be provided with a registration certificate, which must be displayed where it can be seen by customers when trading from a business premise, which includes a vehicle or stall.
- Registered dealers have to keep records of some of the goods they buy and sell. These records must be kept for two years.
- It is an offence for a registered dealer to buy second-hand goods from someone who is under the age of 16.

All of these points are dealt with in more detail further on in these Guidance Notes.

What is the definition of a dealer in second-hand goods?

The definition in the Act is a “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”. This means that the Act applies to people who buy or sell second-hand goods as part of a business, not private individuals who sell their own property.

“Trade or business” is not defined, but the same words are used frequently in other consumer protection laws and there is a lot of case law that deals with the interpretation. To work out whether someone is a dealer, Trading Standards and the courts would take into account how often someone sells goods, how long they had the goods before they sold them, how they got the goods and the motivation for selling – for example whether they bought them to sell on at a profit.

Someone will be classed as a dealer in second-hand goods when only part of their business operates in this way. For example, a jeweller and a mobile phone shop often sell both new and second-hand goods.

Any dealer in second-hand goods who trades within Nottingham must be registered, whether or not they have premises here. This includes dealers who trade at fairs and car boot sales.

Are any businesses exempt from the Act?

Some businesses do not have to register or keep records of transactions. This is either because they are already covered by other similar legislation, or because the goods they sell are very rarely stolen and sold on. You do not have to register if you are:

1. A person engaged in a business registered as a charity under section 3 of the Charities Act 1993, or excepted from registration under subsection (5) of that section;
2. A person registered as a scrap metal dealer under the Scrap Metal Dealers Act 1964 or as a motor salvage operator under the Vehicles (Crime) Act 2001, in respect of his business as a scrap metal dealer or motor salvage operator;
3. A person who deals in waste paper, cardboard, textiles, plastics in bulk or second-hand clothes, in respect of his business as such;
4. A person engaged in financing the acquisition of goods by hire-purchase or credit agreements;
5. A pawnbroker, in respect of his business as such;
6. A person engaged in a business which is primarily concerned with supplying new unused goods and to which the supply of second-hand or used goods is merely incidental. An example would be a shop selling new electrical goods. If they occasionally collect an old fridge for disposal when they deliver a new one this does not mean they deal in second-hand goods;
7. A dealer in second-hand books, in respect of his business as such;
8. A dealer in animals, in respect of his business as such;
9. A person of a class which is excluded from these requirements by resolution of the Council.

In 2, 3, 7 and 8 above, people are only excluded from the requirements in respect of their business as a dealer in those particular goods. If they also buy and sell other goods, then they have to register and keep records of the goods that are not excluded. For example, a bookseller may also sell CDs. This person would have to register and keep records of the CDs, but not of the books.

If a pawnbroker buys and sells second-hand goods as well as operating as a pawnbroker, they have to register and keep the required records.

How do I register or renew my registration?

Please complete and return the green form coded NCCA.1 and called 'Dealers in Second-Hand Goods Registration Form'. You must fill in every part of the form which relates to your type of business. If you are renewing your registration, please complete every part of the form that is relevant, even if your details have not changed since you originally registered. Return the form to Trading Standards at the address or fax number on the bottom of the form. There is no fee or charge for registration.

The registration will last for three years. If any of the details on the form change over the next three years you will have to inform the Council within 14 days.

You will be sent a registration certificate. You must display this certificate on your business premises where it can be seen by your customers, including on a stall or vehicle if this is where you trade.

What premises need to be registered?

The Council considers business premises to be where second-hand goods are bought and sold. If a dealer buys and sells goods from home, then that premise will be regarded as a business premise and must be registered.

Will my address be shown on the registration certificate?

Registration certificates will not show the private address of a dealer.

What do I have to record when I buy, acquire or take charge of second-hand goods?

You need to keep records no matter how you acquire goods. This includes when you buy them, get them free or swap them for other goods. It also applies when you take charge of goods, for example an auctioneer does not own the goods sold at auction but does take charge of them. In all these circumstances you have to record:

1. The date of the transaction.
2. A description of the item(s) that can be used to identify them, where this is reasonably possible. For example, it is not enough to record 'bicycle', 'television' or 'necklace' – you need to include a description. A description should include, where appropriate:
 - a. The number of articles;
 - b. The type of material from which each article is made;
 - c. The colour of each article;
 - d. The artist's name, brand name or manufacturer's identity if shown by any symbol or mark on each article;
 - e. The serial number of each article;
 - f. Any distinguishing mark or feature of each article;
 - g. Any stock number or other information which you use to distinguish articles from each other.
3. The name and address of the person from whom the articles were acquired OR the person's registration number under this Act OR the name and address of the auctioneer if the goods were bought at auction.
4. For motor vehicles, you must record the registration number and the reading on the odometer (mileage indicator).
5. Where the article is plant, a motor vehicle which does not have a registration number or a vehicle other than a motor vehicle, you must record the serial number or vehicle identification number marked on the item.

Do I have to record every single item I purchase?

The purpose of the Act is to make it harder for thieves to sell the goods they steal. Therefore goods that are stolen most frequently must always be recorded – for example electrical items and CDs. Goods which are stolen less often only have to be recorded when they are worth more than a set amount. This is to make it easier for dealers – they do not have to record most low value items. Any items that will be disposed of for no value or thrown away need not be recorded.

This table shows the circumstances when you must keep **purchase** (or acquisition) records:

These goods must always be recorded
Electrically or battery powered goods Any medium on or by which sound, images or other data are or may be stored or recorded – for example video cassettes, compact discs, computer discs and games, DVDs, console games
These goods must be recorded if, in the reasonable opinion of the dealer at the time of the transaction, they will be sold or offered for sale for more than £10
Vehicle parts Jewellery Watches Photographic equipment Sports equipment Equestrian equipment Boating equipment Musical instruments Tools Bicycles Optical equipment Firearms Gardening equipment
These goods must be recorded if, in the reasonable opinion of the dealer at the time of the transaction, they will be sold or offered for sale for more than £50
All goods not previously mentioned

The figures of £10 and £50 can be increased by the City Council in the future, to keep pace with inflation.

What do I have to record when I sell goods?

It is important that the police are able to trace stolen goods and return them to their original owners. The Act says that dealers must keep records of the purchasers of higher value goods for this reason. You must record the name and address of the

person to whom the goods were sold OR the person’s registration number under this Act OR the name and address of the auctioneer if the goods were sold at auction.

This table shows the circumstances when you must keep **sale** records:

Sales of these goods must be recorded when the article (or set of articles) is sold for more than £100
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 Gardening equipment
Sales of these goods must be recorded when the article (or set of articles) is sold for more than £500
All goods not previously mentioned

In what form do the records have to be kept?

There is a sample form that you may use as a template for the records you keep.

The Council will also accept any form of record, including computer records, which include the required information. Existing VAT records, or any other record system which contains the information, or which you can adapt to include the information, are also acceptable.

How long do I have to keep the records?

Records of transactions must be kept for two years. If you use a book, this means two years from the date of the last entry in the book.

Will I have to keep records when buying or selling outside of Nottingham?

Registered dealers have to keep the relevant records of all transactions they make, whether or not they occur in the city, unless:

- The goods are acquired outside the city AND
- They are not sold or offered for sale in the city AND
- They are not kept within the city.

Therefore records must be kept of any transaction that takes place in Nottingham and for all goods that are on sale or stored in the city.

This also means that registered dealers who trade in Nottingham occasionally but whose business is usually outside of the city have to keep records of all transactions

that take place in the city and of anything that is on sale here, for example on a stall at a fair or car boot sale. But they do not have to keep records of goods that never come into the city for sale or storage. For example, a dealer with a shop in Leicester or Newark does not have to keep records of the goods in their shop if these goods were not bought in Nottingham and are never put on sale in Nottingham. However, if that dealer attends a trade fair in Nottingham, they have to show the relevant records for the goods they have on sale here in the same way as a dealer based in Nottingham.

Can I buy goods from children?

The Act makes it illegal for a registered dealer to buy second-hand goods from children under the age of 16. In practice, if a child wishes to sell something they should bring a parent or guardian with them.

I don't have a shop – I trade on the internet. How does the law affect me?

You have to be registered and keep the required records in the same way as other dealers. Please note that if you sell on the internet or through mail order, you must comply with the Distance Selling Regulations. There are also other regulations which may affect you such as the E-Commerce Regulations and the Provision of Services Regulations. You can find out more about all these laws on the website of the Office of Fair Trading at www.offt.gov.uk.

How does the law affect house clearances?

Items that are to be disposed of as waste do not need to be recorded. Otherwise, you need to keep records as detailed on pages 4-5.

What is the situation regarding auctioneers?

Auctioneers are caught within the definition of a 'dealer in second-hand goods' and therefore need to register and keep records.

What is the situation for book sellers and clothes shops?

If a second-hand dealer only sells books and magazines, or clothes and textiles, they do not have to register or keep records. If they also sell other goods, such as CDs, pictures, jewellery or household goods they have to register – but they only have to keep records of these other goods, not of the books or clothes.

Surely a thief selling stolen property will provide a false name and address?

The record keeping requirements cause problems to dealers prepared to handle stolen goods. If thieves provide false names and addresses it means a dealer may have many false entries or entries without enough detail. This raises suspicion and becomes worthy of further investigation. Also, the customer commits a criminal offence if he or she gives a false name and address.

Although it is not a specific requirement of the legislation, it is recommended that dealers ask for proof of identity in order to protect their own interests. Requesting identification helps to show due diligence – please see page 9.

What should I do if a customer does not wish to give their name and address?

Most people will understand that the law is to protect them and the rest of the community from burglary and other thefts. Many dealers already keep the required records for other reasons or just to protect their own interests. For many goods, including most antiques, the requirement to record purchasers' details only applies to those sold for more than £500.

Posters and leaflets that explain the requirements of the Act to your customers are available on request.

What are the specific offences and penalties under the Act?

The table shows each offence, the level of fine on the standard scale and the maximum fine for each level. These maximum fines are set nationally and may change in the future.

Offence	Penalty	Max. fine
Dealing in second-hand goods in Nottingham without being registered	Level 4	£2,500
Failing to keep the required records	Level 4	£2,500
Not retaining the records for 2 years	Level 4	£2,500
Not producing the records to an authorised officer or constable	Level 4	£2,500
Failing to inform the Council within 14 days of any change of details on registration form	Level 2	£500
Knowingly or recklessly making false records	Level 4	£2,500
Failing to display registration certificate	Level 2	£500
Acquiring second-hand goods from a person under 16 years of age	Level 4	£2,500
Any person giving a false name and address to a registered dealer	Level 4	£2,500

What powers do authorised council officers and police officers have?

An authorised officer of the City Council or a police officer has the right to enter your business premises and inspect your goods and records at all reasonable hours. Under this legislation, they cannot enter a private dwelling, even if this is used as a business premise, without either the consent of the occupier or a warrant.

It is an offence not to produce your records on demand, unless you have a reasonable excuse. If trading away from your business premises then you should have your records with you but if your records are computerised then you will be expected to make them available by arrangement.

If an authorised officer or a police officer has reasonable cause to suspect that an offence has been committed, he or she may take copies of any records; and if there is reasonable cause to believe an offence has been committed then goods can be seized. Goods and records can also be seized if they are needed as evidence in proceedings under the Act.

Trading Standards Officers already have the same statutory powers to enter business premises, inspect records and seize goods under other consumer protection laws.

How can I make sure I comply with this law?

Like most other consumer protection laws, all offences under this law are strict liability. This means that a criminal offence may be committed even though it was not intended. To balance this, the law recognises genuine efforts to comply with the legislation by including a defence known as a 'due diligence' defence. A business or person will have a defence to any charge if they can prove that:

- They have taken all reasonable precautions or steps

AND

- Exercised all due diligence to avoid the commission of the offence.

This means that the person must prove that they have a system to ensure compliance with the law (reasonable precautions or steps) and a method to ensure that the system is followed correctly (due diligence). Both parts of the defence must be proved to be successful. Trading Standards and the Police investigating an offence will consider these aspects, which will affect any decision whether to prosecute. It is not possible to describe in detail what systems will satisfy the defence. Ultimately a court of law will decide on the facts in each case.

Examples of the systems and methods which may show a due diligence defence:

- If you employ staff, records showing that they have been trained in the requirements of the law will show a system. Records of any action you have taken to check that they are keeping the required records of purchases and sales will show a method.
- If you keep records when you have refused to purchase something, either because you suspected the person was not who they claimed to be, or because you thought they were under 16, this will be evidence that you are doing your best to comply with the law.

You can read more about due diligence defences in the leaflet 'Ensuring Compliance with Trading Standards law' which is available from Trading Standards.

Will the records that I am required to keep mean that I will have to notify (register) under the Data Protection Act?

If you keep any records that include personal details about people, such as their names and addresses, on a computer you may have to notify your intention to process data to the Information Commissioner for inclusion on his register. Normally if you only use your data for the management of your accounts and staff details you will not need to notify but if you use CCTV this negates any exemptions. Currently, if records are only kept manually they do not have to be notified to the Information Commissioner – however all the other requirements of the Act still apply.

If you want to use your records for any purpose other than those of the Nottingham City Council Act, for example to send out a mailing list or to sell the names and addresses to a mail order company, you would need the consent of the people concerned before using the information.

This information applies to all records you keep that relate to individual people, not just those for the Nottingham City Council Act.

Please note that you can notify directly with the Office of the Information Commissioner. This costs £35 for most businesses, but some larger ones with a large turnover will pay £500. Do not be misled by businesses that offer to register for you at a much higher cost than £35. You can get more information and advice on registration and the requirements of the Data Protection Act from the Information Commissioner:

Information Commissioner's Office
Wycliffe House, Water Lane
Wilmslow, Cheshire SK9 5AX
Tel: 0303 123 1113
Internet: www.ico.org.uk
e-mail : registration@ico.org.uk

What other areas does the Nottingham City Council Act cover?

The Act also imposes controls on occasional sales and squat trading. (Squat trading is where access is gained to empty retail premises without the permission of the owner or agent, and trading takes place for a few days or weeks, before the traders move on.) Organisers of occasional sales, and the owners of the premise where the sale will take place, have to notify Trading Standards of the sale or trading, 21 days in advance. They have to give their names and addresses on the notification forms. These rules also apply to organisers of squat trading.

Organisers of occasional sales where there is more than one seller, for example car boot sales or trade fairs, have to keep records of the names, addresses and vehicle registration numbers (where appropriate) of each seller. This is to help Trading Standards and the Police find unregistered dealers in second-hand goods, as we can compare the records of sales to see if the same sellers appear at more than would be usual for a private individual.

These provisions came into force on 1st April 2004. There are detailed guidance notes for premise owners and sales organisers. Please let us know if you would like a copy.

How can I get more information about the Act?

These guidance notes explain what you need to know to comply with the Act. You can download the Act free of charge from the internet – there is a link from our website.

If you would like any further advice please contact Trading Standards.

Address for correspondence only, please make an appointment if you wish to visit us

Nottingham City Council Trading Standards
Loxley House
Station Street
Nottingham NG2 3NG
Tel: 0115 8445018
Email: trading.standards@nottinghamcity.gov.uk
Website: www.nottinghamcity.gov.uk/tradingstandards

Appendix 1 – Supplementary guidance for dealers in collections of second-hand goods

Collections of sound, image and data media

This section covers CDs, DVDs, videos, computer software and games, records and tapes, games for consoles and any other medium on or by which sound, images or other data are or may be stored or recorded.

These goods are stolen very frequently; therefore the Nottingham City Council Act requires records to be kept whenever they are purchased (or otherwise acquired). You will need to keep a record of the date of the transaction and the name and address of the person you bought or acquired the goods from, as detailed in the Guidance Notes above.

However, Trading Standards recognises that some dealers buy large collections of these types of goods. We feel that it would not necessarily help to reduce crime if you recorded each item individually, and would put an excessive burden on your business.

We would therefore like you to record a good description of each collection. This should include the number of items and a general description of the collection. In addition, you should make a note of any unusual or valuable items. This should assist the Police in tracing any stolen collections. For example –

- 30 LPs. Mixed pop/rock including 3 Madonna, 4 Bruce Springsteen. Includes David Bowie Aladdin Sane gatefold.
- 20 CDs. Classical, mainly Beethoven, Mozart & Bach.
- 42 VHS videos. Mainly action/adventure including 6 Bruce Willis.
- 15 games for PC. Includes Sims, SimCity and TombRaider.

You can record each item individually if you prefer.

You have to keep records of sales of these goods when they are sold for more than £500. This does not mean a person who buys £500 worth of goods, but an individual item or set of items (such as a boxed set) sold for more than £500.

Collections of other goods

This section covers the acquisition of any collections of goods such as stamps, cards, toys and medals. Most of them will fall into the category of having to be recorded if they will be sold for more than £50. However, please check the detailed list on page 5 above.

You should keep records when you buy items, which in your opinion at that time, you will sell either individually, in sets or as a whole collection for more than £50. If you are not sure of the value at the time of purchase, we advise that you keep a record.

You should record a good description of each collection. This will include the number of items, where possible, and a general description of the collection. In addition, you should make a note of any unusual or valuable items and any identifiable subset.

You have to keep records of sales of most of these goods when they are sold for more than £500. (However please check the list on page 6 above.) This does not mean a person who buys £500 worth of goods, but an individual item or set of items sold for more than £500.

Appendix 2 – Supplementary guidance for recycling centre traders and car boot traders

Following discussions with various traders who sell at car boot sales and the Cattlemarket, we have decided to change the advice we give. The purpose of the Nottingham City Council Act is to make it harder for thieves to sell stolen goods. We do not think that it will help this for traders to keep records of goods that have been thrown away. We want to work with all legitimate dealers to make Nottingham a safer place to live and work, rather than make their businesses impossible to manage.

We would like to remind all businesses that they are liable for all relevant legislation covering the goods they sell, for example safety and Sale of Goods. Trading Standards publishes a booklet which covers these issues in some detail – please ask for a copy of ‘Selling Safe Goods’.

Recycling Centre Traders

If you run a recycling centre at an official waste disposal site, and then sell the items at the Cattlemarket or any other sale in Nottingham, you must register as a dealer in second-hand goods. You must display the registration certificate whenever you are selling within Nottingham.

However, you do not have to keep records of any goods you acquire that were taken to the recycling centre for disposal.

If you acquire goods in any other way – for example, if you buy them from another dealer or from a member of the public – then you should keep full records as outlined in the above Guidance Notes.

Car Boot Traders

If you buy job lots from a recycling centre trader, you should keep a record of the date, and a basic description of the goods, for example “Miscellaneous items - £60”. If you buy anything that is unusual or valuable you should keep a separate record of it. You can record the trader’s number under the Nottingham City Council Act, shown on the registration certificate, rather than their name and address.

When you buy from other sellers, you must keep individual records as outlined in the above Guidance Notes. The only variation to this is when buying from a private seller at a car boot sale. We realise that they will probably be reluctant to give you their name and address. Therefore you can record the seller’s car registration number instead.