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# **Nottingham City Council Act 2003**

*(as amended)*

# **Guidance Notes on Occasional Sales and Squat Trading**



**Nottingham**  
**City Council**

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.

The part of the Act which deals with occasional sales and squat trading came into force on 1<sup>st</sup> April 2004.

Under the Act, organisers of occasional sales, the premises where they will be held, and anyone carrying out squat trading has to notify the sale or trading to the Council. If there is more than one seller at an occasional sale, the organiser must keep records of the sellers.

The Act is jointly enforced by Nottingham City Council's Trading Standards Service and the Police.

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## **Occasional sales**

An occasional sale is any type of event where goods are offered for sale by one or more sellers in the course of a trade or business. It includes car boot sales, antique fairs, computer fairs, record/CD fairs and markets. It also includes sales where a room is hired for one or more days to conduct a temporary sale. These are commonly known as 'one day sales'.

Auctions held in premises such as pubs and clubs are classed as occasional sales. This means the Council must be notified of the auctions. In addition, if second-hand goods are sold in the auction, the auctioneer is classed as a dealer in second-hand goods and must register with the Council. Contact Trading Standards (see page 6) for more information on registration.

Sales like jumble sales are NOT covered by the Act. Under the Act, the event must be in the course of a trade or business. This means that either the organiser is in trade, or that all or some of the sellers could be in trade. If the purpose of the sale is to raise money for a body such as a church, school, community group or sports club, and no other person or organisation will make money, then the requirements of the Act will not apply.

Party plan sales events where the attendees are invited guests are also not covered by the Act.

## **Exemptions**

The following are not classed as occasional sales for the purposes of this Act:

- A market established by statute
- 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
- An auction conducted by a registered dealer on registered premises (that is, by an auctioneer on his premises)
- An event held wholly or mainly for the sale of books
- An event excluded by resolution of the Council (none at present).

## **Squat trading**

The other type of sale covered by the Act is squat trading. This means a trade or business where goods are sold or offered for sale on premises that are occupied for the sale without the consent of the owner or lawful occupier of the premises.

## **Notifying the sale to the Council**

Both the organiser of the sale and the occupier of the premises where the sale is to be held must notify the Council of the sale. This must be done at least 21 days in advance. You can either send a form through the post or by fax, or notify online using the form on the Council's website. The form is available from Trading Standards.

For regular sales, you can notify the Council of the dates for the whole year. This may be several dates over the year, or it could be, for example, 'every Thursday' or 'the second Tuesday in every month'.

## **What information must be given on the notification form?**

The notification form must give:

- The proposed date and time that the sale will be held
- How long it is expected to last
- The location of the sale
- Whether the sale will be held on other days as well, giving the times for each day
- The extent of the premises which will be used for the sale
- The nature of the goods that will be on sale
- The name and address of every person who is holding or promoting the sale. This does not include a temporary address used for the purposes of the sale.
- The name and address of a person appointed to receive and answer complaints about the sale
- An estimate of the number of people expected to attend the sale.

**All of these notification requirements, except the last one, also apply to anyone intending to carry out squat trading in the City.**

If the Council finds out that an occasional sale or squat trading has been arranged, is taking place or has taken place, but the organiser and/or premises occupier has not sent a notification form, then the Council can demand all the relevant information as outlined above.

## **Sales with more than one seller – record-keeping requirements**

The organiser of a sale with more than one seller, such as a car boot sale, antiques fair or computer fair, must keep certain records of all the sellers. These records must be kept for two years and produced to an authorised officer of the Council or a police officer on demand.

The records must show the names and addresses of all the sellers and their vehicle registration numbers. They must also record whether the goods on sale are new, second-hand or a mixture of both.

If the seller is a registered dealer in second-hand goods under this Act they can record the dealer's NCCA number, which appears on their certificate of registration, instead of the above information.

The Council can provide, free of charge, pre-printed forms that can be handed out to sellers for completion. However, the organiser can keep the records in any way that is convenient. For example – if all the sellers are registered dealers, it may be easier to keep a list of the numbers rather than use individual forms.

## **Offences and penalties**

It is an offence to fail to comply with any of the provisions laid down in the Act – all offences are subject to a fine not exceeding £2,500. In addition to the requirements described above, it is an offence:

- To knowingly or recklessly give false information when notifying the Council of an occasional sale or squat trading

- To knowingly or recklessly enter false information in the records kept by an organiser of a sale.

It is also an offence for any seller at an occasional sale to give the organiser a false name, address, vehicle registration number or false information relating to any certificate of registration as a dealer in second-hand goods.

### **What powers will 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 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.

Trading Standards, as well as other City Council enforcement teams, has an Enforcement Policy based on the Government's Concordat on Good Enforcement. It sets out what businesses, individuals and the community can expect from us. It commits us to good enforcement policies and procedures. Please contact us if you would like a copy, or you can read it on our website.

### **How can I make sure I comply with this law?**

Like most other consumer protections 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.

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

## **How these requirements will contribute to the fight against crime**

Under the Nottingham City Council Act, dealers in second-hand goods have to register with the Council and keep records of their transactions. This is to make it harder for thieves to sell stolen goods. The requirements about occasional sales will make it easier for the Council and the Police to find unregistered dealers. We will know in advance when occasional sales will take place, and the record-keeping requirements will allow us to compare records to find unregistered dealers.

In addition, the requirements provide protection for consumers against unscrupulous traders.

## **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 at a cost of £35. Do not be misled by businesses that offer to register for you at a much higher cost. 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](http://www.ico.org.uk)

## **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 from the internet – there is a link from our website. (Please note that Section 12 of the Act was repealed by the Consumer Protection from Unfair Trading Regulations 2008 and therefore no longer has effect.)

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

Nottingham City Council Trading Standards  
*Address for correspondence only*  
Loxley House  
Station Street  
Nottingham NG2 3NG  
Tel: 0115 8445018  
Fax: 0115 8445019  
Email: [trading.standards@nottinghamcity.gov.uk](mailto:trading.standards@nottinghamcity.gov.uk)  
Website: [www.nottinghamcity.gov.uk/tradingstandards](http://www.nottinghamcity.gov.uk/tradingstandards)

## **Other information**

If you organise an occasional sale within Nottingham, you will probably need permission from the Council's Markets and Fairs Service. For more information contact them on 0115 876 1960

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