



City of Newcastle upon Tyne Act 2000

2000 CHAPTER viii

PART 2

STREET TRADING

5 Powers of seizure and forfeiture

(1) In this section—

- (a) “receptacle” includes a stationary van, car, barrow or other vehicle or a portable stall and any basket, bag, box, vessel, stand, easel, board, tray or thing which is used (whether or not constructed or adapted for such use) as a container for or for the display of any article or thing or equipment used in the provision of any service; and
- (b) “an offence” means an offence under paragraph 10 of Schedule 4 to the Act of 1982 or an offence of aiding, abetting, counselling or procuring the commission of an offence under that paragraph.

(2) If on or after the appointed day an authorised officer or a constable has reasonable grounds for suspecting that a person has committed an offence he may seize—

- (a) any article or thing being offered for sale, displayed or exposed for sale; or
- (b) any other article or thing of a similar nature to that being offered or exposed for sale which is in the possession of or under the control of any person who is displaying an article or thing; or
- (c) any receptacle or equipment being used by that person;

which may be required to be used in evidence in any proceedings in respect of that offence, or may be the subject of forfeiture under subsection (6) below, provided that no article or thing which is of a perishable nature shall be seized under the provisions of this subsection.

(3) An authorised officer shall produce his authority if required to do so by the person having care or control of anything seized in pursuance of the powers in subsection (2) above.

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- (4) (a) The following provisions of this subsection shall have effect where any article or thing (including any receptacle or equipment) is seized under subsection (2) above and references in those provisions to proceedings are to proceedings in respect of the alleged offence in relation to which the article or thing is seized;
- (b) Subject to paragraph (c) below, following the conclusion of the proceedings the article or thing shall be returned to the person from whom it was seized unless the court orders it to be forfeited under subsection (5) below;
- (c) If no proceedings are instituted before the expiration of a period of 56 days beginning with the date of seizure, or any proceedings instituted within that period are discontinued, at the expiration of that period or, as the case may be, on the discontinuance of the proceedings, the article or thing shall be returned to the person from whom it was seized unless it has not proved possible, after diligent enquiry, to identify that person and ascertain his address;
- (d) Where the article or thing is not returned because it has not proved possible to identify the person from whom it was seized and ascertain his address the council or the chief constable (whether the article or thing was seized by an authorised officer or a constable) may apply to a magistrates' court for an order as to the manner in which it should be dealt with.
- (5) Subject to subsection (6) below the court by or before which a person is convicted of an offence may on or after the appointed day order anything produced to the court, and shown to the satisfaction of the court to relate to the offence, to be forfeited and dealt with in such manner as the court may order.
- (6) The court shall not order anything to be forfeited under subsection (5) above where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made and in considering whether to make such an order a court shall have regard—
- (a) to the value of the property; and
- (b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).
- (7) (a) This subsection shall have effect where—
- (i) an article, thing, receptacle or equipment is seized under subsection (2) above; and
- (ii) either—
- (A) not less than six months have passed since the date of the seizure and no information has been laid against any person for an offence in respect of the act or circumstances which occasioned the seizure; or
- (B) proceedings for an offence have been brought and either the person charged has been acquitted (whether or not on appeal) and the time for appealing against or challenging the acquittal (where applicable) has expired without an appeal or challenge being brought, or the proceedings (including any appeal) have been withdrawn by, or have failed for want of prosecution by, the person by whom the original proceedings were brought;

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- (b) When this subsection has effect a person who has or at the time of seizure had a legal interest in the article, thing or receptacle seized may recover compensation from the council or (where it is seized by a constable) the chief constable by civil action in the County Court in respect of any loss suffered by him as a result of the seizure;
- (c) The court may only make an order for compensation under paragraph (b) above if satisfied that seizure was not lawful under subsection (2) above.