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## **CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (as amended by) THE AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015**

### **METAL DEALER'S LICENCE / ITINERANT METAL DEALER'S LICENCE GUIDANCE NOTES FOR APPLICANTS**

These notes have been written to help you with the licensing application form and to draw your attention to some other things you may have to do in connection with your application. If you need any more help, please contact the Environmental Health Department at the address given above.

#### **(1) What is the Civic Government (Scotland) Act 1982?**

This is an Act of Parliament which enables Scottish local Councils to control and regulate certain activities in their area so as to preserve public order and safety and prevent crime.

#### **(2) What is the Air Weapons and Licensing (Scotland) Act 2015?**

The Air Weapons and licensing (Scotland) Act 2015 received Royal Assent on 4 August 2015. The majority of the provisions relating to metal dealers and itinerant metal dealers come into force on 1 September 2016. This Act changed requirements of the previous legislation mainly by taking away exemption certificates, changing the way payments are made and tightening the record keeping provisions. Penalties for non-compliance are also greatly increased.

#### **(3) Why do I need a licence?**

The Civic Government (Scotland) Act 1982 as amended by the above Act introduced compulsory licensing of certain activities and also the option to licence other activities. The Council resolved in 1997 (updated in 2013) to licence certain of these optional matters. The licensing of metal dealers is a mandatory requirement. The 2015 Act above amended this legislation and strengthens and modernises the existing regime.

#### **(4) Who is a metal dealer?**

The Act as amended defines a “metal dealer” as a person who carries on a business which consists wholly or substantially of buying or selling for scrap:-

- (i) metal articles that are old, broken, worn out or defaced, or
- (ii) partly manufactured articles that are made wholly or partly from metal, Or

Carries on business as a motor salvage operator - a person carries on business as a motor salvage operator if the person carries on a business which consists wholly or substantially of —

- (a) recovering salvageable parts from motor vehicles for re-use or sale and selling or disposing of the rest of the vehicle for scrap,
- (b) buying significantly damaged motor vehicles and subsequently repairing and reselling them, or
- (c) buying or selling motor vehicles which are to be the subject (whether immediately or upon a subsequent resale) of any of the activities mentioned in paragraphs (a) and (b).

#### **Who is an itinerant metal dealer?**

The act defines an ‘itinerant metal dealer’ as a person who carries on a business which consists wholly or substantially of buying and selling for scrap waste materials and old, broken, worn out, defaced or partly manufactured articles made wholly or partly of metal which are collected by means of visits from place to place and disposes of such articles without causing them to be kept in a metal store or other premises (including by disposing or giving custody of the articles to a person who keeps a metal store).

#### **(5) What conditions will be applied to my licence?**

The general conditions are supplied with the application form and will form part of the licence if granted to you. The Council may also add specific conditions to your licence on matters such as the times you may conduct your trade and the places where the trade can be carried on.

#### **(6) Why do I need to display a “Site Notice” on the premises to be used?**

The Act specifies that when an application relates to a licence for an activity which is to be carried on in premises, the applicant shall:

- (a) display a “Site Notice” at the premises giving details of the date the application was made to the Council for a licence and various other details of the activity to be carried out. The applicant shall display the notice for a period of 21 days beginning with the date on which the application was submitted to the Council;
- (b) submit a “Certificate of Compliance with Site Notice” to the Council as soon as possible after the expiry of the period of 21 days stating that they have complied with the Site Notice procedure.

**(7) Who will be consulted?**

All applications will be submitted to the Police for an opinion as to whether the applicant is a fit person to hold the licence and, where the activity is to be carried on in premises, the Scottish Fire and Rescue Service will be asked for their opinion as to the suitability of the premises. The Infrastructure Services Department will also be asked for an opinion on the application.

**(8) What is the fee?**

Fees have to be paid for applications and must be paid along with the submitted application. Please do not send cash. Cheques and postal orders should be made payable to: "Shetland Islands Council", payment can also be made by card. A fee list is enclosed.

**(9) How long is the licence for and when do I need to renew my licence?**

The licence is for a period of 3 years. The licence renewal will therefore need to be applied for at least one month before the licence expiry date.

**(10) What records do I need to keep?**

The Act defines what records are needed to be kept, these records must be kept for three years (see attached copy of licence conditions)

**(11) Am I committing an offence if I do not obtain a licence?**

Yes, if you are conducting an activity which requires to be licensed in terms of the Council's resolution and you do not obtain the licence then you are committing an offence and, you will be liable, on summary conviction to a fine or imprisonment or both. The maximum fine is now £20,000. If you obtain a licence and do not comply with a condition attached to the licence you will be guilty of an offence and liable, on summary conviction to a fine not exceeding £5,000. The Act provides that it shall be a defence for a person charged with an offence of non-compliance with a condition to prove that he used all due diligence to prevent the commission of the offence.

**(12) What if I make a false statement on my application form?**

If you make a statement which you know to be false, or recklessly make any statement which is false, you will be guilty of an offence and liable, on summary conviction, to a fine of £5000.

**(13) Are there any other offences arising from the operation of the licensing scheme?**

Yes:

- (a) if you, without reasonable excuse, make or cause or permit to be made any material change of any premises, without prior permission of the Council you will be liable to a fine not exceeding £1,000 on summary conviction; and
- (b) if you fail, without reasonable excuse, to return your licence to the Council after it has been revoked or after you cease to conduct the trade or business for which the licence was issued then you will be liable, on summary conviction, to a fine not exceeding £200.

#### **(14) What do I do next?**

You should:

- (a) complete the application form for a licence and submit it to the Council;
- (b) as soon as your application is submitted display a "Site Notice" at the premises. You should attempt to keep that notice on display for a period of 21 days and try and ensure that it does not become defaced or destroyed during that period;
- (c) when the 21 day period has expired, complete the "Certificate of Compliance" and send it to the Environmental Health Department. The Council has then a period of up to 6 months in which to reach a final decision on your application.

#### **Please note that:**

- (1) The fees and fines referred to above are correct at 1 April 2019, and may be subject to subsequent change.
- (2) These notes are for guidance only and are not a complete statement of the procedures relating to applications for licences under the Civic Government (Scotland) Act 1982. If you need any more information, please contact the Infrastructure Services Department at the address given above.