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CIVIC GOVERNMENT (SCOTLAND) ACT 1982

SECOND-HAND 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 Environmental Health 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) Why do I need a licence?

The Civic Government (Scotland) Act 1982 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 including second-hand dealers, primarily to assist in the recovery of stolen property.

(3) Who is a second-hand dealer?

The Act defines a "second-hand dealer" as a person carrying on a business as a dealer in second-hand goods or articles of any description. The Council has restricted its licensing to dealers in the following commodities:

Antiques	Furniture and Carpets
Bicycles and Accessories	Handbags, Purses, Suitcases, Umbrellas
Books and Magazines	Household Utensils
Bric-a-Brac	Jewellery and Precious Stones
China and Crockery	Memorabilia
Clocks and Watches	Motor Vehicle Accessories
Clothing	Musical Instruments and Equipment
Domestic Appliances	Paintings and other Artistic Reproductions
Electrical and Battery-Powered Appliances and Computers	Records, Tapes, Video Recordings
Compact Discs and Computer Discs	Sculptures
Fabrics	Tools
	Toys

A second-hand dealer's licence is not required for carrying on:

- (a) the business of a pawn broker;
- (b) a business as a wholesale dealer purchasing exclusively from second-hand dealers licensed under this Act;
- (c) a business which is charitable for the purposes of the Income Tax Acts;
- (d) a business as a dealer in second-hand goods incidentally to another business not being that of a dealer in such goods;
- (e) a business either of financing the acquisition of goods by means of hire purchase agreements, conditional sale agreements or credit sale agreements or of financing the use of goods by means of hiring agreements.

(4) 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.

(5) 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.

(6) 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 Fire Brigade 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.

(7) 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.

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

The licence is for a period of 3 years and the licence will therefore need to be renewed 36 months from the date of it being granted.

(9) What records do I need to keep?

The Act gives the Council the authority to define the style and nature of the records to be kept. The records to be kept are set out in the conditions attached to the licence. It

is suggested that a hand bound notebook should be kept using the headings shown in the conditions. These records must be kept for three years.

(10) 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 not exceeding £2,500. 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 £1,000. 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.

(11) 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 £2,500.

(12) 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 £500.

(13) 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 2018, 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 Environmental Health Department at the address given above.