



Shetland Islands Council
Civic Government (Scotland) Act 1982 (as amended by)
The Air Weapons and Licensing (Scotland) Act 2015

METAL DEALER'S LICENCE
NOTES FOR GUIDANCE

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 on 01595 745250 or ehadmin@shetland.gov.uk or come along Gutters Hut, 7 North Ness, Lerwick, Shetland, ZE1 0LZ.

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.

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.

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.

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).

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).

Where one Licensing Authority grants an Itinerant Metal Dealer's Licence this shall have the effect of permitting the Licence holder to carry on their business anywhere in Scotland. Where a person carries on business as a Metal Dealer and also as an Itinerant Metal dealer they shall require a Licence for each activity.

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.

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.

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.

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. See list of licence fees.

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.

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)

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.

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.

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.

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 2023, 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.

STANDARD LICENCE CONDITIONS

Conditions of Metal Dealers Licence

1. You must clearly display this licence all times at the above business premises so that it can be seen by members of the public.
2. You must not in any way change or damage this licence. If asked to you must take it to Environmental Health at Gutters Hut, 7 North Ness, Lerwick for them to check.
3. If you change your home address you must tell us within 14 days of the change and take your licence to Environmental Health at Gutters Hut, 7 North Ness, Lerwick for them to update the details.
4. You must keep to any conditions Scottish Fire and Rescue Service set during the period of this licence.
5. If you no longer want to work as a metal dealer or if your licence has run out you must tell the Environmental Health Department within seven days and take your licence to Environmental Health at Gutters Hut, 7 North Ness, Lerwick. If you stop working as an itinerant metal dealer for more than two months of the period this licence applies to we will consider you to have given up your licence under paragraph 13(1) of Schedule 1 to the Civic Government (Scotland) Act 1982. If you fail to do this within seven days you will be breaking these conditions.

Record keeping

6. You are required to keep records of metal acquired (whether or not for value) or processed or disposed of (by any means).
7. In respect of any metal acquired, you must record the following information
 - (a) the description and weight of the metal,
 - (b) the date and time of the acquisition of the metal,
 - (c) if the metal is acquired from another person

- (i) the name and address of the person,
- (ii) the means by which the person's name and address was verified,
- (d) the price, if any, payable in respect of the acquisition of the metal, if that price has been ascertained at the time when the entry in the record relating to that metal is to be made,
- (e) the method of payment of the price (if applicable),
- (f) where no price is payable for the metal, the value of the metal at the time when the entry is to be made as estimated by you,
- (g) in the case of metal delivered to you by means of a vehicle, the registration mark (within the meaning of section 23 of the Vehicle Excise and Registration Act 1994) borne by the vehicle.

8. Where you have paid for metal you must keep a copy of

- (a) the cheque, or
- (b) the document evidencing the electronic transfer of funds.

9. In respect of any metal processed or disposed of, you must record the following information:

- (a) the description and weight of the metal immediately before its processing or disposal,
- (b) in the case of metal which is processed, the process applied,
- (c) in the case of metal disposed of by sale or exchange -
 - (i) the consideration for which it is sold or exchanged,
 - (ii) the name and address of the person to whom the metal is sold or with whom it is exchanged, and
 - (iii) the means by which the person's name and address was verified,
- (d) in the case of metal disposed of otherwise than by sale or exchange, its value immediately before its disposal as estimated by the dealer.

10. You must

- (a) keep separate records in relation to
 - (i) metal acquired, and
 - (ii) metal processed or disposed of,
- (b) record the information immediately after the metal is acquired, processed or disposed of,
- (c) keep a copy of any document produced by a person to verify that person's name or address, and
- (d) retain information recorded or documents kept under this section for a period of not less than 3 years beginning with the date on which the information was recorded or document obtained.

11. You must record the required information

- (a) in books with serially numbered pages, or
- (b) by means of a device for storing and processing information.

12. Where you record information about metal acquired, processed or disposed of in books, you must use separate books for recording the required information about

- (a) metal acquired, and
- (b) metal processed or disposed of.

13. Where you use a device for storing and processing information, you must, by means of the device or otherwise, keep details of all modifications made in the records kept by the device.

14. Where you are required to keep a copy of a document it is sufficient for you

- (a) to keep an electronic copy of the document, and
- (b) in relation to a document verifying a person's name and address, keep only one copy of the document.

15. You must keep separate records of the information about metal acquired, processed or disposed of in relation to

- (a) each place of business operated by you, and
- (b) any metal acquired, processed or disposed of otherwise than at such a place of business.

16. Where you record the required information in books you must not at any time at a place of business use more than

- (a) one book for recording the required information about metal acquired, and
- (b) one book for recording the required information about metal processed or disposed of.

Acceptable forms of identification for proving a person's name and address

17. (1) The Civic Government (Scotland) Act 1982 (Metal Dealers and Itinerant Metal Dealers) (Verification of Name and Address) Regulations 2016, set out the acceptable forms of identification for proving a person's name and address.

To verify a person's name and address you should refer to:

- (a) a document listed in paragraph (2) which bears the person's name, photograph and residential address; or
 - (b) (i) a document listed in paragraph (2) which bears the person's full name, photograph and date of birth; and
 - (ii) a document listed in paragraph (3) which bears the person's full name and residential address.
- (2) The documents for the purposes of paragraph (1)(a) or (b)(i) are—
- (a) a valid United Kingdom passport;
 - (b) a valid passport issued by an EEA state;
 - (c) a valid Great Britain or Northern Ireland photo-card driving licence; and
 - (d) a valid biometric immigration document.
- (3) The documents for the purposes of paragraph (1)(b)(ii) are—
- (a) a bank or building society statement;
 - (b) a credit or debit card statement;
 - (c) a council tax bill or statement where the person's address is in England, Wales or Scotland;
 - (d) a rate bill or statement where the person's address is in Northern Ireland; and
 - (e) a utility bill, but not a mobile phone bill, provided that the date on which the document was issued is not more than three months before the date the metal is acquired by the dealer or not more than three months before the date the metal is disposed of by sale or exchange by the dealer.

Acceptable forms of payment

18. The only acceptable ways in which payment can be made are bank transfer or cheque. Cash is **not** an acceptable method of payment.

A cheque should be non-transferable. An electronic transfer should be into a bank or building society account in the name of the payee. Cash "substitutes" such as pre-payment cards are not acceptable. Similarly, foreign currency, postal orders, vouchers, gift cards or virtual currencies are unacceptable.

A bank or building society account must be based in the United Kingdom and does not include friendly societies

GENERAL (Conditions 19, 20, 21 & 22 do not apply to Itinerant Metal Dealers)

19. The Dealer shall store or keep all items purchased in the course of his dealing only in the premises approved by the Council for that purpose.

20. The Dealer shall at all times keep his premises in a clean and proper condition to the satisfaction of any authorised officer of the Council.

21. Any requirements of the Scottish Fire and Rescue Service shall be complied with and adhered to during the currency of this licence.

22. The Dealer shall ensure that at his premises all means of escape remain clear and free from obstruction at all times. This includes fire exit doors inside and outside buildings and thoroughfares. Fire fighting equipment in the premises should not be obstructed or covered over.

23. The Dealer, shall comply with any reasonable order or instruction given by a Police Officer or authorised officer of the Council:

- (a) for the prevention of obstruction or annoyance to the public or to the occupiers of any premises;
- (b) in connection with any emergency or disturbance; or
- (c) on any occasion when such officer in his discretion may consider it necessary in the public interest to give such order or instruction.