



GUIDANCE NOTES GUIDANCE NOTES for STREET TRADERS LICENCES

Civic Government (Scotland) Act 1982

Disclaimer

These notes have been prepared as an outline of the licensing provisions in connection with street trading introduced by the Civic Government (Scotland) Act 1982. Whilst every effort has been made to ensure accuracy, these notes are for general guidance only and do not constitute legal advice. It is the responsibility of applicants and licence holders to ensure that they comply with the provisions of the Act, any statutory instruments made thereunder, the conditions outlined in the schedule attached to your licence and any policy/guidance notes issued by the Council.

INTRODUCTION

A licence is required for each **individual** (including employees) engaged in trading.

You must not be disqualified from holding a licence, and you must be fit to be the holder of the licence.

The vehicle you use in order to carry out the work must be suitable for that purpose.

You must not have applied for the same licence within the last year, unless there has been a material change in your circumstances since your last application.

A street trading licence is not required for:

- the sale of newspapers only
- the sale of milk by or on behalf of a person registered under the Food Safety Act 1990
- the sale of coal or fuel derived from coal or coke
- any activity for which a certificate under the Pedlar's Act 1871 has been granted
- any activity for which a more specific licence is required
- organising or participating in a public charitable collection, which has been granted permission under subsection (16) of section 119 of the Civic Government (Scotland) Act 1982

THE APPLICATION FORM

The application is split into 6 sections

- A. Personal Details
- B. Business Details
- C. Licence Details
- D. Trading Details
- E. Insurance Requirements
- F. Criminal Convictions
- G. Residence Outside the UK

You must answer all of the questions as fully as you can as failure to do so may result in your application being returned to you. Your application will not be processed until you have provided all the necessary information.

A. PERSONAL DETAILS

It is essential that your full details are supplied on the application form so that necessary Police checks can be undertaken swiftly and so your application can be progressed as quickly as possible.

B. BUSINESS DETAILS

You require to complete this section if you are employed by a company. Please include the details of any Partners, Directors responsible for the management of the business.

C. LICENCE DETAILS

A Street Trader's Licence generally lasts for a maximum of 3 years although the Licensing Authority have the discretion to grant it for a shorter period. Once it expires you can apply to renew it for a further 3 years.

- **Grant of a Licence (3 years)** – If you have never held a Street Trader's Licence before or you do not currently have such a licence you need to apply for the Grant of a licence.
- **Renewal of Licence (3 years)** – If you currently hold a Street Trader's licence which has not expired but is due to expire then you need to apply for a Renewal of the licence. The old licence remains in force until the renewal is granted, but only if application is made before the expiry date.

If you are applying for the grant of a licence you are asked questions on the form as to whether you have previously held a licence in the United Kingdom or whether you have been refused such a licence previously. Please note it is very important that you complete these questions fully.

D. TRADING DETAILS

You are required to supply the area(s) you proposed to trade, supplying any consents required as outlined in the guidance document **parameters of street traders**. The goods or services you intend to trade. The location where the goods will be stored while not offered

for sale. The details of any vehicle(s), trailer(s) or kiosk(s) involved in street trading and where the vehicle(s), trailer(s) or kiosk(s) will be kept.

E. INSURANCE DETAILS

Under this section you are asked to provide details of your public liability insurance policy. You are also asked to produce a certificate or other proof of insurance cover when you lodge the application. Moray Council requires applicants for the grant or renewal of street trader licenses to have in force during the period of their licence a policy of public liability insurance with a reputable insurance company for **not less than £5 million** in respect of the business to be licensed. You must supply your updated policy through the life of your licence

F. CRIMINAL CONVICTIONS

This section asks whether you have ever been convicted of any crime or offence. Please note that this includes any fixed penalties or driving convictions.

Although you are not required to disclose any convictions which are “spent” in terms of the Rehabilitation of Offenders Act 1974, the Police may raise an objection on the basis of any spent convictions you may have and the licensing authority may thereafter decide to consider these if they are determined to be relevant to your application.

If you think a conviction is spent you should seek independent legal advice. Failure to disclose convictions is a criminal offence and any applicant failing to disclose a conviction may be reported to the Procurator Fiscal with a view to prosecution.

F. RESIDENCE OUTSIDE THE UK

If you are making an application you, or anyone named in the application must provide evidence of your criminal history:

- **If you were born in the UK** but have lived in any other country within the ten years prior to your application for a continuous period of twelve months or more you must provide a Criminal Record Check for all those countries for the relevant period(s)
- **If you were born outwith the UK** you must provide a Criminal Record Check from your country of origin for the time of residence there IF it was in the last ten years, unless you left that country without reaching the criminal age of responsibility. You must also provide a Criminal Record Check from any other country in which you have resided for a continuous period of twelve months or more in the ten years prior to application.

In all cases, the Criminal Record Checks provided must

- have been obtained within the six months immediately prior to submitting your application; and
- be translated into English; and
- be verified by the relevant UK-based Embassy or High Commission

Process for obtaining Criminal Record Checks -

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Note: The certificate must be produced before the licence can be granted. Whilst it is desirable for the applicant to produce the certificate with the application, it is not a strict requirement. This is so any applicant having difficulties will not be disadvantaged by delays to processing the application. At the applicants choosing, the application can be accepted as valid without the convictions evidence but the evidence should be provided as soon as possible. In this way the convictions evidence will be a check rather than a validation. Applicant should still note, however, that the licence cannot be granted without the evidence having being produced. Therefore if the application is approaching the 9 month time limit without the evidence being produced, the application may be refused for failure to comply with administrative provisions.

If you are experiencing difficulties in obtaining a certificate then please contact the licensing team to discuss your options. It may be possible to accept alternative evidence, for example: evidence of checks having been carried out by another government body; affidavits; or character references.

In cases where it is not possible to provide any satisfactory evidence, the application will be referred to the Licensing Committee for a decision. Therefore the application may be delayed pending the outcome of a hearing.

GENERAL INFORMATION

You require to **sign** and **date** the declaration at the bottom of the application form. This is a very important part of the form and you should note that it is a criminal offence to make a false declaration for which you can be prosecuted and fined up to £2,500.

Once you have completed the application form please submit it to:

Head of Legal and Democratic Services
Moray Council
High Street
Elgin
IV30 1BX

If you have any queries please e-mail licensing@moray.gov.uk or contact us on 01343 563027.