



GUIDANCE NOTES for SECOND HAND DEALER'S LICENCES

Civic Government (Scotland) Act 1982

Disclaimer

These notes have been prepared as an outline of the licensing provisions in connection with second hand dealing introduced by the Civic Government (Scotland) Act 1982. While 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

Anyone wishing to carry on a business as a second-hand dealer within the Moray Council area in:-

- Antiques
- Batteries
- Baby Seats, Cribs, Cots, Pushchairs and Walkers
- Bicycles
- Bric-a-Brac (old curiosities, nick nacks or other treasured odds and ends)
- Chemicals
- Clocks and Watches
- Domestic Appliances
- Electrical and Battery Powered Appliances
- Furniture
- Gas Appliances
- Hoists
- Jewellery
- Ladders
- Motor Vehicles
- Musical Instruments
- Pressure Hoses
- Radio Equipment
- Recording Equipment
- Records, Tapes and Compact Discs
- Scaffolding

- Sports Equipment
- Televisions
- Tools
- Toys

will require to hold a second hand dealer's licence.

EXEMPTIONS

A licence is not required in the following circumstances:-

- For businesses where dealing in second-hand goods or articles is incidental to the main business carried on (which is not in such goods)
- For pawn broking
- For wholesale dealing (provided the dealer purchases exclusively from licensed second hand dealers)
- For businesses which are charitable under the Income Tax Acts
- For hire purchase and connected Finance businesses

DISPOSAL OF STOCK-IN-TRADE

The Act provides that a second-hand dealer cannot dispose of any item of his stock-in-trade within 48 hours (excluding Saturday and Sunday) of acquiring it. A dispensation to this requirement can be issued by the licensing authority (after consultation with the Chief Constable) on the application of the licence holder.

Applications for a dispensation should be made to the Head of Legal and Democratic Services, Moray Council, Council Office, High Street, ELGIN IV30 1BX.

PRE APPLICATION CONSIDERATIONS

Applicants should note that granting of a second hand dealers licence does not include any approval express or implied that the premises meet other regulatory requirements. Applicants should therefore contact

- Environmental Services
- Planning Services
- Building Standards Services

to ascertain the position with regard to the premises they propose to use for second hand dealing before submitting this application.

THE APPLICATION FORM

The application is split into 6 sections

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

You require to complete this section if you are an individual person applying for a second hand dealers licence rather than a business or partnership. **NOTE: if you are completing**

this section you do not also require to complete section B. It is essential that your personal details are supplied on the application form so that necessary police checks can be undertaken swiftly and so your application can be processed as quickly as possible.

B. BUSINESS DETAILS

You require to complete this section if the premises/operation is run by a company or partnership rather than an individual person. Please note that when application is made for a licence by a company or partnership you must also give details of the employee who is responsible for carrying out the day to day management of the business. **NOTE: if you are completing this section you do not also require to complete section A.** It is essential that your full business and employee details are supplied on the application form so that necessary police checks can be undertaken swiftly and so your application can be processed as quickly as possible.

C. LICENCE DETAILS

Grant of a Licence - If you have never held a second hand dealer's licence before, or you do not currently have such a licence, or you are moving to different premises then you need to apply for the **grant** of a licence.

Renewal of Licence – If you currently hold a second hand dealer's licence which has not expired, but is due to expire then you need to apply for a **renewal** of the licence.

Full Licence – A full licence is generally granted for a period of 3 years, although the Licensing Authority have the discretion to grant it for a shorter period.

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 that it is very important that you complete these questions fully.

D. PREMISES DETAILS

You require to supply the full name, postal address and telephone number of the premises to which the second hand dealers licence is to relate.

E. CRIMINAL CONVICTIONS

This section asks whether you or anyone named in the application, 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. Applicants should still note, however, that the licence cannot be granted without the evidence having been 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

Your application will be copied to Police Scotland, the Scottish Fire and Rescue Service, the Council's Chief Environmental Health Officer, the Planning Enforcement Officer and the Trading Standards Manager for them to review. If no objection or representation is made in relation to your application within 28 days, the Council will then proceed to issue your licence as soon as possible.

If a representation or objection is received, however, your application will be referred to the Council's Licensing Committee where elected Members will consider the matter. You will be given an opportunity to attend this meeting and put forward your case in support of your application. Please note that the Licensing Committee meets once every two months.

CERTIFICATE OF DISPLAY

If you are applying for the grant or renewal of a licence you should also send the completed Certificate of Display once you have displayed the Notice at the premises for 21 days, to the above address. It is very important that the Display procedure is carried out correctly. You should note that failure to carry out the requirements will result in delay in your application if the Display procedures have to be repeated.

On the day you lodge your application for the licence you must:-

- (1) complete the form headed "DISPLAY NOTICE"
- (2) display it at or near the premises so that it can be conveniently read by the public

It must remain there for 21 days

You should check throughout the 21 days that it has not been removed, obscured or defaced. If it has been, you should ensure that it is protected or a replacement is displayed immediately

At the end of the 21 days you must:-

- (1) remove the Notice
- (2) complete and return the form headed "CERTIFICATE OF DISPLAY"

CHANGES/VARIATIONS

If granted, your licence will state the types of second hand goods that you are authorised to buy and sell. If you want to change the kinds of goods you sell or change the premises, you will need the Council's prior permission to do so.

SCHEDULE OF CONDITIONS

If your application is successful, it will be granted subject to certain conditions. These conditions will be contained in a Schedule of Conditions attached to your licence. The licensing authority may add additional conditions to your licence if there is reasonable cause for doing so.

FEES

Please refer to the Moray Council website for the list of current fees.

QUERIES

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



**CERTIFICATE OF DISPLAY
GRANT / RENEWAL OF A SECOND HAND DEALER'S LICENCE**

I/WE.....

Applicant for a GRANT / RENEWAL *¹ of a Second Hand Dealer's Licence hereby certify that a Notice in the form prescribed by Moray Council has been posted at or near the premises at

.....
.....

From.....to.....

Where the said Notice was removed, obscured or defaced during the above mentioned period I/We certify that this was without any fault or intention on my/our part and I/we took reasonable steps for its protection and replacement as follows*²:-

.....
.....
.....
.....

Date.....

Signature.....

*¹ Delete as appropriate
*² Delete this paragraph if not applicable otherwise specify periods when Notice removed, obscured or defaced, relevant circumstances, and steps taken for protection and replacement.



DISPLAY NOTICE

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

APPLICATION FOR THE GRANT / RENEWAL OF A SECOND HAND DEALER'S LICENCE

Notice is hereby given that

.....
(Applicant full name & address.
Business or individual)

.....
(Names & address of directors/partners
if applicant is a business)

.....
(Name and address of Responsible
Employee if applicant is a business)

has made application to the Moray Council for the grant/renewal of a Second Hand Dealer's Licence to operate on the undernoted days and hours at the following premises:

.....
(Address of premises)

.....
(Days & hours applied for)

Any Objection or Representation relating to the application should be made to the Head of Legal and Democratic Services, Moray Council, Council Office, High Street, Elgin, IV30 1BX (where a copy of the Application may be inspected) and requires to be lodged by:

..... *Date

Such a representation shall be considered to have been made within the period referred to if it is delivered by hand within that period or posted (by Registered or Recorded Delivery Post) so that in the normal course of the post it might be expected to be delivered within that period or e-mailed to licensing@moray.gov.uk.

Where an objection or representation is made to the Council after the date referred to but before the final decision is taken on the application it is competent for the Council to entertain such objection if it is satisfied that there is sufficient reason why it was not made within the period of time stated.

ANY OBJECTION OR REPRESENTATION IN RESPECT OF THE FOREGOING APPLICATION MUST BE MADE IN WRITING AND MUST SPECIFY THE GROUNDS OF THE OBJECTION OR THE NATURE OF THE REPRESENTATION. In addition the name and address of the person making the objection or representation must be specified.

Date

Signature of Applicant or Signature of Agent on behalf of applicant

*the date stated should be the 28th day after the date the application was made to the Council

THIS DISPLAY NOTICE MUST BE DISPLAYED FOR THE WHOLE OF THE PERIOD OF 21 DAYS AT OR NEAR THE PREMISES SO IT CAN BE CONVENIENTLY READ BY THE PUBLIC