

Guidance Notes - Metal Dealers Licence

INTRODUCTION

A licence is required for carrying on business as a Metal Dealer whether based in premises or not. Provision is made for exemption from requiring a licence - an Exemption Warrant. Metal Dealers holding an Exemption Warrant or a Temporary Exemption Warrant do not require to comply with the legal obligations contained in Section 30-35 of the Act.

DEFINITION

WHAT IS A METAL DEALER?

A person is a Metal Dealer if his business consists wholly or partly of buying and selling scrap, old, broken, worn-out, defaced or partly manufactured articles made wholly or partly of metal (manufacturers buying metal for the purpose of manufacturing goods or articles or disposing of surplus or waste material arising from same are not Metal Dealers.

WHAT IS AN ITINERANT METAL DEALER?

An Itinerant Metal Dealer is defined as a person who carries on a business which consists wholly or partly of buying and selling scrap, old, broken, worn-out, defaced or partly manufactured articles made wholly or partly of metal collected by means of visits from place to place and which are disposed of without being kept in a metal store or other premises.

The basic difference between a Metal Dealer and an Itinerant Metal Dealer is that the Metal Dealer operates from specific premises where metal is taken to and from and stored. The Itinerant Metal Dealer disposes of the articles and does not have a store of his own nor does he use another's store. Where one Licensing Authority grants an Itinerant Metal Dealers Licence this shall have the effect of permitting the licence holder to carry on business anywhere in Scotland. Where a person carries on business as a Metal Dealer and also as an Itinerant Metal Dealer he shall require a licence for each activity.

WHAT IS A METAL DEALERS EXEMPTION WARRANT?

If a Metal Dealer provides the Licensing Authority with certified audited proof that his annual turnover for a financial year within a period of 18 months exceeded £100,000 an Exemption Warrant shall be issued for a period of 3 years.

Application for an Exemption Warrant should be made by writing to Rhona Gunn, Principal Solicitor, Council Office, High Street, Elgin, IV30 1BX. The fee for such an application is £234.

The Licensing Authority can issue a Temporary Exemption Warrant to an applicant if they are satisfied that he has not been carrying on business as a Metal Dealer. The Temporary Warrant shall remain in force for a period of 18 months or until such times as an Exemption Warrant has been granted or an application for a Metal Dealers Licence has been disposed of. It is a condition of the Temporary Exemption Warrant that the dealer to whom it relates shall acquire metal only from trade sources.

OBLIGATIONS

A Metal Dealer must not dispose of or process any metal acquired by him in his business **within 48 hours** (excluding Saturday and Sunday) of its acquisition (the only exception to this is a Licensing Authority may after consultation with the Chief Constable order that the 48 hours restriction shall not apply to certain metal or classes of metal still to be acquired).

Keeping of Records

A Dealer is to keep in relation to each business premises separate records of metal received/acquired and metal despatched/processed/disposed of. Similar records must be kept in respect of all metal dealt with at any place other than the dealer's normal business premises. Records may be in ledger or modern computerised form and must be kept for 2 years from the date of the last entry.

Record Details - Acquisition

Records must give descriptions, weight of metal, date and time of receipt, name and address from whom metal was acquired, the buying price (if known at the date of entry or if not known the estimated value) and the registration mark of the delivery vehicle.

Record Details - Disposal

The records must specify a description and weight of the metal immediately before despatch, the date and name and address of the person purchasing the metal and its cost. If the metal is disposed of other than by the sale the estimated value must be given.

All entries in the records are to be made immediately on receipt etc., or disposal etc., of the metal (failure to comply with record keeping is a criminal offence).

OBLIGATIONS OF ITINERANT METAL DEALERS

Acquisition

An Itinerant Metal Dealer is required to keep, in respect of metal bought, a record giving details of the weight and description of the metal, the price paid for it and the name and address of the seller. This record must be kept for 6 months from the date of the transaction.

Disposal

The obligations on disposal is to obtain from anyone buying from him a receipt giving details of the metal, weight and description, price and name and address of buyer. This receipt is also to be retained for 6 months from the date of issue.

Failure to keep appropriate receipt and records is a criminal offence.

OFFENCES

The Act creates a number of offences relating to dealing in metal e.g. purchasing or selling to a person under 16, issuing false particulars, keeping false records, a seller or purchaser giving a false name and address to the dealer.

Where a dealer is convicted of any offence one of the Court's powers is to disqualify the offender from holding a licence and shall so advise the Licensing Authority. In addition the Court, in considering disposal of a case, can order that a Metal Dealer shall not dispose of or process any metal acquired by him until after a period of 7 days has expired from each acquisition.

THE APPLICATION FORM

The application form is split into 5 different parts:-

- A. Personal Details - if the applicant is an individual.
- B. Business Details - if the applicant is a company or partnership.
- C. Premises Details.
- D. Licence Details.
- E. Criminal Convictions.

You must answer all of the questions and supply details where relevant otherwise your application will be returned to you. Your application cannot be processed until all the information is included in the form.

A. Personal Details - (if applicant is an individual)

You require to complete this section if you are an individual person applying for a metal 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 - (if applicant is a company or partnership)

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. Premises Details

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

D. Licence Details

Grant of a Licence - If you have never held a metal dealers 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. The fee for a grant is £234.

Renewal of Licence - If you currently hold a metal dealers licence which has not expired, but is due to expire then you need to apply for a **renewal** of the licence. The fee for a renewal is £234.

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.

In the event that your application does not result in the grant or renewal of a licence for any reason you will be entitled to a refund of one-third of the fee you have paid.

E. Criminal Convictions

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

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 spent convictions and the licensing authority may decide to consider these if they are thought relevant to your application.

The Rehabilitation of Offenders Act 1974 states what is to be considered as a "spent" conviction. It depends not just on how long ago the conviction took place but also the seriousness of the crime and the severity of the sentence received. 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 will be reported to the Procurator Fiscal with a view to prosecution.**

General Information

Application Procedure

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 you should submit it to:-

The Chief Legal Officer
The Moray Council
High Street
Elgin

IV30 1BX

along with the appropriate fee.

If you are applying for a **grant** or **renewal** you should also send the completed Certificate of Display, once you have displayed the notice at your premises for 21 days, to the above address.

Your application will be copied to Grampian Police, Grampian Fire Brigade and the Chief Environmental Protection Officer of the Moray Council for their observations. If no objection or observation is made on your application by them within 28 days, the Council will proceed to issue your licence. If an observation or objection is received, your application will be referred to the Licensing Committee of the Council where elected Members will consider the matter. You will be given an opportunity to attend this meeting and put your case in support of your application.

Certificate of Display

If you are applying for a grant or renewal 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"

If you have any queries please telephone Lorna Carmichael on 01343 563027.

These notes have been prepared as an outline of the licensing provisions in relation to dealing in metal introduced by the Civic Government (Scotland) Act 1982. While every effort has been made to ensure accuracy these notes are for general guidance. It is of course the responsibility of the applicants to ensure that they comply with the provisions of the Act.