



GUIDANCE NOTES for MARKET OPERATOR'S LICENCES

Civic Government (Scotland) Act 1982

Disclaimer

These notes have been prepared as an outline of the licensing provisions in connection with market operator's 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

A licence is required to operate any private market. A private market is one that is carried on by any person other than a local or public authority at which goods are offered by more than one seller for sale by retail to the public. A licence is required whether the market is covered or uncovered.

A Market Operator's licence is not required to hold any of the following:-

- (a) Functions held by charitable, religious, youth, recreational, community or political or similar organisations.
- (b) Markets held for the sale of livestock, fodder or grain

THE APPLICATION FORM

The application is split into 7 sections

- A. Personal Details
- B. Business Details
- C. Licence Details
- D. Market Details
- E. Insurance Details
- 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

You require to complete this section if you are an individual person applying for a market operator's 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 market is to be 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 market operator'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** – If you currently hold a market operator'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 will generally be granted for a period of 1 year although the Licensing Authority have the discretion to grant it for a shorter period.
- **Temporary Licence** – this lasts for a maximum period of six weeks and cannot be renewed. However further applications may be made provided the previous temporary licence has expired.

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. MARKET DETAILS

It is also essential that full details are supplied as to the premises/or site where the market is to be held, in order that it can be assessed as to its suitability.

You are also required to give full details as to the days and hours of operation of the market.

The application form also requires you to specify the type of market to be operated at the site/premises. Examples of types of market may be Food Produce, Antiques, Clothing, 2nd Hand Goods, Craft Fairs or Trade Stalls at Agricultural or Commercial Shows but other types of market are possible, this list is only an example of a few types.

If granted, your licence will state the premises or site at which you are entitled to hold a specific type of market and on which days, and at what time. If you later want to change the venue you will require to make a separate application for a grant of a licence. Or, if you wish to change the date and time or hold further markets of the same type during the year your licence is valid for, you will also require to obtain permission. This is done by way of a **Variation**. If you wish to operate a different type of market (e.g. a Food Produce Market rather than an Antiques Market), you will require to make a separate application for a grant of a licence.

Please note that the site/premises where the market is to be held may require to have planning consent and/or building warrant granted before the market can take place. If you are unsure whether you require permission please contact Development Services, Environmental Services Department, The Moray Council, High Street, Elgin Tel. 01343 543451.

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 market operator 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 premises / location to be licensed.

F. 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.

G. 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's 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 your application form you should submit it along with a plan showing the proposed layout of stalls, gangways etc and detailing the proposed construction of the stalls and a risk assessment relating to health and safety responsibilities and fire safety 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 Protection Officer, the Chief Building Control Officer and the Planning Enforcement Officer 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.

In view of the above, and to minimise the risk of your licence not being granted in time for your planned event or events, you are advised to submit your application for consideration no later than 4 months prior to the start date of your first event.

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 a 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"

ADDITIONAL IMPORTANT INFORMATION

Not later than 2 working days prior to the commencement of the market, you will be required to submit to the licensing team, a comprehensive list of all traders who are to participate in the market. Please note the Moray Council shall, on cause shown, be entitled to prohibit any trader from participating in the market.

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 MARKET OPERATORS LICENCE

I/WE.....

Applicant for a GRANT / RENEWAL ^{*1} of a Market Operator'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 MARKET OPERATOR'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 Market Operator'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 within the period.

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