GUIDANCE NOTES

Application for a Dispensation from the Prohibition on the Use of Fireworks during Night Hours

The Fireworks (Scotland) Regulations 2004 prohibits the use of fireworks between 2300 and 0700 hours except on "permitted fireworks nights".

The following are "permitted fireworks nights":

- Chinese New Year where fireworks can be used until 0100 hours
- Diwali where fireworks can be used until 0100 hours
- New Year's Eve where fireworks can be used until 0100 hours
- 5 November where they can be used until 2400 hours

The Regulations provide for a local authority to grant a dispensation from this prohibition.

The application should be made at least 6 weeks prior to the display taking place.

Nature of Event

An application for dispensation can only be made to enable a person to use fireworks

- for the purposes of putting on a firework display for their employer or in the cause of their business; or
- at a national public celebration or a national commemorative event.

Who May Apply?

Only the following people may make an application for dispensation:

- any person who is employed by, or in business or, a professional organiser or operator of firework display;

Before Granting a Dispensation the Council Must Be Satisfied:

a. that there is no risk that use of fireworks in accordance with the dispensation will have any of the consequences mentioned in Section 2(2) of the Fireworks Act 2003; or
b. that the risk that use of fireworks in accordance with the dispensation will have any such consequences is the minimum that is compatible with their being used.

Those consequences are:

a. death of persons or injury, alarm, distress or anxiety to persons,
b. death of animals or injury or distress to animals, and
c. destruction of, or damage to, property.

It is solely for the Council to decide, taking into account its knowledge of the area and all other relevant circumstances, that there are no risks or that they are the minimum compatible with the use of fireworks.

The Application Form

The application form is split into four different parts:-

A Personal/Business Details
B Display Details
C Insurance Details
D 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 on the form.

A Personal/Business Details

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

B Display Details

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

You are also required to give full details as to the **days and hours of operation** of the display together with details about the firework display itself.

C Insurance Details

Under this section applicants are asked to provide details of their public liability insurance policy.

You are also asked to produce a certificate or other proof of insurance cover when you lodge the application.

The Moray Council requires applicants to have in force a policy of public liability insurance with a reputable insurance company for not less than £2 million in respect of the display to take place.

D Criminal Convictions

This section asks whether you have been convicted of any crime or offence. Please note however that you do not require to disclose any convictions which are "spent" in terms of the Rehabilitation of Offenders Act 1974. Although, you should note that 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 very serious matter. The Police when checking your application have access to both current and "spent" convictions. They will only bring "spent" convictions to the attention of the licensing authority if they believe them to be relevant to your application.

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.

Once you have completed the application form, you should submit it to:

Service Manager Legal Services
Moray Council
High Street
Elgin
IV30 1BX

along with the certificate or other proof of Public Liability Insurance cover.

If no objection or observation is made on your application, the Council will proceed to issue your dispensation. 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.

Advertising the Display

You must, at least 7 days before the date on which the event is to take place, give public notice in a local newspaper of your intention to use fireworks and include the following information:

a. your name and address for that of the business making the application;
b. a description for the proposed firework display
c. details of the fireworks which you propose to use at the event;
d. the proposed location
e. the date or dates and hours during which you propose to use fireworks during the event.

If you have any queries please e-mail: licensing@moray.gov.uk