



## **GUIDANCE NOTES for ITINERANT METAL DEALER'S LICENCES**

### **Civic Government (Scotland) Act 1982**

#### **Disclaimer**

**These notes have been prepared as an outline of the licensing provisions in connection with metal 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**

A licence is required for carrying on a business as a Metal Dealer whether based in premises or not.

#### **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 both as a Metal Dealer and as an Itinerant Metal Dealer a licence is needed for each activity.

## **OBLIGATIONS**

All Metal Dealers and Itinerant Metal Dealers must comply with the following:

To only pay for metal in one of the ways specified in the Civic Government (S) Act 1982. Those are by cheque or by electronic transfer of funds. It is an offence to pay for metal in any other way. The dealer must also keep a copy of any cheque or documents to evidence the electronic transfer of funds.

To keep records when acquiring metal (whether paid for or free). Records must include the description and weight of metal, date and time of acquisition, the name and address of the other party to any transaction and details as to how the address was verified, the price, the method of payment, where there was no payment the estimated value of the metal, the registration of any vehicle that delivered metal.

To keep records when disposing of metal (by any means). Records must include description and weight of metal being disposed of, the price/value if it was sold/exchanged, the name and address of the other party to any transaction and details as to how the address was verified, where there was no payment the estimated value of the metal before disposal.

To keep records of acquisition and disposal separately and to make records at the time of, or immediately after, any transaction.

To keep copies of any documents produced by other parties to verify their address.

To ensure records are kept in books with numbered pages or in suitable electronic form.

To keep separate records for each place of business.

To retain all records for a minimum period of 3 years.

Not to deal with anyone who is under 16, even if they claim to be acting for another person.

## **OFFENCES**

The Act creates a number of offences relating to dealing in metal e.g. purchasing from or selling to a person under 16, issuing false particulars, not keeping records, 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 be able to disqualify the offender from holding a licence. The Licensing Authority also has the power to suspend or revoke a licence in certain circumstances.

## **THE APPLICATION FORM**

The application is split into 5 sections

- A Personal Details – if the applicant is an individual
- B Business Details – if the applicant is a company or partnership
- C Licence Details
- D Criminal Convictions
- E 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 an itinerant metal dealer'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 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 an itinerant metal dealer's licence before, or you do not currently have such a licence, then you need to apply for the **grant** of a licence.

**Renewal of Licence** – If you currently hold an itinerant metal 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 has 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. 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.

## E. 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 six 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 the application form please submit it to:

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

along with the appropriate fee.

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.

## **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](mailto:licensing@moray.gov.uk) or contact us on 01343 563027.