

Knife Dealers' Licences Guidance

Orkney Islands Council

Civic Government (Scotland) Act 1982

Form KD4

These notes are for guidance only and are not an authoritative statement of the procedures and provisions relating to applications for licences and licences issued under the Civic Government (Scotland) Act 1982 (the 1982 Act). Any person who requires further information should consult the Head of Legal Services, as undernoted, or a solicitor.

1. Introduction.

- 1.1. The Civic Government (Scotland) Act 1982 (the 1982 Act) was amended by the Custodial Sentences and Weapons (Scotland) Act 2007, which introduced a new mandatory licensing scheme for knife dealers.
- 1.2. It is a criminal offence to operate a business dealing in knives or swords in Scotland without a knife dealer's licence.

What is a licence needed for?

- 1.3. A knife dealer's licence is required for anyone carrying on business as a dealer of the following articles:
 - knives (other than those designed for domestic use)
 - knife blades (other than those designed for domestic use)
 - swords
 - any other article:
 - which has a blade; or
 - which is sharply pointedand which is made or adapted for use for causing injury to the person.
- 1.4. The legislation does not define "domestic" or "non domestic" knife. Orkney Islands Council (the Council) interprets "domestic" as being:
 - "any knife, tool or blade used or habitually used in accommodation used as family homes".
- 1.5. Anyone dealing in knives which do not fall into the definition of "domestic", or anyone dealing in swords, sports, hunting or battle weapons, will require to apply for a knife dealer's licence.
- 1.6. Section 14 of this Guidance Note includes dictionary definitions for "knife", "sword", "blade" as well as a list of different types of knife and swords that, if sold by a dealer, may require a licence. The list is intended as a guide only and is not exhaustive.

Who needs to apply for a licence?

1.7. The 1982 Act defines “dealer” as a person carrying on a business which consists wholly or partly of:

- selling,
- hiring,
- offering for sale or hire,
- exposing for sale or hire,
- lending, or
- giving

to persons not acting in the course of a business or profession any article, whether or not those activities are carried out incidentally to a business which would not otherwise require a knife dealer’s licence.

1.8. “Selling” is defined as including sale by auction and accepting good or services in payment for such articles. The legislation also applies to remote sales of knives / swords and may require both the premises that the article is sold from and the premises where the article is despatched from to be licensed, depending on where those premises are located.

Exceptions

1.9. The Knife Dealers (Exceptions) Order 2009 provides that the following knives are exempt from the licensing requirements, but only where the blade does not exceed 8.91 centimetres (3.5 inches) in length:

- folding pocket knives,
- kirpans; and
- skean dubhs.

1.10. Where a person is teaching or training another person in the sport of fencing, the hiring, lending or giving of fencing weapons does not constitute a business requiring a licence, but only where the person teaching is a professional who is qualified to teach or train in the sport.

1.11. These are the only exceptions to the requirement for a licence.

2. Conditions.

2.1. The Knife Dealers (Licence Conditions) (Scotland) Order 2013 imposes mandatory conditions for knife dealers’ licences.

2.2. The Council has also adopted local conditions for knife dealers’ licences.

2.3. The Council may attach reasonable conditions to knife dealers’ licences, with each application being dealt with on its own merits. The licence holder will be required to comply with the standard conditions which will form part of the licence when granted. These will usually accompany this document, but can be obtained from the Head of Legal Services, as undernoted, or from <http://www.orkney.gov.uk/Service-Directory/K/Knife-Dealers-Licenses.htm>.

3. Determination of and Duration of Licences.

- 3.1. A licence will normally be issued after the elapse of 42 days from receipt of a valid application. In certain circumstances, for example where objections have been received, applications can take considerably longer to be determined. A licence shall remain in force, unless previously suspended or revoked, for a period of either one year from the date when it comes into force or three years, dependent upon the application submitted. The Council can also determine a shorter period in any case, dependent upon the circumstances. The licence is not transferable.

4. Licence to be Retained.

- 4.1. The licence must not be altered, erased or defaced in any way, must be kept clean and legible and must not be lent to or used by any other person. Should the licence be lost or become defaced or illegible the licence holder shall obtain a replacement from the Council on payment of the appropriate fee. The licence holder shall produce his/her licence within 5 days of being requested to do so by an officer of Police Scotland, the Scottish Fire and Rescue Service or the Council.

5. Return of Licence.

- 5.1. A licence holder shall deliver his/her licence to the Council:
- Upon ceasing to operate as a knife dealer.
 - Within 7 days of receiving notice of the coming into effect of a decision of the Council to suspend, revoke or vary the terms of the licence, or the decision of a Court to revoke it.

6. Notification of Convictions or Material Change of Circumstances.

- 6.1. The licence holder shall notify the Council of any conviction or material change within 14 days of the event. "Material change" means any change of circumstances affecting the licence holder (e.g. change of his/her name or address) or the activity to which the licence relates, including any particulars referred to in the application for grant or latest application for renewal of the licence. If in doubt, notify the Council of any changes.

7. Notification of Material Alterations.

- 7.1. The licence holder shall not make or permit to be made any material change to the premises without the prior written consent of the Council unless in accordance with a requirement imposed by or in pursuance of any enactment other than Parts 1 or 2 of the 1982 Act. If in doubt as to whether consent is required, contact the Council.

8. Making an Application – the Application Form, Other Documents and Fees.

- 8.1. Application forms (KD1) are available online at <http://www.orkney.gov.uk/Service-Directory/K/Knife-Dealers-Licenses.htm> or from:
- Head of Legal Services, Council Offices, School Place, Kirkwall, KW15 1NY.
 - Email: licensing@orkney.gov.uk .
 - Telephone 01856873535, extensions 2229 or 2232.

- 8.2. Applications must be lodged with the Head of Legal Services, Corporate Services, Orkney Islands Council at the address above no later than 6 weeks before the first day of the commencement of the activity.
- 8.3. Applicants who would like Council staff to check their applications must arrange an appointment in advance to ensure that staff will be available when they would like to come in.
- 8.4. Application forms must be completed legibly in block capital letters in black ink or typed. Question 1 or 2 and all other questions must be answered.
- 8.5. Application forms must be accompanied by:
 - The appropriate fee – refer to current fees published on our website at http://www.orkney.gov.uk/Service-Directory/L/Licences_2.htm.
 - A layout plan of the premises.
 - A copy of the applicant's public liability insurance policy for the premises for a minimum of £5 million.
- 8.6. The Council is required to advertise every application in a local newspaper. Applicants will be required to reimburse the Council for the cost of the newspaper advertisement relating to their application. Applicants will be notified of the cost of the advert and will be required to reimburse the Council prior to issue of a licence.
- 8.7. Applicants should note that neither the application fee nor the cost of the advertisement is refundable if the application is refused, cannot be processed in time or if it is withdrawn after it has been lodged and processing has commenced.

9. Previous Convictions.

- 9.1. Applicants must declare any convictions, subject to the terms of the Rehabilitation of Offenders Act 1974. This legislation is available at www.legislation.gov.uk. If applicants are in any doubt as to whether to declare convictions, they must obtain independent legal advice. If applicants wish to declare that they have no convictions, they must write "None" at the question on the form. They cannot leave the question blank. If applicants do not declare something which should have been declared, they may be prosecuted for failure to declare and this will affect the processing time and procedure for their application.

10. Incomplete Applications.

- 10.1. Incomplete applications shall be returned to the applicant.

11. Site Notice.

- 11.1. A Site Notice (KD2) must be displayed at the premises for a continuous period of 21 days from the date of submission of the application. A Site Notice should not be displayed until the applicant has received confirmation from the Council that the application is satisfactory and can be processed. The Council will agree a date with the applicant for display of a Site Notice.

- 11.2. A Site Notice and a Compliance Notice (KD3) may be obtained online at <http://www.orkney.gov.uk/Service-Directory/K/Knife-Dealers-Licenses.htm> or from the address above and must be returned to that address after 21 days to certify that the display requirement has been complied with. If the Site Notice is not displayed or the Compliance Notice is not returned, the Council shall advertise notice of the application in the local press to allow representations and objections to be made. If this is required, any decision on the application shall be delayed and the cost of the advertisement must be paid by the applicant.
- 11.3. The Compliance Notice (KD3) should be returned to the Head of Legal Services, Council Offices, School Place, Kirkwall, KW15 1NY at least 21 days after the date from which the Site Notice is first displayed in accordance with paragraph 11.1 above, but no later than 25 days from that date.

12. Processing the Application.

- 12.1. Applications will be referred to Police Scotland, the Scottish Fire and Rescue Service and any relevant department of the Council for comment.
- 12.2. The Council must give notice of the application by advertisement in a newspaper circulating in their area. The Council will also advertise each application on its website.
- 12.3. Applications must be considered within 3 months of being lodged and the Council must reach a decision on them within 9 months.
- 12.4. If an application is granted, the licence will be issued.
- 12.5. If, during the processing of an application, the Council receives any objection or representation, we will send a copy to the applicant. The application and the objection or representation will then be referred to a meeting of the Licensing Committee. The applicant will be invited to attend the meeting and given the opportunity to address the Committee.
- 12.6. If the application is refused, or granted conditionally, the applicant is entitled to ask the Council within 21 days to give reasons for such refusal, or the imposition of such conditions, and thereafter is entitled to appeal to the Sheriff against the decision on various grounds. Applicants should seek the advice of a solicitor if matters should get to that stage.

13. Prior Refusal.

- 13.1. If applicants have applied for and been refused a knife dealer's licence, unless their circumstances have altered, their applications will be unlikely to be granted.
- 13.2. If refused, applicants cannot apply for the same kind of licence in respect of the same activity or for the same premises within one year of that refusal, unless there has been a material change in circumstances.

14. Definitions and Examples.

This information is provided to give you an idea of what types of knives, swords or blades may mean you need to apply for a knife dealer's licence. The lists provided are not exhaustive.

- 14.1. Also refer to section 1 of this Guidance Note.
- 14.2.
- "Domestic" is defined as "any knife, tool or blade used or habitually used in accommodation used as family homes."
 - "Knife" is defined as "a utensil or a tool designed for cutting, consisting of a flat piece of hard material, usually steel or other metal (the blade), usually sharpened on one edge, attached to a handle."
 - "Sword" is defined as "a long, edged piece of metal, used as cutting, thrusting, and clubbing weapon in many civilizations throughout the world, fundamentally consisting of a blade and hilt, typically with one or two edges for striking and cutting, and a point for thrusting".
 - "Blade" is defined as "the flat part of a tool, weapon, or machine that normally has a cutting edge and/or pointed end typically made of a flaking stone, such as flint, or metal, most recently steel.
- 14.3. Knives as weapons:
- Bayonet.
 - Combat Knife.
 - Throwing Knife.
 - Trench Knife.
 - Shiv.
- 14.4. Knives as Utensils:
- Bread Knife.
 - Boning Knife.
 - Carving Knife.
 - Chef's Knife.
 - Electric Knife.
 - Kitchen Knife.
 - Oyster Knife.
 - Table Knife or Cast Knife.

14.5. Knives as Tools:

- Bowie Knife.
- Butterfly Knife.
- Diver's Knife.
- Electrician's Knife.
- Hunting Knife.
- Linoleum Knife.
- Machete.
- Multitool.
- Pocket Knife.
- Palette Knife.
- Scalpel.
- Straight Razor.
- Survival Knife.
- Switchblade.
- Utility Knife.
- Wood Carving Knife.

14.6. Knives as a Traditional or Religious Implement:

- Athame.
- Kirpan.
- Kiaya.
- Kris.
- Kikri.
- Puuko.
- Seax.
- Skean Dubh.

- 14.7. Single-Handed Swords:
- Bronze-Age Swords.
 - Iron-Age Swords.
 - Spatha.
 - Swiss Baselard and German Katzbalger.
 - Cut & thrust Swords.
 - The Turkish Blade.
 - Light Duelling Swords.
 - The Japanese Short Sword.
 - The Ida of the Yoruba Tribe of West Africa.
 - The Indian Tulwar or Kirpan.
 - The Arabian Scimitar and the Persian Shamshir.
 - The East Indian Kris.
 - The Filipino Itak.
 - The Kampilan.
 - The Korean Hwandudaedo.
 - The Aztec Macana.
- 14.8. Two-Handed Swords:
- Japanese Samurai Sword, the Katana, Tachi or Nodachi.
 - Indian Khanda or Tega.
 - Longsword.
 - Doppelhander or Zweihander.
 - Chinese anti-cavalry sword, zhanmadao of the Song Dynasty.
 - Scottish Highland Claymore.
- 14.9. Knife Blades:
- Normal blades.
 - Curved, Trailing-point blades.
 - Clip-point blades.
 - Drop-point blades.
 - Spear-point blades.
 - Needle-point blades.
 - Spay-point blades.
 - Westernized tanto style knife.
 - Sheepsfoot knife.
 - Whancliffe blade.
 - Ulu (Inuit Woman's knife).
 - Undulating style.
 - Sword blades – either straight or curved.

15. Offences.

- 15.1. The following are criminal offences liable, on summary conviction, to a fine:
- Carrying on an activity for which a licence under the Civic Government (Scotland) Act 1982 is required without such a licence.
 - Failing to comply with a condition of a licence.
 - Making a false statement when filling in the application form.
 - Failing to notify the Council of a material change in the circumstances of a licensee.
 - Failing to surrender the licence (1) after it has been suspended, revoked or varied or (2) when the licensee has given up the activity to which it relates.
 - Failing to permit a constable or an authorised officer acting in pursuance of a warrant granted under section 27E(2) of the Act to enter and search any premises or obstructing the entry to, or search of, any premises by a constable or an authorised officer so acting.
 - Failing to produce records or documents required by a constable or authorised officer under section 27G(2) of the Act.
- 15.2. The above list is not exhaustive and reference should be made to the Civic Government (Scotland) Act 1982 for all offences under the Act.

16. Data Protection

- 16.1. The information provided on application forms will be used by the Council to enable decisions to be made on applications. The Council is required to collect the information in terms of legislation. Applicants' information will be shared with a number of agencies which the Council is obliged to consult before making decisions on applications.
- 16.2. The Council is obliged to make available some information submitted on application forms. The Council publishes electronic public registers in the Related Downloads section of the following Council webpage:
<http://www.orkney.gov.uk/Service-Directory/C/Civic-Government-Licences---Approved-Licence-Lists.htm>.
- 16.3. The Council has published a guide to your rights under Data Protection legislation and how you can exercise these. This information is available on the Council's website at <http://www.orkney.gov.uk/Council/D/Data-Protection-Policy.htm> or can be requested by contacting the Council directly.
- 16.4. Information about how the Council will process your personal information is available on the Council's website at <http://www.orkney.gov.uk/Online-Services/privacy.htm>.

Orkney Islands Council 2009.
Updated 2010 and 2013.
Version: 2018-06-20.