SHD6 – Version 2.2 (01.04.2024)

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| **Guidance Notes for Applicants****Second Hand Dealers Licence** | Fife Council logo |

**Introduction**

This guidance is provided for your information only and is not prepared as a substitute for any independent legal advice. If this is required you should contact your solicitor.

A Second Hand Dealer’s licence is required for the carrying on of a business as a dealer in second hand goods or articles as resolved by Fife Council. These goods include jewellery, furniture, antiques, clothing, pedal or motor cycles, motor vehicles, books, electrical and general goods. If you are unsure as to whether the goods or articles you propose to deal in are covered by Fife Council’s resolution please contact the Licensing Team.

A Second Hand Dealer’s licence **shall not** be required for carrying on

* the business of a pawnbroker (regulated under the Consumer Credit Act 1974)
* a business as a wholesale dealer purchasing exclusively from Second Hand Dealers licensed under the Civic Government (Scotland) Act 1982
* the business of a charity (that is to say, a body which is entered in the Scottish Charity Register)
* a business as a dealer in second hand goods or articles incidentally to another business
* a business either of financing the acquisition of goods by means of hire-purchase agreements, conditional sale agreements or credit sale agreements (as defined in section 189(1) of the Consumer Credit Act 1974) or of financing the use of goods by means of hiring agreements.

A dealer who combines the trade of “second hand dealer”, metal dealer” and/or “itinerant metal dealer” will require a licence for each activity that they carry out.

**Application**

Application fees are non-refundable and are for a 3 year application

Your application should be lodged online at this link: [Second Hand Dealer](https://www.fife.gov.uk/kb/docs/articles/business2/licences-and-permits-for-business/other-business-licences)

Please note that if you apply as a company or partnership then you will have to provide details of the day-to-day manager. You should be aware that the day-to-day manager is a joint licenceholder and as such if they cease to be so at any time within the duration of the licence then a new application with the applicable fee will be required.

**Register of Applications**

Fife Council will keep a register of applications in which it will enter the date of receipt, the name and address of the applicant, the decision, the issue date and duration of the licence, and a note of any suspension, variation or surrender of the licence. This information is available for inspection by any member of the public.

**Notification to the Public**:- The Civic Government (Scotland) Act 1982 requires that all licence applications involving premises are notified to members of the public. As part of the application process for this type of licence, you must display a completed notice of application (form SHD2) in a prominent place at your premises. This must be displayed for a period of 21 days starting on the day that the application is submitted to Fife Council. Once the 21 day period has passed, the certificate of compliance declaration (form SHD3) must be completed, dated and returned by email to Misc.licensing@fife.gov.uk

**Application Process**

The Civic Government (Scotland) Act 1982, prohibits the Council from making a decision on your application until a minimum of 28 days has passed from the date of application. During this time any person can object to your application.

Applications will be copied to Police Scotland (Fife Division) and the relevant Council Services. On receipt of a reply from these consultees the licence will either be granted by the Licensing Team, or where there are any representations or objections to an application, the application will be considered at a meeting of the Regulation & Licensing Committee, to which the applicant and any objectors will be invited to attend.

The majority of applications with no representations or objections will take 4-6 weeks to process, however applications that are to be considered by the Regulation & Licensing Committee will take longer to determine. The Council has a maximum of 9 months from the date of application within which to make its decision.

**Previous Convictions**

A full police record check is undertaken for all applicants and Police Scotland (Fife Division) may report on any incidents applicants have been involved in which required Police assistance. This may include incidents that have not reached the Court, incidents resulting in “no proceedings” by the Court and any outstanding Court cases. The provisions of the Rehabilitation of Offenders Act 1974 apply to convictions.

**Refusal**

You will be informed of the Regulation & Licensing Committee’s decision, in writing, within 7 days of the date of the hearing. If your application has been refused you may appeal against the decision, to Kirkcaldy Sheriff Court, within 28 days of the date of the decision.

If you have been refused Fife Council will not entertain a subsequent application, within one year of the refusal, for the same type of licence unless in its opinion there has been, since the refusal, a material change of circumstances.

**Conditions of Licence**

A copy of the standard conditions applicable to this licence is below. Fife Council requires all licenceholders to have a thorough understanding of these conditions. The Committee can, if it wishes, impose additional conditions and can grant the licence for a shorter period than that applied for.

**Renewal Applications**

If an application for the renewal of a licence is made before its expiry, the existing licence shall continue to have effect until, the renewal licence has been granted or where the Council has refused that application, the time within which an appeal against the decision can be lodged has elapsed or, where such an appeal has been lodged, the time when it has been abandoned or determined.

SHD5 – Version 2.0 (25.05.2018)

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| **CIVIC GOVERNMENT (SCOTLAND) ACT 1982****CONDITIONS RELATIVE TOSECOND HAND DEALERS LICENCES** | Fife Council logo |

1. A second hand dealer, while trading, will always have with them their licence, which they shall keep at all times clean and legible, and shall exhibit it on demand to any Police Officer, or any other authorised officer of the Council.

2. A second hand dealer may not lend or allow another person to use their licence.

3. Any second hand dealer who ceases to act as such, for the unexpired period of their licence, or whose licence has been suspended by the Council, must, within three days thereafter deliver said licence to the Licensing Team at the address below.

4. A second hand dealer must keep comprehensive detailed records from the day of any transaction with a customer and retain such records for a period of 3 years from that date stating the following information

1. time and date of purchase of item
2. name and address of person from whom purchased
3. description of articles including serial numbers etc.
4. price paid
5. date of sale
6. name and address of the buyer

 In the case of dealers in vehicles or cycles, the dealer will also keep a record of the mileage recorded on the odometer at the time of purchase, and the seller of the vehicle should sign against this entry in the dealers register. The dealer will further record the mileage on the odometer on the sale of the vehicle, and the purchaser, whether an individual or another dealer should counter sign this entry.

5. A second hand dealer shall not dispose of any item of his stock-in-trade until the expiry of 48 hours (excluding any time on Saturdays or Sundays) after he acquired it.

6. The Council may order suspension of this licence if in its opinion

1. the holder of the licence is no longer a fit and proper person to be the holder of such a licence, whether because of convictions or offences which have taken place since the grant/renewal of the licence or other cause, and/or
2. carrying on of the activity to which the licence relates is causing undue public nuisance or a threat to public order or safety.

7. If, during the currency of the licence, the licenceholder is

(a) charged with any offence, and/or

(b) issued with a fixed penalty, conditional offer or written warning

 by the Police or Procurator Fiscal, the licenceholder shall provide, in writing, full details of these to the Licensing Team at the address below immediately.

SHD2

# FIFE COUNCIL

Civic Government (Scotland) Act 1982

**NOTICE OF APPLICATION - SECOND HAND DEALER’S LICENCE**

NOTICE IS HEREBY GIVEN that application has been made on (date)

to Fife Council for a Second Hand Dealer’s Licence in respect of premises at

(address)

Days and Times of Operation

by Name of Applicant / Company -

##  Address -

##  Day to Day Manager -

##  Address -

OBJECTIONS AND REPRESENTATIONS

Any objections and representations in relation to the application may be made to Fife Council, Licensing Team, Finance & Corporate Services, Fife House, North Street, Glenrothes generally within 28 days of the abovementioned date. Objections and representations should be made in accordance with the following provisions, namely:-

1. Any objection or representation relating to an application for the grant or renewal of a licence will be entertained by the Council if, but only if, the objection or representation -

 (a) is in writing;

 (b) specifies the grounds of the objection or, as the case may be, the nature of the representation;

 (c) specifies the name and address of the person making it;

 (d) is signed by him or her or on their behalf;

 (e) is made to the Council within 28 days of whichever is the later or latest of the following dates -

 (i) where public notice of the application was advertised in a newspaper, the date when it was first so advertised;

 (ii) where the Council have required the applicant to display the Notice for a second time, the date the Council specified in the second notice;

 (iii) in any other case, the date when the application was made to the Council.

2. Notwithstanding 1. (e) above, it shall be competent for the Council to entertain an objection or representation received by it before it takes a final decision on the application if it is satisfied that there is sufficient reason why the objection or representation was not made in the time required.

3. An objection or representation shall be made for the purposes of 1. above if it is delivered by hand, within the time limit specified, to the Council or posted (by registered or recorded delivery post) so that in the normal course of post it might be expected to be delivered within that time.

**Any objection / representation submitted to the Licensing Team will be copied in full to the applicant. It is likely that the person making the objection / representation will be invited to attend the Regulation & Licensing Committee to speak in support of their objection / representation prior to the application being determined.**SHD3

**PLEASE NOTE THIS DECLARATION SHOULD ONLY BE COMPLETED AND RETURNED TO FIFE COUNCIL ONCE THE NOTICE OF APPLICATION SHD2 HAS BEEN DISPLAYED FOR THE 21 DAY PERIOD.**

FIFE COUNCIL

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

SECOND HAND DEALER'S LICENCE

CERTIFICATE OF COMPLIANCE

I,

applicant for a Second Hand Dealer’s Licence, hereby certify that a Notice has been posted at or near the premises at

from (date) to (date)

containing such information as is required by paragraph 2(3) of Schedule 1 to the above Act.

\* Where the said Notice was removed, obscured or defaced during the above-mentioned period, I took reasonable steps for its protection and replacement as follows:-
(give details and circumstances)

Date Signature

\* Delete if not applicable