

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982**

**(as amended by the Air Weapons and Licensing (Scotland) Act 2015)**

**Metal Dealers and Itinerant Metal Dealers**

- 32 (1) A licence, to be known as an “itinerant metal dealer’s licence” shall be required for carrying on business as an itinerant metal dealer.
- (2) An itinerant metal dealer’s licence shall have effect so as to permit the licence holder to carry on business as an itinerant dealer anywhere in Scotland.
- 33A (1) A metal dealer or an itinerant metal dealer may pay for metal only by a method of payment specified in subsection (2).
- (2) The methods of payment are-
- (a) by means of a cheque which under section 81A of the Bills of Exchange Act 1882 is not transferrable, or
- (b) by electronic transfer of funds to a bank or building society account in the name of the payee.
- (3) If a metal dealer or an itinerant metal dealer pays for metal otherwise than in accordance with subsection (1), the dealer and each of the persons listed in subsection (4) (if any) commit an offence.
- (4) The persons are-
- (a) in a case of payment being made by a metal dealer at a place of business of the dealer, the person with day to day management of the place,
- (b) in any case, any person who, acting on behalf of the metal dealer or the itinerant metal dealer, makes the payment.
- (5) It is a defence for a metal dealer, an itinerant metal dealer or a person described in subsection (4)(a) who is charged with an offence under this section to prove that the dealer or, as the case may be, person –
- (a) made arrangements to ensure that the payment was to be made only in accordance with subsection (1), and
- (b) took all reasonable steps to ensure that those arrangements were complied with.
- (6) A person who commits an offence under this section is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (7) The Scottish Ministers may by regulations-
- (a) amend subsection (2) so as to add, amend or remove methods of payment, and

(b) make such consequential modification of section 33B or 33C(3) as they consider appropriate.

(8) Regulations under subsection (7) are subject to the affirmative procedure.

(9) In this section, "*place of business*" means a place of business operated by a metal dealer in the ordinary course of that dealer's business as a metal dealer.

33B (1) In section 33A(2)(b), "*bank or building society account*" means an account held with a bank or building society.

(2) For the purposes of subsections (1) and (4) –

(a) "*bank*" means an authorised deposit-taker that has its head office or a branch in the United Kingdom, and

(b) "*building society*" has the same meaning as in the Building Societies Act 1986.

(3) In subsection (2)(a), "*authorised deposit-taker*" means–

(a) a person who has permission to accept deposits under Part 4A of the Financial Services and Markets Act 2000 (but see subsection (4) for exclusions),

(b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act that has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule).

(4) The reference in subsection (3)(a) to a person who has permission to accept deposits under Part 4A of the Financial Services and Markets Act 2000 does not include –

(a) a building society

(b) a society registered as a credit union under the Co-operative and Community Benefit Societies Act 2014 or the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)),

(c) a friendly society within the meaning given by section 116 of the Friendly Societies Act 1992, or

(d) an insurance company within the meaning of section 275 of the Finance Act 2004.

33C (1) This section applies where a metal dealer or an itinerant metal dealer ("the dealer"), in the course of the dealer's business –

(a) acquires any metal (whether or not for value), or

(b) processes or disposes of any metal (by any means).

(2) In respect of any metal acquired, the dealer must record the following information –

(a) the description and weight of the metal,

- (b) the date and time of the acquisition of the metal,
  - (c) if the metal is acquired from another person –
    - (i) the name and address of the person,
    - (ii) the means by which the person's name and address was verified,
  - (d) the price, if any, payable in respect of the acquisition of the metal, if that price has been ascertained at the time when the entry in the record relating to that metal is to be made,
  - (e) the method of payment of the price (if applicable),
  - (f) where no price is payable for the metal, the value of the metal at the time when the entry is to be made as estimated by the dealer,
  - (g) in the case of metal delivered to the dealer by means of a vehicle, the registration mark (within the meaning of section 23 of the Vehicle Excise and Registration Act 1994) borne by the vehicle.
- (3) Where the dealer has paid for metal, the dealer must keep a copy of –
- (a) the cheque, or
  - (b) the document evidencing the electronic transfer of funds.
- (4) In respect of any metal processed or disposed of, the dealer must record the following information –
- (a) the description and weight of the metal immediately before its processing or disposal,
  - (b) in the case of metal which is processed, the process applied,
  - (c) in the case of metal disposed of by sale or exchange –
    - (i) the consideration for which it is sold or exchanged,
    - (ii) the name and address of the person to whom the metal is sold or with whom it is exchanged, and
    - (iii) the means by which the person's name and address was verified,
  - (d) in the case of metal disposed of otherwise than by sale or exchange, its value immediately before its disposal as estimated by the dealer.
- (5) The dealer must –
- (a) keep separate records in relation to –
    - (i) metal acquired, and
    - (ii) metal processed or disposed of,

- (b) record the information immediately after the metal is acquired, processed or disposed of,
- (c) keep a copy of any document produced by a person to verify that person's name or address, and
- (d) retain information recorded or documents kept under this section for a period of not less than 3 years beginning with the date on which the information was recorded or document obtained.

(6) The Scottish Ministers may by regulations –

- (a) specify the means by which a person's name and address may be verified for the purposes of this section,
- (b) require further information to be recorded about any metal acquired, processed or disposed of by metal dealers or itinerant metal dealers.

(7) Regulations under subsection (6) –

- (a) may make different provision for different purposes, and
- (b) are subject to the negative procedure.

33D (1) A metal dealer or an itinerant metal dealer ("a dealer") must record the required information –

- (a) in books with serially numbered pages, or
- (b) by means of a device for storing and processing information

(2) Where a dealer records the required information in books, the dealer must use separate books for recording the required information about -

- (a) metal acquired, and
- (b) metal processed or disposed of.

(3) Where a dealer uses a device for storing and processing information, the dealer must, by means of the device or otherwise, keep details of all modifications made in the records kept by the device.

(4) Where a dealer is required to keep a copy of a document under section 33C, it is sufficient for the dealer –

- (a) to keep an electronic copy of the document, and
- (b) in relation to a document verifying a person's name or address, keep only one copy of the document.

(5) In this section, “*required information*” means the information about metal acquired, processed or disposed of that a dealer is required to record under or by virtue of section 33C(2), (4) or (6).

33E (1) A metal dealer must keep separate records of the required information in relation to –

- (a) each place of business operated by the dealer, and
- (b) any metal acquired, processed or disposed of otherwise than at such a place of business.

(2) Where a metal dealer records the required information in books, the dealer must not, at any time at a place of business, use more than –

- (a) one book for recording the required information about metal acquired, and
- (b) one book for recording the required information about metal processed or disposed of.

(3) In this section –

“*place of business*” means a place of business operated by a metal dealer in the ordinary course of that dealer’s business as a metal dealer,

“*required information*” means the information about metal acquired, processed or disposed of that a dealer is required to record under or by virtue of section 33C(2), (4) or (6).”

34 (1) Any metal dealer or itinerant metal dealer who disposes of metal to a person apparently under the age of 16 or who acquires metal for such a person, whether that person is acting on his own behalf or on behalf of another person, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [level 3 on the standard scale].

(2) In any proceedings for an offence under subsection (1) above, it shall be a defence to prove that the person to whom it is alleged the metal was disposed of or from whom it was acquired was 16 years of age or over at the time.

(2A) Any metal dealer or itinerant metal dealer who fails to comply with a requirement of section 33C, 33D or 33E commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(3) Any metal dealer or itinerant metal dealer who knowingly or recklessly produces any information or document which the dealer is required to record or keep under section 33C which is false or misleading in a material particular shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [level 4 on the standard scale].

(4) Any person who, when selling metal to or purchasing metal from a metal dealer or itinerant metal dealer, gives the dealer a false name or address shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [level 3 on the standard scale].

**In terms of the Civic Government (Scotland) Act 1982 (Metal Dealers and Itinerant Metal Dealers)(Verification of Name and Address) Regulations 2016/73**

- 2 (1) For the purposes of section 33C of the Civic Government (Scotland) Act 1982 the means by which a person's name and address may be verified is for the metal dealer or itinerant metal ("the dealer") to refer to –
- (a) a document listed in paragraph (2) which bears the person's name, photograph and residential address; or
  - (b) (i) a document listed in paragraph (2) which bears the person's full name, photograph and date of birth; and
    - (ii) a document listed in paragraph (3) which bears the person's full name, photograph and date of birth; and

(2) The documents for the purposes of paragraph (1)(a) or (b)(i) are –

- (a) a valid United Kingdom passport;
- (b) a valid passport issued by an EEA state;
- (c) a valid Great Britain or Northern Ireland photo-card driving licence; and
- (d) a valid biometric immigration document.

(3) The documents for the purposes of paragraph (1)(b)(ii) are-

- (a) a bank or building society statement;
- (b) a credit or debit card statement;
- (c) a council tax bill or statement where the person's address is in England, Wales or Scotland;
- (d) a rate bill or statement where the person's address is in Northern Ireland; and
- (e) a utility bill, but not a mobile telephone bill,

provided that the date on which the document was issued is not more than three months before the date the metal is acquired by the dealer or not more than three months before the date the metal is disposed of by sale or exchange by the dealer.

(4) In this regulation-

*"biometric immigration document"* means a biometric immigration document issued in accordance with the Immigration (Biometric Registration) Regulations 2008

*"driving licence"* means a licence granted under-

- (a) Part 3 of the Road Traffic Act 1988; or

(b) the Road Traffic (Northern Ireland) Order 1981

and includes a provisional licence, a Counterpart Community licence and a British external licence within the meaning of those enactments;

“EEA State” means –

(a) a state which is a member of State of the EU; or

(b) any other state which is a party to the Agreement on the European Economic Area signed at Oporto on 2<sup>nd</sup> May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17<sup>th</sup> March 1993 and;

“United Kingdom passport” has the meaning given in section 33(1) of the Immigration Act 1971.

## **CIVIC GOVERNMENT (SCOTLAND) ACT 1982**

### **SCHEDULE 1**

- 9 (1) Where there is a material change of circumstances affecting a holder of a licence, or the activity to which the licence relates, the holder of the licence shall, in accordance with this paragraph, notify the licensing authority of the change as soon as reasonably practicable after it has taken place. All notifications should be directed to Head of Legal and Democratic Services, Licensing Section, Angus Council, St Margaret’s House, Orchardbank Business Park, Forfar, DD8 1AN.
- (2) The holder of a licence which relates to an activity consisting of or including the use of premises, a vehicle or a vessel shall not, unless in accordance with a requirement imposed by or in pursuance of any enactment other than Parts I or II of this Act, make or cause to be made or permit there to be made any material change in the premises or, as the case may be, the vehicle or vessel without the prior consent of the licensing authority.
- 13 (2) A holder of a licence shall deliver the licence to the licensing authority
- (a) within 7 days after the coming into effect of a decision of a licensing authority to suspend or vary the terms of the licence or of a court, under section 7(6)(a) of this Act, to revoke it
- (b) where the licence relates to an activity which he has given up.

The licence holder shall at all times comply with all legislative provisions of the Civic Government (Scotland) Act 1982 affecting the premises detailed in the licence.

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## **General Conditions**

### **Metal Dealers only**

1. Any Fire Officer, Police Constable or Council Official shall be permitted free access to inspect the premises at any time.
2. The licence holder must display his licence at all times at the premises to which the licence relates.
3. The premises covered by this licence must be operated in a manner that allows compliance with the Health and Safety at Work etc Act 1974, the Control of Pollution Act 1974, the Environmental Act 1990 and all other relevant legislation
4. There shall be no burning of materials allowed on the premises.
5. The use of premises must comply with the terms and conditions of planning permissions granted.
6. All operations shall be carried out so as to ensure no annoyance is caused to neighbouring occupiers by way of noise.

### **Metal Dealers and Itinerant Metal Dealers**

1. Where a licence has been granted to a licence holder on receipt of a cheque which is subsequently dishonoured, the licence shall be void as from the day it was granted. The licence holder to whom such a licence was granted shall return it to the Head of Legal and Democratic Services within 48 hours of receiving notice to the effect.