

Street Traders' Licences – Conditions

Orkney Islands Council

Civic Government (Scotland) Act 1982

Note – It is a criminal offence in terms of section 7(2) of the Civic Government (Scotland) Act 1982 to fail to comply with any condition imposed on this licence.

1. The licence holder shall be permitted to sell [insert GOODS SOLD] only.
2. The licence holder shall be permitted to sell only from the vehicle or from the kiosk, moveable stall or structure approved by the Council and described in the Schedule hereto.

The licence holder shall obtain permission from the Head of Legal Services, Orkney Islands Council, should they wish to change their vehicle.

3. The licence holder shall be entitled to trade at [insert LOCATION] only.
4. The licence holder shall be permitted to trade during the following hours inclusive and at no other times:

[insert HOURS]

5. This licence is conditional on the trader complying with the Civic Government (Scotland) Act 1982, and also with the conditions contained in this Licence.
6. The licence holder, while street trading, shall always have with him/her the licence which s/he shall keep at all times clean and legible and on display in the vehicle or structure and shall exhibit on demand to any Consumer Protection Officer or Inspector of Weights and Measures, any Shops Inspectors, any Development and Infrastructure Officer, any Police Officer or officer appointed by the Council or such other Officer as may be described by the Council in the licence from time to time on production by that Officer, Inspector, Police or other Officer of his/her badge of office or written evidence of his/her appointment to that office and shall allow such Officer, Inspector, Police or other Officer to note the particulars on such licence.
7. The licence holder shall not lend or allow any other person to use his/her licence.
8. The licence holder shall not in any way alter, erase or deface the licence and shall, when reasonably required, produce it for examination by the Head of Legal Services, Orkney Islands Council, Council Offices, School Place, Kirkwall.

9. Where the goods or articles sold or which are offered for sale by any person engaged or employed in street trading are of a perishable nature, or are intended for human consumption, the licence holder shall not store such goods or articles in any dwelling house or other place or vehicle until the said dwelling house or other place or vehicle has been approved by the Executive Director of Development and Infrastructure, Orkney Islands Council, for that purpose.
10. The licence holder who has charge of any mechanically propelled vehicle, any beast of burden or any vehicle, including any carriage, lorry, cart, wagon, truck, van, float or barrow, shall not cause or allow the same to stand on or within a distance of 10 metres from any pedestrian crossing.
11. Where the licence allows the holder to sell from a stationary structure in any specified place in any street, the said structure shall be of a form which can be speedily and easily removed, and where such stalls are used for the sale of food they shall contain equipment for the proper cleaning and sterilising of all utensils and vessels used in connection therewith as shall be satisfactory to the Executive Director of Development and Infrastructure and shall comply at all times with the requirements of the Food Safety Act 1990 and any re-enactment thereof or regulations made thereunder.
12. The licence holder shall collect and remove any paper, garbage or other refuse which may be produced or may accumulate in the course of trading and shall not place or deposit the same or allow the same to be placed or deposited or to fall on any street, foot-pavement or footway or an adjoining property. Without prejudice to the foregoing generally, every street trader trading at a particular location for a period exceeding five minutes shall place in the public place a litter bin or other receptacle for the deposit of paper, garbage or other refuse by customers and comply with the Code of Practice for Street Traders appended hereto.
13. The licence holder shall, at all times when street trading, keep himself and his/her clothing clean and keep and maintain any moveable structure, or vehicle used for the purpose of street trading in a clean and proper condition to the satisfaction of the Executive Director of Development and Infrastructure, Orkney Islands Council.
14. Any licence holder and/or vehicle structure or stall used in connection with this licence must comply with the Road Traffic Acts and any regulations made thereunder, hold adequate insurance and all relevant statutory obligations, in particular, without prejudice to the following generality, Fire Safety and Health and Safety.

15. On written notice, signed by the Executive Director of Development and Infrastructure or by any Development and Infrastructure Officer authorised by the Council to sign such notices in terms hereof, being given to any street trader that he has become unsuitable in respect of the unsatisfactory condition of his/her clothing or person, or that the vehicle or structure is unsuitable, such street trader shall immediately cease to act as a street trader until he remedies the cause of complaint to the satisfaction of the Executive Director of Development and Infrastructure or until the said notice is withdrawn; and such notices shall be recorded in a Register kept for the purpose and available during normal office hours for public inspection and shall be reported to the Licensing Authority for information and action, as appropriate, immediately.
16. Notwithstanding the terms and conditions contained in this licence, every person engaged or employed in street trading within the area of Orkney Islands Council shall comply with any order or instruction given by any police officer in uniform for the prevention of obstruction or annoyance to the public or to the occupiers of any premises or in connection with any emergency or disturbance or on any occasion when such officer in his/her discretion may consider it necessary in the public interest to give such order or instruction.
17. A street trader who ceases to act as such for the unexpired period for his/her licence or whose licence shall have been suspended by the Council or shall have expired shall, within three days thereafter, deliver his/her licence and badge to the Head of Legal Services, Orkney Islands Council, and shall be in contravention hereof if s/he shall fail to deliver both or either his/her licence and/or badge within said period of three days and without prejudice to the foregoing shall receive no refund in respect of the unexpired portion of licence if and when his/her licence and badge are both delivered.
18. The holding of this licence shall be no defence to a charge of obstruction or any other contravention of the Road Traffic Acts.
19. The licence holder shall trade no closer than 100 metres to a shop selling the same goods as the street trader.
20. Any variation of this licence is subject to a variation fee and would be considered by the Licensing Committee at an appropriate meeting.
21. This licence does not carry with it the consent of Orkney Islands Council to site the above vehicle, structure or stall on or to operate as a street trader from any land owned by the Council other than a road which is entered in the list of public roads prepared by the Council as local roads authority. The specific written consent of the Council or any other landowner shall be obtained by the licence holder before trading is commenced from any land not forming part of a public road and such permission shall be exhibited to the licensing authority on demand.

22. No street trading will be permitted adjacent to or on Ayre Road, Kirkwall; Burnmouth Road, Kirkwall; Castle Street, Kirkwall; Harbour Street, Kirkwall; Junction Road, Kirkwall, from its junction with Ayre Road, Kirkwall, to its junction with Castle Street, Kirkwall; Shore Street, Kirkwall; and West Castle Street, Kirkwall; nor in any of the Council's car parks including those at Castle Street and the Albert Hotel, Kirkwall.
23. The licence holder shall not trade on any Orkney Islands Council pier, unless s/he has prior written permission from the Council.
24. Notwithstanding the trading hours specified above the licence holder shall not be permitted to trade in any housing scheme after 10.30pm on any evening.
25. The licence holder shall advise the Head of Legal Services immediately of a change of the licence holder or any employee's details and/or address and that to be done not later than 3 days after the change of the details and/or address. Failure to do so may result in the Licensing Committee reviewing the licence held.

Schedule

Approved Vehicle, Kiosk, Moveable Stall or Structure

(Insert details)

Code of Practice on Litter and Refuse (Street Traders)

The licence holder shall:-

1. Ensure that his/her commercial activities do not harm the amenity of the area in which s/he operates.
2. At the close of business each day or at times designated by the Council's Environmental Health Manager litterpick and, where practical, sweep the area or pavement for a radius of not less than 5 metres around the site of operation.
3. Regularly wash or otherwise cleanse the area or pavement for a radius of not less than 5 metres around the site of operation to remove stains, grease etc on a regular basis or to a frequency agreed with the Environmental Health Manager.
4. Litterpick an area for a radius of not less than 5 metres around the site of operation outlined by the Environmental Health Manager to remove all litter arising from his/her business activity.
5. Provide and make suitable provision for emptying litter receptacles for a radius of not less than 5 metres around his/her site of operation for use by customers as required by the Environmental Health Manager.
6. Subject to the granting of any required planning consent(s) and building warrant(s), store commercial waste in a safe, secure and satisfactory manner in (a) container(s) fit and suitable for that purpose and maintained in such a condition as to ensure safe and efficient emptying and which prevents detriment to the amenity of the area.
7. Present waste and recyclable materials for collection in a manner which avoids littering or soiling the street or pavements of the town.
8. Not present waste for collection before 07:00 any day unless arrangement has been made for its immediate collection.
9. Only Registered Carriers in terms of The Controlled Waste (Regulation of Carriers and Seizure of Vehicles) Regulations 1991 should be contracted to remove controlled waste.
10. Keep a Duty of Care Note in terms of the Environmental Protection Act 1990 and the Environmental Protection (Duty of Care) Regulations 1991 detailing:-
 - waste description;
 - quantity of waste produced;
 - source of the waste;
 - carrier and registration number of the carrier;
 - registration number of the vehicle which carried the waste;
 - final disposal site;
 - licence number of the disposal site.

For the avoidance of doubt, a Season Ticket Transfer Note lasting for one year will be sufficient provided the operation as detailed on the note do not alter e.g. type of waste or location where produced.

11. Produce a Duty of Care Note for inspection by the Environmental Health Manager at all reasonable hours.
12. Dispose of waste in a safe manner at a site licensed in terms of the Environmental Protection Act 1990 during the normal operating hours of the site, with the permission and under the supervision of the site operator. For the avoidance of doubt, the licence holder shall not dispose of trade waste in any of the following ways:-
 - in street litter bins;
 - at Council operated Civic Amenity Sites or Recycling Centres;
 - with domestic refuse.

A trade waste collection service is operated by the Council whereby licence holders may arrange for the collection of their business waste from the site of their business or another suitable location as agreed with the Council's Environmental Health Manager.

13. Produce a Duty of Care Note if the licence holder him/herself delivers commercial waste to a site licensed in terms of the Environmental Protection Act 1990 as long as it is waste produced from his/her own premises.

(The waste producer does not require to be a Registered Carrier (under The Controlled Waste (Regulation of Carriers and Seizure of Vehicles) Regulations 1991.)

Orkney Islands Council 2011.

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