

Second-Hand Dealer's Licence – 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.

Preliminary Conditions

1. The Dealer shall be licensed to sell: [types of goods inserted here].
2. The Dealer shall be permitted to sell only from the premises referred to above and which are not listed in the valuation roll.
3. This licence is granted under the authority of Orkney Islands Council and is conditional on the Dealer complying with the relevant provisions of the Civic Government (Scotland) Act 1982 and any amendment thereof and with the conditions contained in the said licence and in the schedule annexed hereto.
4. The Dealer shall keep a book recording in respect of each article purchased, the name and address of the seller of the article, a description of the article, the date of sale, the name and address of the purchaser of the article and the date of that purchase. The book containing such records is to be produced to any Police Officer on request. Such books are to be kept on the premises for a period of one year from the date of sale of the article by the Dealer.

This is the Schedule of Conditions referred to at Condition 3 of the foregoing licence granted by Orkney Islands Council (hereinafter referred to as “the Council”). These conditions must be observed at all times. Please note that in terms of Section 7 to the Civic Government (Scotland) Act 1982, it is an offence not to comply with a condition attached to a Licence and, subject to Section 7(3) to the 1982 Act, the holder of a Licence shall be guilty of an offence and liable, on summary conviction, to a fine.

Motor Vehicles

1. Subject to Note 3 hereto the licence holder will keep or cause to be kept a Register of all motor vehicles bought and sold.
2. The Register must be in the form of a properly bound book with consecutively numbered pages or in another form approved by the Council, and each vehicle purchased by the licence holder must be entered into and numbered in the Register. The form of Register approved by the Council is detailed at Note 1 hereto.

3. The Register must include the following details, in the style approved by the Council. The approved style may be found at Note 1 hereto. Such details must be inserted within the Register within forty-eight hours of acquisition or sale, that is:
 - date of purchase;
 - purchase price;
 - colour, make and model of vehicle;
 - date of first registration;
 - engine and chassis numbers;
 - registration number;
 - name and address of seller;
 - name and address of any previous owner shown on the registration document;
 - odometer reading, both on purchase and on sale;
 - date of sale;
 - sale price; and
 - date of most recent MOT certificate.
4. Entries in the Register and the Register itself must be preserved by the licence holder for at least three years.

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5. The licence holder shall not dispose of any item of his/her stock-in-trade until the expiry of 48 hours (excluding any time on a Saturday or a Sunday) after s/he acquires it. This shall not apply to any article acquired by the licence holder in a public motor auction or other public rroup and disposed by him/her without being brought to his/her place of business. The Council may order that the provisions of Section 25 of the Civic Government (Scotland) Act 1982 shall not apply to the disposal of the licence holder's stock-in-trade or any part of it.
6. If the licence holder intends to sell or dispose of any vehicle or other article to another licence holder or dealer, s/he must:
 - complete a trade sale of vehicle form in the style approved by the Council. Please see Note 2 hereto in this regard. The trade sale of vehicle form is to be signed by the licence holder; and
 - retain one copy of the trade sale of vehicle form as part of his/her records for at least three years.
7. The licence holder must comply with the provisions of the General Products Safety Regulations 1994, and any amendment thereof. Any defect which would render a vehicle unsafe requires to be rectified prior to the vehicle being displayed for sale.
8. The licence holder shall comply with the provisions of the Fire Precautions Act 1971, as appropriate, and the Workplace Regulations 1997 and any amendments thereof.

9. Notwithstanding the conditions referred to above, the licence holder, while trading, shall comply with any reasonable order or instruction given by a Police Officer:
 - for the prevention of a disruption or annoyance to the public or to the occupiers of any premises; or
 - in connection with any emergency or disturbance.
10. The licence holder must ensure that any used vehicles sold to customers must conform to the Road Vehicle (Construction and Use) Regulations 1994 affecting the construction and use of cars and must, where applicable, be accompanied by a current MOT Certificate.
11. The licence holder must comply with the provisions of the Sale of Goods Act 1979 and any amendment thereof. In addition, the licence holder must provide all reasonable facilities and access to enable prospective customers or their nominees to carry out an examination of the vehicle prior to sale.
12. The licence holder shall comply with the Consumer Transaction (Restriction on Statements) Order made under the provisions of the Fair Trading Act 1973 and any amendment thereof in that when selling a new vehicle subject to a printed guarantee or warranty, that guarantee or warranty must not purport to take away or diminish any rights which the consumer would otherwise enjoy in law. Any guarantee or warranty document must also include a statement advising the consumer that the guarantee or warranty is in addition to his/her statutory or common law rights.
13. The licence holder must ensure that all reasonable steps and due diligence is taken to verify the recorded mileage of the used vehicles and the licence holder will use his/her best endeavours to obtain a signed statement from the previous owner(s) as to the vehicle's mileage.
14. The licence holder shall ensure that all advertising undertaken by him/her or on his/her behalf complies with the pertaining codes and standards set by the Advertising Standards Authority and the Independent Television Commission, and with the requirements of the Trades Descriptions Act 1968 and any amendment thereof. In particular, reference to credit facilities within any advertisement must conform to the Consumer Credit Advertisements Regulations and any amendment thereof.
15. The licence holder must ensure that advertisements for used vehicles quote prices inclusive of VAT, and that the prices are inclusive as per the Price Acts 1974 and 1975 and the Price Marking Order 1999 and any amendment thereof.
16. The licence holder must ensure that effective and immediate action is taken to achieve a just settlement of a complaint. To this end, the licence holder must have in place an easily identifiable and accessible arrangement for the reception and handling of complaints. Details of the complaints procedure must be provided upon request to an authorised officer of the Council.

17. The licence holder must keep the Register (referred to in Condition 1) on the premises specified in the licence attached hereto, and available for inspection at any reasonable time upon request by an authorised officer of the Council, or Police Scotland, in accordance with Section 5 of the Civic Government (Scotland) Act 1982. Failure to do so shall constitute a breach of this licence condition.
18. The licence holder must ensure that customers are informed, by means of a prominently displayed notice, where they should address enquiries and complaints to the Council, that being “the authorised officer” Trading Standards Service, Orkney Islands Council, School Place, Kirkwall KW15 1NY. Where the licence holder is a member of a trade association, the notice should also give the address of the conciliation services of that association.
19. The licence holder must ensure, by the clear display of appropriate symbols or other means, that customers are informed of the licence holder’s adherence to the industry’s code of practice, and must provide details of the industry’s complaints and arbitration procedures upon request.
20. The licence holder shall conduct business only under the name appearing on the licence attached hereto and all notices, advertisements, etc. issued by or on behalf of the licence holder should be in that name, together with the true name and nature of the business, all in terms of the Business Names Act 1985, and any amendment thereof.
21. The licence holder shall prominently display the licence certificate attached hereto on the premises in such place and at such a height that it can be readily seen by members of the public.
22. The licence holder shall notify the Licensing Section, Orkney Islands Council, School Place, Kirkwall, KW15 1NY of any material change of circumstances affecting him/her or any other person or company named in the licence or affecting the activity to which the licence relates within seven days of said change. The licence holder who ceases to act as such for the unexpired period of the licence, or whose licence has been suspended by the Council, shall, within seven days, return the licence to the Head of Corporate Governance, Orkney Islands Council, School Place, Kirkwall, KW15 1NY.

**Note 1: Orkney Islands Council – Civic Government (Scotland) Act 1982
– Form of Approved Register**

Serial Stock No.	Reg. Mark.	Make. Model.	Date of Reg.	Colour.	Indicated Mileage at Purchase.	Date of Last Test.	Chassis/ VIN No.	Engine No.	Date of Purchase and Price £.	Name and Address of Seller.

Name and Address of Previous Owner.	Date of Sale and Sale Price £.	Name and Address of Purchaser.	Indicated Mileage at Sale.	Date of most recent MOT certificate.	Remarks.

Most dealers should be able to adapt their existing VAT or computer records to contain the additional information required.

Note 2: Trade Sale of Vehicle

Sold by:	
Sold to:	
Details of Vehicle	
Make:	
Model:	
Colour:	
Engine capacity:	
Date first reg:	
Reg number:	
MOT expiry date:	
Stock number:	
Trader's licence number:	
Odometer Reading	
Note: This statement should be read in conjunction with the information given on the vehicle. If the vehicle odometer is incorrect (options B and C) this should be adequately disclaimed on the vehicle odometer itself.	

A* The true mileage is recorded on the vehicle odometer is:	
B* The odometer reading is incorrect. The true mileage is:	
C* Despite enquiries the full mileage history of this vehicle is unknown. The odometer reading must therefore be taken as incorrect.	
* Complete only ONE of three declarations.	

Signature of Seller:

Print name of Seller:

Date:

Note 3.

1. Dealers may use their VAT Register as their Register provided it is amended to include all the information required in Condition 3 above or alternatively may use an electronic device for the storing and processing of information recording all second-hand goods acquired, received, sold, despatched or otherwise disposed of in the course of his/her business as a second hand dealer provided all the information required in Condition 3 above is included.
- 1A. The device shall be capable of producing printed records of all records stored therein and processed thereby and modifications made thereto. The dealer must keep particulars of all modifications made in the records kept by the device. If such records are used they should be readily available for inspection at all reasonable times and secondary records must be maintained if the VAT Register is removed from the premises or the computer system is out of operation for any reason.
2. The Council may, at any time, vary the terms of a licence on any grounds which they consider reasonable. Notice will be given to the licence holder at least seven days before any proposed variation is considered. The licence holder will be given an opportunity to be heard by the Council before any variation is made.
3. The Council may order suspension of a licence if in their opinion:
 - the licence holder is no longer a fit and proper person to be the holder of such licence, whether because of convictions for offences which have taken place since the grant or renewal of the licence or for any other good reason;
 - the activity to which the licence relates is being managed by or carried on for the benefit of a person other than the licence holder, who would have been refused the grant or renewal of a licence;
 - the carrying on of the activity to which the licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety; or
 - a condition of the licence is being contravened.
- 3A. Before suspending a licence, the Council shall hold a hearing and the licence holder has a right to state his/her case to the Council. Thereafter, a right of appeal may be made to the Sheriff against any such decision.
4. The Council will not issue a Renewal Notice and it is the duty of the licence holder to ensure that an application for renewal is timeously made and to ensure that their contact address is maintained up to date.

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