

CIVIC GOVERNMENT (SCOTLAND) ACT 1982
CUSTODIAL SENTENCES AND WEAPONS (SCOTLAND) ACT 2007
THE KNIFE DEALERS' LICENCES (EXCEPTIONS) ORDER 2008
THE KNIFE DEALERS' LICENCES (LICENCE CONDITIONS) (SCOTLAND) ORDER
2008
THE KNIVES (FORFEITED PROPERTY) (SCOTLAND) ORDER 2008

Guidance on Applying for Knife Dealer's Licence

The Civic Government (Scotland) Act 1982 ("the 1982 Act") has been amended by the Custodial Sentences and Weapons (Scotland) 2007. Section 27A of the 1982 Act introduces a mandatory licensing scheme for Knife Dealers.

From 1 June 2010 it will be a criminal offence to operate a business dealing in knives or swords in Scotland without a Knife Dealer's Licence.

What is Knife Dealer's Licence?

A Knife Dealer's Licence is required for anyone carrying on business as a dealer of the following articles –

- Knives (**other than folding pocket knives whose blades do not exceed 3.5 inches (8.91 centimetres) in length** or knives designed for domestic use
- Daggers (**other than kirpans or skean dhus whose blade does not exceed 3.5 inches (8.91 cm) in length**)
- 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

The legislation does not define "domestic" or "non-domestic" knife. A Common sense view might interpret "domestic" as being "any knife, tool or blade used or habitually used in accommodation used as family homes." Anyone dealing in knives that do not fall into the definition of "domestic", or anyone dealing in swords, will require to apply for a Knife Dealer's Licence.

At the end of this Guidance Note, there is a dictionary definition 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. This list is attached as a guide only and is not exhaustive.

Who Needs to Apply for a Licence?

The 1982 Act defines “Dealer” as a person carrying on a business which consists wholly or partly of –

- (a) Selling
- (b) Hiring
- (c) Offering for sale or hire
- (d) Exposing for sale or hire
- (e) Lending, or
- (f) 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.

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

Are there any Exceptions to the Requirement for a Licence?

The Knife Dealer’s Licences (Exceptions) Order 2008 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 –

- (a) Folding pocket knives;
- (b) Kirpans; and
- (c) Skean Dubhs

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 business requiring a licence, but only where the person teaching is a professional who is qualified to teach or train in the sport.

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

How do I Apply?

An application pack is attached to these Guidance Notes for your information. The pack is also available on our website, details of which are given at the end of these Guidance Notes.

Please read all the information provided carefully before completing and submitting your application form.

Completed forms should be submitted to –

Licensing
Municipal Chambers
Buccleuch Street
Dumfries
Along with –

- The application fee
- A layout plan of the premises
- Copy Third Party Liability Insurance Documents

Applications can be lodged by email at Licensing@dumgal.gov.uk.

AT THE SAME TIME as you post your application to, or lodge your application with, the Council, you require to display the attached site notice at the premises, for a period of 21 days. The site notice should be displayed in a location where it can be easily read by members of the public.

Once the site notice has been displayed at the premises for 21 days, please complete and submit the Certificate of Compliance to the address given on the bottom of the form.

How Long Does a Knife Dealer's Licence Last?

Knife Dealer's Licences will normally be granted for 3 years.

Copies of Licences issued will be forwarded to the Police, Scottish Fire & Rescue Service (SFRS), the Environmental Health Service and the Trading Standards Service for enforcement purposes.

A register of licences issued will also be kept, which register will be available for inspection to members of the public.

How Much Does a Knife Dealer's Licence cost?

The application fee for both the grant and renewal of a knife dealer's licence is £372. Cheques should be made payable to 'Dumfries & Galloway Council' or a debit/credit card payment can be taken by phone. Please do not send cash through the post.

Applicants should note that the application fee is not refundable if the application is refused, cannot be processed in time, or if you decide to withdraw your applicant after it has been lodged and processed.

Will I need to submit anything else with my application?

All applicants must submit the following documents with their applications –

- A detailed layout plan of the premises. This must be drawn to scale.
- Evidence of Third Party Public Liability Insurance.

What Happens Once I have lodged my application?

Processing

The Council must give a copy of your application to the Chief Constable, the SFRS and the Environmental Standards Service. Copies may also be forwarded to Building Standards if appropriate.

The Chief Constable, SFRS and Environmental Standards Service must submit their views to the Council within 21 days. They can also submit comments which include recommendations for additional conditions to be attached to the licence by the Council.

Members of the public may object or make representations within either –

- 28 days of display of the site notice at the premises; or
- 28 days of the application being advertised in a local newspaper by the Council, whichever is the later.

The Council does have a discretion to accept a late objection or representation by any party, on good cause shown.

Publicity

The new provisions of the Act require licensing authorities to give public notice of every application made to them for the grant or renewal of a knife dealer's licence by publishing in a newspaper circulating in the authority's area an advert giving details of the application, that objections may be made and how objections may be made. To comply with this requirement, the Council will advertise each application in the local newspaper most local to your premises.

As outlined above, members of the public may object or make representations within 28 days of the advert being published and the Council can accept late objections or representations on good cause shown.

How Will the Application be Determined?

Where no objections, representations, or notices are received from the Police, SFRS, Environmental Standards Service or any other party, the application will be granted by Democratic Services Manager under delegated authority and the licence will be issued.

Where there has been an objection or representation or adverse report from the Statutory Agencies your application will be submitted to a hearing of the Council's Licensing Panel. You and any Objector will be given the opportunity to address the Panel.

You will be provided with copies of the objections or representations, advised of the date, time and place of the Hearing, and you will be given a copy of the report that will be before the Panel for information. You should take the report with you to the Hearing.

The Panel meets approximately 6 times a year.

The Panel will consider if any of the grounds of refusal apply. If none of the grounds of refusal apply, the application will be granted. If one or more of the grounds of refusal apply, the application will be refused.

The Council is required to give written notice of the Panel's decision to all relevant parties within 7 days of the date of its decision.

What are the Grounds of Refusal?

The grounds of refusal are –

- (a) The applicant or, where the applicant is not a natural person, any director of it or partner in it or any other person responsible for its management, is either –
 - (i) For the time being disqualified under Section 7(6) of the Act; or
 - (ii) Not a fit and proper person to be the holder of a licence;
- (b) The activity to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
- (c) Where the licence applied for relates to an activity consisting of or including the use of the premises, the premises are not suitable or convenient for the conduct of the activity having regard to:-
 - (i) The location, character or condition of the premises;
 - (ii) The nature and extent of the proposed activity;
 - (iii) The kind of person likely to be in the premises;
 - (iv) The possibility of undue public nuisance; or
 - (v) Public order or public safety;
- (d) Where there is other good reason for refusing the application.

What Conditions Will Attach to the Licence?

Mandatory Conditions for all Knife Dealers

1. The Licence Holder must make on the day of the transaction with a customer and retain such records for a period of 5 years from that date, detailed written records stating the following information -
 - (1) The identity of the customer and the means by which the customer's identity was verified;
 - (2) Proof that the customer was at least eighteen years of age at the time of the transaction and the means by which the customer's age was verified; and
 - (3) A full description of the article sold, hired, offered or exposed for sale or hire, lent or given to the customer.
2. The Licence holder must ensure that any article or display of articles is not visible from the street or any public entrance to the premises.

Additional Mandatory Conditions for Swords

3. The Licence Holder must take all reasonable steps to establish from the customer and confirm the intended use of any sword.
4. The Licence Holder must make, and retain for a period of at least 12 months, detailed written records of the following information –
 - (1) The enquiries made of the customer or other persons or bodies as to the intended use of any sword;
 - (2) Confirmation and the reasons for the dealer's view that the intended use of the sword is for a purpose authorised by Scottish Ministers under Section 141 ZA of the Criminal Justice Act 1988; and
 - (3) The steps taken to establish the information in paragraph 14.

Local Conditions

Dumfries and Galloway Council has agreed that local conditions will only be attached where necessary and proportionate and in compliance with the results of consultation with the Chief Constable, Environmental Standards, SFRS and other agencies.

Where Can I Get Further Information?

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| Licensing Office Municipal Chambers Buccleuch Street Dumfries DG1 2AD | Telephone 01387 245951 E-mail Licensing@dumgal.gov.uk |
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Application Checklist

| | |
|--|--|
| Completed Application Form | |
| Fee of £372.00 | |
| Detailed Layout Plan | |
| Evidence of Third Party Public Liability Insurance | |

Have I completed all sections of the application form?

Have I completed the site notice form and arranged for it to be displayed in a place where it can be easily read by members of the public from the date I make my application?

Remember to make a note in your diary to submit the certificate of compliance 28 days after the site notice has been displayed.

Definitions and Examples

This information is provided to give you an idea of what types of knives, swords or blades that might mean you need to apply for a Knife Dealer's Licence. The lists provided are not exhaustive.

- (a) **"Domestic"** is defined as "any knife, tool or blade used or habitually used in accommodation used as family homes.";
- (b) **"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. The blade may be pointed for piercing; A weapon designed with aforementioned specifications intended for slashing and/or stabbing and too short to be called a sword. A dagger; and Any blade-like part in a tool or a machine designed for cutting, such as the knives for a chipper";
- (c) **"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."; and
- (d) **"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. A blade is intentionally used to cut, stab, slice, throw, thrust, position and/or place (such as razor wire), shoot (ballistic knife), scrape or strike and animate or inanimate object".

EXAMPLES OF KNIVES, SWORDS AND BLADES

- (a) **Knives as weapons** –
 - (i) Bayonet
 - (ii) Combat Knife
 - (iii) Throwing knife

- (iv) Trench Knife
- (v) Shiv

(b) Knives as Utensils

- (i) Bread Knife
- (ii) Boning Knife
- (iii) Carving Knife
- (iv) Chef's Knife
- (v) Electric Knife
- (vi) Kitchen Knife
- (vii) Oyster Knife
- (viii) Table Knife or Cast Knife
- (ix) Ulu

(c) Knives as Tools

- (i) Bowie Knife
- (ii) Butterfly Knife
- (iii) Diver's Knife
- (iv) Electrician's Knife
- (v) Hunting Knife
- (vi) Linoleum Knife
- (vii) Machete
- (viii) Multitool
- (ix) Pocket Knife
- (x) Palette Knife
- (xi) Scalpel
- (xii) Straight razor
- (xiii) Survival Knife
- (xiv) Switchblade
- (xv) Utility Knife
- (xvi) Wood Carving Knife

(d) Knives as a Traditional or Religious Implement

- (i) Athame
- (ii) Kirpan
- (iii) Kiaya
- (iv) Kris
- (v) Kukri
- (vi) Puuko
- (vii) Seax
- (viii) Skean Dubh

(e) Single-Handed Swords –

- (i) Bronze-Age Swords
- (ii) Iron-Age Swords
- (iii) Spatha
- (iv) Swiss Baselard and German Katzbalger
- (v) Cut & Thrust Swords

- (vi) The Turkish Blade
- (vii) Light duelling Swords
- (viii) The Japanese Short Sword
- (ix) The Ida of the Yoruba Tribe of West Africa
- (x) The Indian Tulwar or Kirpan
- (xi) The Arabian Scimitar and the Persian Shamshir
- (xii) The East Indian Kris
- (xiii) The Filipino Itak
- (xiv) The Kampilan
- (xv) The Korean Hwandudaedo
- (xvi) The Aztec Macana

(f) **Two-Handed Swords**

- (i) The Japanese Samurai Sword, the Katana, Tachi or Nodachi
- (ii) The Indian Khanda or Tega
- (iii) The Longsword
- (iv) The Doppelhander or Zweihander
- (v) The Chinese anti-cavalry sword, zhanmadao of the Song Dynasty
- (vi) The Scottish Highland Claymore

(g) **Knife Blades**

- (i) Normal Blades
- (ii) Curved, Trailing-point blades
- (iii) Clip-point blades
- (iv) Drop-point blades
- (v) Spear-point blades
- (vi) Needle-point blades
- (vii) Spay-point blades
- (viii) Westernized tanto style knife
- (ix) Sheepsfoot knife
- (x) Whancliffe Blade
- (xi) Ulu (Inuit Woman's knife)
- (xii) Undulating style
- (xiii) Sword blades – either straight or curved