

CIVIC GOVERNMENT (SCOTLAND) ACT, 1982

SEX SHOP LICENCE

INFORMATION FOR APPLICANTS

1. The Civic Government (Scotland) Act, 1982 introduced a new system for licensing certain activities including sex shops. Any person operating a sex shop within the Perth and Kinross district requires a licence under Section 45 of the Act which is summarised below:
2. **Licensing Requirements**
 - 2.1 Under Schedule 2 of the said Act a sex shop, is defined as:-

Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, display or demonstrating sex articles.
 - 2.2 No premises, vehicle, vessel or stall shall be treated as a sex shop by reason only of its use for the exhibition of moving pictures by whatever means produced.
 - 2.3 Under Schedule 2 of the said Act, "sex article" means:-
 - (a) anything intended for use in connection with, or for the purpose of stimulating or encouraging –
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; and
 - (b) anything to which sub-paragraph (2.4) below applies, but does not include any articles which are manufactured for use primarily for the purposes of birth control or which primarily relate to birth control.
 - 2.4 This sub-paragraph applies-
 - (a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
 - (b) to any recording of vision or sound, which-
 - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.
 - 2.5 The Local Authority may waive the requirement for a sex shop licence if they consider that to require a licence would be unreasonable or inappropriate.
3. **How to apply for a licence**
 - 3.1 The attached application form should be completed in black ballpoint pen. The application may be made in the name of a firm or company (i.e. non-natural person) or individual as appropriate. Applicants should complete Section 1 if applying on their own behalf or as an employee or agent of an individual. Section 2 should be completed if applying on behalf of a company and the name of the individual responsible for the day to day management of the sex shop should also be given. All other questions must be answered and any convictions against the applicant or any person named on the application form for any type of offence must be listed under Section 10.
 - 3.2 A Site Notice must be displayed at the premises or site for a continuous period of 21 days from the date of submission of your application. A copy of this Notice is enclosed along with a Compliance Notice which should be returned to me after 21 days, to certify that you have complied with the display notice requirement. If, for any reason, you are unable to gain access to the site to display the Site Notice, please complete the appropriate part of the Compliance Notice and return it to me. A Site Notice is not required for an application for a vehicle, vessel or stall.

- 3.3 You should have published, within seven days of making an application for the grant or renewal of a sex shop licence, an advertisement in a newspaper circulating in this area indicating your intention to make such an application. A copy of this advertisement should be supplied.
- 3.4 Licences will be granted for a period of 1 year except where a shorter period has been requested or where the Council consider a shorter period to be appropriate. The fee of £150, which is non-refundable should be submitted along with the application.
- 3.5 Your completed application form should be returned to me at the address below along with:
- (i) the appropriate fee,
 - (ii) the Compliance Notice should be returned within 21 days (where appropriate).
 - (iii) A copy of the newspaper containing the advertisement should be supplied within 7 days of the publication of the advertisement.

4 Grant or Refusal of Application

- 4.1 A copy of your application will be sent to the Chief Constable, the Firemaster, the Council's Director of Environment Services, the Director of Planning Development Services and the Director of Financial Services. They will carry out their own enquiries and inspections and report to me. If the Council feels that any other enquiries should be carried out, you will be told of the nature of these enquiries and the results of them may be taken into account in coming to a decision on your application. Any objections made by those consulted will be reported to the Licensing Committee of the Council and you will be given an opportunity to be heard by the Licensing Committee before a decision is made on your application.
- 4.2 You may not trade as a sex shop until you have been issued with a licence.
- 4.3 The Council may impose any conditions on the grant of a licence which they consider reasonable and if a licence is granted, you will be notified of the conditions which must be observed at all times. You are entitled to seek variation of any of the conditions once a licence has been granted.
- 4.4 The Council may refuse an application (a) if they consider the applicant is not a fit and proper person to hold a licence, (b) where the premises are not considered suitable or convenient for the proposed activity, (c) for any other good reason. Where an application is refused the applicant may appeal to the Sheriff and you may care to seek the advice of a solicitor.
- 4.5 If you need any help in filling in the form or need any advice, please contact this service.

I.T. INNES
Head of Legal Services

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