

## CIVIC GOVERNMENT (SCOTLAND) ACT 1982

# STREET TRADER LICENCE

## GUIDANCE NOTES

1. The following is to be submitted with the completed application form:
  - a) The appropriate licence fee
  - b) Passport-size photograph
  - c) Where appropriate, a Certificate of Compliance with the Food Safety Act 1990, where the trading consists of or includes a food business involving the use of a vehicle, kiosk or moveable stall. Where a food business is based outwith East Lothian Council such a Certificate must be obtained from the Local Authority where the vehicle, kiosk or moveable stall is based and the Food Business is registered.
2. The application should be submitted at least 35 days prior to the date from which you wish the licence to operate. It is an offence to operate as a Street Trader without a licence unless you come into a category described overleaf.
3. A copy of the relevant section of the Civic Government (Scotland) Act 1982 ("the Act") is included for information.
4. In terms of the Act, the Council, as the licensing authority, are required to pass a copy of the completed application form to the Chief Constable.
5. It is the responsibility of the licence holder to ensure that any necessary consents are obtained, where required e.g. the permission of a landowner to trade from their ground, planning consent etc. prior to the commencement of trading.
6. You are advised to contact the Planning Department to ascertain whether any planning permissions are required prior to trading and obtain such permissions prior to trading.
7. Contact East Lothian Council Transportation Division for an application for a permit to occupy part of a street.

8. For information on Food Safety and Food Standards, contact East Lothian Council Public Health and Protection.
9. All employees or agents acting as street traders require their own individual Street Traders licence.

### **Extract of Section 39 of the Civic Government (Scotland) Act 1982**

39.

- (1) Subject to the subsection (3) below, a licence, to be known as a "Street Traders Licence" shall be required for street trading by a person, whether on his own account or as an employee.
- (2) In this section "street trading", means doing any of the following things in a public place:
  - a) Hawking, selling or offering or exposing for sale any article
  - b) Offering to carry out or carrying out for money or money's worth any service

To any person in the public place and includes doing any of these things therein or from a vehicle or from a kiosk or moveable stall not entered in the valuation roll except where it is done in conjunction with or as part of a retail business being carried on in premises abutting the public place.

- (3) A Street Traders licence shall not be required for:
  - a) The sale of newspapers only;
  - b) The sale of milk by or on behalf of a person registered under Section 1 (3) of the Food Safety Act 1990;
  - c) The sale of coal, coke or any solid fuel derived from coal or of which coal or coke is a constituent;
  - d) Any activity in respect of which a certificate under the Pedlars Act 1871 has been granted

e) Any activity in respect of which a licence is required under this Act apart from this Section; or

f) Organising or participating in a public charitable collection within the meaning of subsection (16) of the Section 119 of this Act in accordance with permission granted under that section

(4) Where an application for a Street Traders licence is made in respect of an activity:

a) Consists of or includes foot business within the meaning of Section 1 (3) of the Food Safety Act 1990; and

b) Involves the use of a vehicle, kiosk or moveable stall,

The licensing authority shall, without prejudice to paragraph 5 (3) of Schedule 1 to this Act, refuse the application unless there is produced to them a certificate by a food authority (for the purpose of Section 5 of the Food Safety Act 1990) stating that the vehicle, kiosk or moveable stall complies with such requirements as the Scottish Ministers may by order made by statutory instrument specify.

(4A) A food authority referred to in subsection (4) is a food authority in Scotland which, in respect of the activity mentioned in that subsection—

(a) has registered the establishment that carries out or intends to carry out the activity for the purposes of Article 6.2 of Regulation ECNo. 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs, or

(b) where no such food authority has registered the establishment for those purposes, a food authority which is –

(i) the licensing authority to which the application mentioned in subsection (4) in respect of the activity is made, or

(ii) another licensing authority to which an application for a street trader's licence in respect of the activity is or has been made.

(5) An order under subsection (4) may specify requirements by reference to provision contained in another enactment.

(6) A statutory instrument containing an order made under subsection (4) is subject to annulment in pursuance of a resolution of the Scottish Parliament.