

**REPORT TO: LICENSING COMMITTEE 23 OCTOBER 2013
CABINET 4 NOVEMBER 2013
COUNCIL 12 NOVEMBER 2013**

REPORT BY: LICENSING MANAGER

REPORT AUTHOR: NICKII HUMPHREYS

Scrap Metal Dealers Act 2013 – New statutory powers to licence scrap metal dealers and motor salvage operators.

1. PURPOSE OF REPORT

1.1 The purpose of this report is to inform members of the introduction of a new licensing regime for the control of scrap metal dealers and motor salvage operators under the Scrap Metal Dealers Act 2013 ("The Act"). This new legislation replaces previous simple registration requirements for scrap metal dealers and motor salvage operators.

1.2 This report has been prepared for Licensing Committee, Cabinet and Council for consideration and approval of delegations as, due to legal difficulties in the implementation by central government, tight timescales have been set and until such time as changes are made to the Local Authorities (Functions and Responsibilities) Regulations 2000, this licensing function has yet to be deemed to be a function which is not the responsibility of an authority's executive.

2. RECOMMENDATIONS

Licensing Committee:

(i) That the contents of the report are noted:

(ii) That the Licensing Committee recommends to Cabinet to delegate to the Head of Health, Safety and Licensing:

- The administration and enforcement of the function including the setting of fees;***
- The power to request further information of applicants (schedule 1, paragraph 4 of the Act);***
- To determine applications (including refusal), revoke licences or to impose conditions under section 3(8) of the Act;***
- The power to issue or cancel a closure notice for unlicensed sites, and, where appropriate, to apply for closure orders (schedule 2 of the Act) and take such other action in this respect as may be required.***

(iii) That the Licensing Committee recommends to Council to delegate the function to the Licensing Committee as and when the power to do so comes into effect in accordance with The Local Authorities (Functions and Responsibilities) (England) Regulations.

Cabinet:

(iv) That Cabinet resolves to delegate to the Head of Health, Safety and Licensing:

- ***The administration and enforcement of the function, including the setting of fees;***
- ***The power to request further information of applicants (schedule 1, paragraph 4 of the Act);***
- ***To determine applications (including refusal), revoke licences or to impose conditions under section 3(8) of the Act;***
- ***The power to issue or cancel a closure notice for unlicensed sites, and, where appropriate, to apply for closure orders (schedule 2 of the Act) and take such other action in this respect as may be required.***

Council:

(v) That Council resolves to delegate the function to the Licensing Committee as and when the power to do so comes into effect in accordance with The Local Authorities (Functions and Responsibilities) (England) Regulations.

3. REASONS FOR REPORT RECOMMENDATIONS

- 3.1 a) The legislation gives the Council new statutory licensing powers replacing existing registration powers that came into effect on 1 October 2013.
- b) The Council is required to carry out the function, although, at the date this report was drafted, it has not yet been made clear whether this will be an executive or non-executive function.

4. BACKGROUND

- 4.1 In recent years, metal theft has been one of the fastest growing crimes in the UK. It affects communities, businesses and Councils themselves and a Local Government Survey (LGA) survey established that metal theft cost Councils over £5.25 million in 2010/2011.
- 4.2 Since 2001, a number of organisations including the Police, Councils and the Environment Agency through "Operation Tornado" have been successful in reducing the amount of metal theft in the UK. This led to the LGA along with other bodies pressing the Government to update the regulations relating to scrap metal dealers.
- 4.3 "Scrap Metal" is defined in the Act as *"any old waste or discarded metal or metallic material or any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life. But gold, silver and any alloy of which 2% or*

more by weight is attributable to gold or silver is not considered scrap metal".

4.4 The Act came into effect on 1 October 2013 and repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (Crime) Act 2001 (motor salvage operators), replacing them with a new system of licensing to be administered by local authorities.

4.5 The new legislation introduces significant differences in respect of powers available to local authorities to regulate the scrap metal and motor salvage industry. These are as follows:

- Licences as opposed to registrations, with a consequent power to consider the suitability of applicants;
- Scrap metal dealers and motor salvage operators are now regulated under the same legislation;
- Requirement not to issue a licence unless the local authority is satisfied as to the applicant's suitability and also powers to revoke a licence;
- Power to impose licence conditions in case of conviction as to the times when scrap may be received and that scrap metal must be kept in its original form for a specified period following receipt;
- Two categories of licence - sites and collectors;
- No cash payments permitted for scrap metal, although an exception remains for the purchase of vehicles in limited circumstances;
- Power to give notice to close unauthorised sites;
- Licences issued for a three year period;
- The holder of a licence is only permitted to hold one licence in each local authority area, but may hold licences in multiple local authority areas. For example, a holder of a site licence in one area might hold a collector's licence in another;
- The Act requires that a fee is payable in respect of applications made to the local authority;
- Powers available to the Police and local authority in respect of compliance and enforcement measures.

5. SETTING OF FEES

5.1 It is proposed that the following fees should apply in respect of applications made to the Council. They have been calculated in accordance with the legal requirements and recent Home Office guidance to ensure, so far as is possible, that the costs of administering the function and ensuring compliance by licence holders can be met. In addition, joint work, including the calculation of fees, has been undertaken with Southampton City Council in respect of the introduction of the new legislation given the similarities between the respective cities in terms of amount of potential applicants and the resources needed to ensure compliance.

5.2 Proposed fees:

Site Licence - Grant and Renewal	£450.00
Site Licence - Variation	£100.00
Collector's Licence - Grant and Renewal	£300.00
Collector's Licence - Variation	£100.00
Replacement Licence	£25.00

6. SCHEME OF DELEGATIONS

- 6.1 Under the scheme of delegation, it is proposed that the function be delegated to the Head of Health, Safety and Licensing, save for those circumstances where it is proposed that an application should be refused, a licence revoked, or conditions imposed and the applicant or licence holder exercises their right to make representations. Such hearings should be dealt with by the Licensing Sub-Committee, when the legal power to delegate that function to that body is available.
- 6.2 Applications will be determined in accordance with the Statutory Guidance issued by the Home Office, a copy of which is attached as Appendix A to this report.
- 6.3 Where an application is refused or a licence is revoked, there is a right of appeal to the Magistrates' Court against the decision.
- 6.4 Currently, because the government has yet to amend the Local Authorities (Functions and Responsibilities) Regulations 2000, the default responsibility for this function is with the Executive.
- 6.5 However, when these regulations have been amended in due course, it is recommended that Council should delegate the function to the Licensing Committee as a non-executive matter.

7. LEGAL IMPLICATIONS

- 7.1 The Act came into effect on 1 September 2013 in respect of setting of fees, from 1 October 2013 in respect of the remainder of the legislation, except for the offences and powers of closure, which come into effect on 1 December 2013.
- 7.2 The Act imposes a duty on the Council to carry out the various functions it sets down.
- 7.3 In addition, Section 17 of the Crime and Disorder Act 1998 requires that:

"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can to prevent crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local

environment) ..."

- 7.4 The licensing of scrap metal dealers evidently engages with this requirement and it is considered that the Councils obligations will be met if the course of action indicated in this report is followed.

8. EQUALITY IMPACT ASSESSMENT

- 8.1 A preliminary Equality Impact Assessment has been undertaken and it is not considered necessary for a Full Assessment to be carried out.

9. APPENDICES

Appendix A - Home Office Statutory Guidance

Licensing Manager