

**County Council**

**30 October 2013**



## **Changes to the Constitution – Scrap Metal Dealers Act 2013**

---

### **Report of Colette Longbottom, Head of Legal and Democratic Services**

---

#### **Purpose of the Report**

- 1 To present Members with details of amendments to the Constitution made by the Head of Legal and Democratic Services to reflect the implementation of the Scrap Metal Dealers Act 2013 (“The Act”) and the introduction of a new licensing regime for scrap metal dealers.

#### **Background**

- 2 The Act came into force on the 1 October. It harmonises the existing scrap metal registration scheme and the motor vehicle salvage operators’ regimes into one Act. The term ‘scrap metal dealers’, includes scrap metal dealer sites and mobile collectors.
- 3 The Act introduces a new licensing system requiring anyone operating as a scrap metal dealer must now apply for a licence. Previously, the only requirement was to register with their local authority. Councils are able to refuse to grant a licence where the applicant is judged not to be a suitable person to operate as a scrap metal dealer. This ability to regulate who is and who is not a scrap metal dealer is designed to improve the operating standards of those dealers who do not operate in the same way as the majority of reputable dealers. The transition from the requirement for dealers to register to that of holding a licence provides an opportunity to ensure that those dealers who have been operating illegally are no longer able to do so.
- 4 In order for anyone to carry on business as a scrap metal dealer, a licence will be necessary. These licences will last for three years. Trading without a licence will be a criminal offence. If convicted of trading without a licence, the offender could be fined. The fine will be at Level 5 on the standard scale. Amendments to the size of the fines that courts can impose in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, mean that when the provisions come into force, a fine at that level will be unlimited.

5 There are two types of licence specified in the Act:

#### Site Licence

All the sites where a licensee carries on business as a scrap metal dealer have to be identified and a site manager has to be named for each site. This licence allows the licensee to transport scrap metal to and from those sites from any local authority area.

#### Collector's Licence

This allows the licensee to operate as a collector in the area of the issuing local authority. It does not allow the collector to operate in any other local authority area, so a separate licence has to be obtained from each council the collector wishes to operate in. The licence does not authorise the licensee to operate a site, to do so they will need a site licence from the relevant local authority. It should be noted that a dealer could only hold one type of licence in any one local authority area. They will have to decide whether they are going to have a site or a mobile licence in any one area. They cannot hold both a site and mobile collector's licence from the same council

### **Timetable for Transition to the new Regime**

6 In order to provide time for councils to process applications without existing businesses being in a position where they cannot operate, the Home Office is implementing a transition process. The transition timeline is:

- The Commencement Order has been made in August, which allows local authorities to set a licence fee from 1<sup>st</sup> September.
- The main provisions of the Act commence on 1 October including the offence of buying scrap metal for cash.
- Dealers and motor salvage operators registered immediately before 1st October will be deemed to have a licence under the Act from that date.
- Provided the dealer submits an application for a licence on or before 15 October, their deemed licence will last until the council either issues them with a licence, or gives them notice of the decision to refuse them a licence, although they will be able to continue trading pending an appeal against the decision not to grant a licence.
- Where a dealer submits an application on or before 15 October, but does not supply all the required information with the application form, then the deemed licence remains in effect after 15 October.
- Where a dealer with a deemed licence fails to submit an application on or before 15th October, the deemed licence will lapse on 16 October.
- Other scrap metal dealers, not previously registered, will be able to apply for a licence from 1 October but will have to wait until a licence is granted before they can legally trade.
- Local authorities will complete suitability checks on applicants and decide whether to issue licences. It is anticipated that decisions on

whether to grant or refuse a licence to previously registered dealers are made before 1 December.

- All other enforcement provisions within the Act commence on 1 December.
- 7 The Licensing Section of Environment, Health and Consumer Protection is expecting applications from existing licensees from the 1 October, and will have to determine their applications by the 15 December. The licence is subject to suitability criteria for all applicants and it could be that objections may be made by the Police or Environment Agency (or others) against existing licensees to receive a new licence.
- 8 The Head of Legal and Democratic Services was asked in September to make an urgent amendment to the Constitution for business continuity reasons and to ensure that the Council can meet its legal requirements under the new Act, and did so after consulting with the Leader.

### **Determination of Licensing Applications**

- 9 No method of deciding licensing applications is set out in the Act, so Councils have to decide which applications, if any, their licensing committees should consider. Given the right to make representations, where a licence application is going to be refused, revoked or varied, it is appropriate for applications, which may be subject to officer recommendations or objections, to be heard by Members. Uncontested applications will be granted without the need for a hearing before Members.
- 10 The General Licensing and Registration Committee will discharge the Council's function where a scrap metal dealer's licence application is going to be refused, revoked or varied.
- 11 The Council's Licensing Section has added the responsibility of scrap metal licensing to their existing responsibilities for alcohol, taxi and gambling licensing.

### **Changes that have been made to the Constitution**

- 12 The functions of the General Licensing and Registration Committee have been updated so that they can consider contested applications for scrap metal dealers' licences where officers recommend refusal, revocation or variation of a licence.
- 13 The existing Delegations to the Corporate Director Neighbourhood Services and Head of Environment Health and Consumer Protection are suitable for the new scrap metal dealers licensing regime although the list of legislation contained with Appendix 1 to Table 5 has been updated to remove the old legislation and include the new Act.

### **Recommendations and Reasons**

- 14 It is recommended that Council note the content of this report.

---

**Contact: Colette Longbottom Tel: 03000 269 732**

---

---

## **Appendix 1: Implications**

---

**Finance** – None specific in this report

**Staffing** - None specific in this report

**Risk** - None specific in this report

**Equality and Diversity / Public Sector Equality Duty** - None specific in this report

**Accommodation** - None specific in this report

**Crime and Disorder** - None specific in this report

**Human Rights** - None specific in this report

**Consultation** - None specific in this report

**Procurement** – None specific in this report

**Disability Issues** - None specific in this report

**Legal Implications** – None specific in this report