

BROMSGROVE DISTRICT COUNCIL

COUNCIL

25th September 2013

SCRAP METAL DEALERS ACT 2013

Relevant Portfolio Holder	Councillor Kit Taylor
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan – Head of Worcestershire Regulatory Services
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The Scrap Metal Dealers Act 2013 (“the Act”) received Royal Assent on 28th February 2013 and comes into force from 1st October 2013. Members are asked to delegate authority and set fees so that the legislation can be effectively implemented from 1st October 2013.

2. RECOMMENDATIONS

The Council is requested to **RESOLVE** that:

- 1) Authority be delegated to Licensing Sub-Committees to refuse applications made under paragraph 2 or 3 of Schedule 1 of the Act for the grant or variation of a licence;**
- 2) Authority be delegated to Licensing Sub-Committees to revoke or vary a licence under section 4 of the Act;**
- 3) Authority be delegated to the Head of Worcestershire Regulatory Services to carry out all other functions and exercise all other powers provided under the Scrap Metal Dealers Act 2013; and**
- 4) The fees to be charged under the Scrap Metal Dealers Act 2013 are set as shown in the table at Appendix 3.**

3. KEY ISSUES

Financial Implications

- 3.1 Implementation of the Act will be achieved using existing resources.
- 3.2 The proposed licence fees have been calculated on a cost recovery basis, having regard to the statutory guidance and reflecting the cost of the procedures and formalities of administering the statutory regime.

Legal Implications

- 3.3 The Scrap Metal Dealers Act 2013 provides the Council with a number of powers and duties in relation to the regulation of scrap metal dealers. Appropriate delegation of these powers and duties by the Council is required to enable the effective implementation of the legislation.
- 3.4 Schedule 1(6) of the Scrap Metal Dealers Act 2013 provides the Council with the power to set fees for licences. In setting the fees the Council must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury.

Service / Operational Implications

3.6 Background

The increased value of metal has caused a growing problem of metal thefts throughout the U.K. The Home Office has provided an estimate that there were between 80,000 – 100,000 reported metal theft offences in 2010/11 alone and which is costing the economy up to an estimated £260 million per year. A wide range of sectors have been targeted, which includes transport infrastructure, electricity and telephone links, street furniture, memorials, commercial and residential buildings, including churches and schools.

- 3.7 The Council currently regulates the scrap metal and motor salvage industries under the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (Crime) Act 2001.
- 3.8 In late 2012, the Government introduced initial measures to prohibit cash payments for scrap metal; to amend Police powers of entry into unregistered scrap metal sites; and to increase the existing financial penalties for offences under the Scrap Metal Dealers Act 1964. These changes were contained in the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- 3.9 The Scrap Metal Dealers Act 2013 (“the Act”) received Royal Assent on 28th February 2013. On 6th August 2013 the Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013 was made which confirmed that the majority of the provisions of the Act will come into force on 1st October 2013.
- 3.10 The Act repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicle (Crime) Act 2001, creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries. The Act maintains local authorities as the principal regulator, but gives them the power to better regulate these

industries by allowing them to refuse to grant a licence to ‘unsuitable’ applicants and a power to revoke licences if the dealer becomes ‘unsuitable’.

3.11 Summary of the Act

The main aim of the 2013 Act is to raise standards within the scrap metal industry, by replacing the overlapping regimes for vehicle salvage and scrap metal with one regulatory regime, and by giving Councils the responsibility for the licensing and enforcement of the Act in conjunction with the police.

3.12 A detailed explanation of the provisions of the Act is attached at **Appendix 1**.

3.13 The main provisions of the 2013 Act are:

- An extended regime to include a wide range of businesses.
- Amended definition of scrap metal.
- The introduction of a national register of licenses to be held by the Environment Agency (Each Council previously held a register individually).
- The introduction of two different types of licences, Site and Collector.
- The introduction of a suitability test for applications and licensees.
- The introduction of a licence fee to be determined by the Council.
- The introduction of the power to revoke a licence
- The introduction of entry and inspection powers
- The power to obtain closure notices for unlicensed sites
- The introduction of increased record keeping requirements
- The introduction of a requirement to display licenses
- The continuation of the offence of buying scrap metal for cash and additional offences relating to each of the powers and duties contained in the 2013 Act.

3.14 Transitional Timetable

The majority of the provisions of the 2013 Act are coming into force on 1st October 2013. A summary of the key dates is shown below:

1 st September 2013	Power for local authority to set fees under the 2013 Act was commenced.
1 st October 2013	Requirement for a licence under the 2013 takes effect.
1 st October 2013	All operators already registered under the 1964 or 2001 Acts deemed to have a licence under the 2013 Act.
1 st October 2013 – 15 th October 2013	All operators registered under the 1964 or 2001 Acts to apply for licences under the 2013 Act. Provided that an existing operator applies during this period, their deemed licence will continue to have effect until their application under the 2013 Act is determined (including any appeals against refusals).

16 th October 2013	If an operator registered under the 1964 or 2001 Acts has failed to apply for a licence under the 2013 Act by this date, their “deemed” licence will lapse and they will not be able to trade until a licence under the 2013 Act is granted.
1 st December 2013	The remaining “enforcement” provisions under the 2013 Act take effect.

3.15 Delegation of Functions and Powers Under the Act

If a Local Authority proposes to either refuse an application or revoke or vary a licence, it must give the applicant or licensee a notice that sets out what the authority proposes to do and the reasons for it.

3.16 The applicant or licensee will have not less than 14 days to either make a representation or inform the Council that it wishes to do so. If the applicant or licensee informs the Council that it wishes to make representation then it must be allowed a further reasonable period in which to do so.

3.17 The Council must consider the representations made and if the applicant or licensee wishes to make oral representations the Council must allow them to do so by giving them the opportunity of appearing before and being heard by a person appointed by the Council.

3.18 It is recommended that Licensing Sub-Committees are appointed to consider any representations made by the applicant or licensee. It is also recommended that the power to refuse applications and to revoke or vary licences should be delegated to Licensing Sub-Committees.

3.19 It is recommended that authority is delegated to the Head of Worcestershire Regulatory Services to carry out all other functions and exercise all other powers provided under the Scrap Metal Dealers Act 2013. This will include:

- The administration of all applications
- The grant of licences to applicants deemed suitable persons
- The supply of relevant information to those agencies described in the section 6 of the Act
- Compliance with the notification requirements imposed on the authority under section 8 of the Act
- Exercise of the compliance and enforcement powers contained in the Act

3.20 Setting Fees

Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the local authority.

This fee raising power is an essential component of the legislation as it will provide local authorities with the funding they need to administer the regime and ensure compliance.

- 3.21 In setting a fee, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury. The fee guidance was published by the Home Office on 12th August 2013 and is attached at **Appendix 2**.
- 3.22 Officers have calculated proposed fees with regard to this guidance and have included in the calculations the costs arising from the time spent assessing and administering applications, processing them, having experienced licensing officers review them, storing them, consulting on the suitability of an applicant, reviewing relevant offences, the decision on whether to issue a licence, as well as the cost of issuing licences in a format that can be displayed.
- 3.23 The costs associated with dealing with contested licence applications, including any required Licensing Sub-Committees, have also been included in these calculations.
- 3.24 The calculations also include the costs of ensuring those who are licensed under the Act as scrap metal dealers comply with the provisions of the Act, but do not include the costs involved in any enforcement activity against unlicensed scrap metal dealers.
- 3.25 The fees being proposed are shown at **Appendix 3**.

Customer / Equalities and Diversity Implications

- 3.26 There are no specific implications arising from this report.

4. RISK MANAGEMENT

- 4.1 Failure to take steps to enable implementation the legislation will result in the Council being unable to control and regulate scrap metal dealers.
- 4.2 If no fees are set, then the Council cannot charge applicants who apply for licences after 1st October 2013.
- 4.3 If fees are set incorrectly, without due regard to the guidance issued by the Secretary of State, they may be subject to legal challenge.

5. APPENDICES

Appendix 1 - Explanation of the provisions of the Act

Appendix 2 - Guidance from Secretary of State on setting licence fees
Appendix 3 – Proposed fees

6. BACKGROUND PAPERS

Scrap Metal Dealers Act 2013

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