

CABINET

22 AUGUST 2013

Report of the Portfolio Holder for Environment and Waste Management

SCRAP METAL DEALERS ACT 2013

Recommendations

1. That Cabinet authorise the Portfolio Holder for Environment and Waste Management in conjunction with the Director of Assets & Environment to take adequate measures to enable the Scrap Metal Dealers act 2013 be implemented by the due date envisaging adequate government guidance on the interpretation of the new legislation is released, to enable a formal policy be considered by full Council.
2. That a formal policy is presented to Cabinet in due course.

Purpose

To inform Cabinet of impending changes to the regulatory regime for Scrap Metal to be implemented through the provisions of the Scrap Metal Dealers Act 2013 and the increased duties and powers which this gives to the Council.

Executive Summary

The Scrap Metal Dealers Act 2013 (the Act), received Royal assent on 28 February 2013 and will be brought into force in October 2013. This Act repeals the Scrap Metal Dealers Act 1964 and replaces part of the Vehicles (Crime) Act 2001 concerned with Motor Salvage Operators.

Whilst retaining a principal regulator role for Local Authorities, the Act introduces a new and arguably tougher regulatory regime for scrap metal dealing and vehicle dismantling, with new powers permitting Local Authorities to refuse, review, suspend and revoke a licence for this purpose and to enter and inspect such premises.

The Act also provides Local Authorities with the power to set locally (in accordance with Statutory Guidance to be issued on the matter) different charges for different type of metal dealers, on a cost recovery basis.

Background

The Council currently regulates Scrap Metal Dealers (SMD) within its area under the provisions of the Scrap Metal Dealers Act 1964 (1964 Act), and the Vehicle(Crime) Act 2001 and Motor Salvage Operators Regulations 2002.

Under this regime SMD must register with the Council. No fee is payable by the SMD.

The increases in metal theft offences in recent years has highlighted the ineffectiveness of the currently regulatory regime, accordingly reform was necessary to curb such criminal activity.

On 3 December 2012 the Government introduced some changes to the current regime namely Sections 145-147 of the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO 2012). In particular, it increased the penalties for the existing offences contained in the 1964 Act and introduced a new offence of buying scrap metal for cash.

In 2012 the Scrap Metal Dealers Act 2013 (2013 Act) was introduced as a private members bill. It received Royal Assent on 28 February 2013 and will come into force by means of a commencement order, which is anticipated to be on 1 October 2013.

A detailed explanation of the provisions of the 2013 Act is contained in the note enclosed as Appendix 1 and also in the document entitled "The Legislative Response to Metal Theft" issued by the Home Office March 2013 attached as **Appendix 2**.

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.

The 2013 Act will repeal the 1964 Act, Sections 145-147 of LASPO 2012 and Part 1, section 35 and paragraphs 1 & 2 of the Schedule of the Vehicles (Crime) Act 2001.

The main provisions of the 2013 Act are:

- An extended regime to include a wide range of businesses (see paragraphs 1 & 2 of **Appendix 1**).
- Amended definition of scrap metal (see paragraph 3 of **Appendix 1**).
- 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 (see paragraphs 4-9 of **Appendix 1**).
- The introduction of a suitability test for applications and licensees (see paragraphs 17-19 of **Appendix 1**).

- The introduction of a licence fee to be determined by the Council (see paragraph 15 of **Appendix 1**).
- The introduction of the power by the Local Authority to revoke a licence (see paragraphs 23 to 31 of **Appendix 1**).
- The introduction of entry and inspection powers (see paragraphs 59 to 61 of Appendix 1). The power to obtain closure notices for unlicensed sites (see paragraphs 62 to 67 of **Appendix 1**).
- The introduction of increased record keeping requirements (see paragraphs 50 to 58 of **Appendix 1**).
- The introduction of a requirement to display licenses (see paragraphs 38 to 40 of **Appendix 1**).
- The continuation of the offence of buying scrap metal for cash and additional offences relating each of the powers and duties contained in the 2013 Act.

Appendix 2, page 18 contains a useful diagram of how the licensing model will work.

Financial Implications

In preparation for the implementation of these new powers and duties the Council will need to make arrangements for dealing with applications, setting a fee (with regard to any statutory guidance issued by the Secretary of State) and providing the resources to deal with enforcement.

Any additional resource implications and fee levels can not be quantified until information is received from the government.

A further report will be presented to members once the information is available but it is anticipated that the officer time required will be met within the existing establishment.

Risk Implications

Resources – Increased resources will be required to implement and run the new licensing regime, however it is anticipated that this can be met from within existing resource by prudent prioritisation of workload.

Technical, Environmental and Legal – The Council will have responsibility for both the licensing and enforcement of the Act. The Council will also have to set and charge a licence fee, which must have regard to any guidance, which is issued by the Secretary of State.

Political - None

Reputation –The implementation and enforcement of the regime will enhance the Council’s reputation.

Equality & Diversity – None identified at present

Sustainability

The services for regulation and licensing contribute to the strategic priority of being healthier and safer in Tamworth and towards protecting and providing a high quality and sustainable environment for this and future generations.

Background Papers/Appendices

1. Scrap Metal Dealers Act 2013.
2. “The Legislative Response to Metal Theft” issued by the Home Office March 2013.

“If Members would like further information or clarification prior to the meeting please contact Steve Lewis, Head Of Environmental Health. Ext 437