

## **EXETER CITY COUNCIL**

### **LICENSING COMMITTEE 24 SEPTEMBER 2013**

#### **SCRAP METAL DEALERS ACT 2013**

#### **1. PURPOSE OF REPORT**

- 1.1 To inform the Licensing Committee of changes to licensing legislation amending functions to be carried out under the Scrap Metal Dealers Act 2013 ("the Act").

#### **2. BACKGROUND**

- 2.1 The received Royal Assent on 28 February 2013 and comes fully into force on 1 October 2013.
- 2.2 Under the legislation being repealed responsibility for enforcement fell exclusively to the police, but this has now changed.
- 2.3 The Act creates a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries with local authorities becoming the principal regulators with powers to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'.
- 2.4 The Act provides that an application for a licence must be accompanied by a fee to be set locally by each local authority on a cost recovery basis. This fee will be an essential component of the new regime as it will provide local authorities with the funding they need to administer the regime and to ensure compliance.
- 2.5 The Act aims to raise standards across the scrap metal industry by requiring more detailed and accurate records of transactions to be kept. Scrap metal dealers will also be required to verify the identity of those selling metal to them.
- 2.6 The Act incorporates the separate regulatory scheme for motor salvage operators under the Vehicles (Crime) Act 2001 into this new regime. This replaces the current overlapping regimes for the vehicle salvage and scrap metal industries with a single regulatory scheme. The Act also revises the definition of 'scrap metal dealer' and 'scrap metal' to ensure they reflect the twenty-first century scrap metal industry.

#### **3. SUMMARY OF THE ACT**

- 3.1 Section 1 of the Act requires that a scrap metal dealer obtains a licence from the local authority in order to carry on business as a scrap metal dealer. It will be an offence to carry on a business as a scrap metal dealer in breach of the requirement to hold a licence. This offence will be punishable with a maximum fine of £5,000 in the magistrates' court.
- 3.2 Section 2 provides for two types of licence, one for a site and the other for a mobile collector (for those carrying on business otherwise than at a site).
- 3.3 A site licence will be issued by the local authority in whose area a scrap metal site is situated and will require all of the sites at which the licensee carries on the business as a scrap metal dealer within the local authority area to be identified and a site manager to be named for each site. In doing so, they will

be permitted to operate from those sites as a scrap metal dealer, including transporting scrap metal to and from those sites from any local authority area.

- 3.4 A mobile collector's licence will authorise the licensee to operate as a mobile collector in the area of the issuing local authority, permitting them to collect commercial as well as domestic scrap metal. The licence does not permit the collector to collect from any other local authority area; a separate licence would need to be obtained from each local authority in whose area the individual wished to collect in. A mobile collector's licence does not authorise the licensee to carry on a business at a site within any area - should they wish to use a fixed site, they would need to obtain a site licence from the relevant local authority. There is no restriction as to the location where the collector can transport and sell their metals.
- 3.5 A licence will be issued for a period of three years from the date of issue.
- 3.6 Section 3 requires that the licensing authority has to be satisfied that an applicant is a suitable person to carry on business as a scrap metal dealer. In considering suitability, the local authority may have regard to any relevant information, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence, which will be prescribed in subordinate legislation. The authority must also have regard to any guidance on determining suitability which will be issued from time to time by the Secretary of State, and the authority will consult with other organisations to assist in determining suitability.
- 3.7 Section 3 also allows local authorities, when issuing a licence, to include conditions on it if the licensee or site manager has been convicted of a relevant offence. Subsection (8) specifies the two conditions that can be imposed by local authorities on a licence, namely:
  - that the dealer must not receive scrap metal except between 9 a.m. and 5 p.m. on any day;
  - that all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.
- 3.8 Section 4 provides the licensing authority with the discretion to revoke a licence on particular grounds, including where the local authority is no longer satisfied that the licensee is a suitable person to carry on the business as a scrap metal dealer. The revocation of a licence can only be carried out by a local authority as the licensing authority.
- 3.9 Section 4 also allows the licensing authority to vary a licence, imposing the conditions above, if the licensee or a site manager is convicted of a relevant offence.
- 3.10 Section 6 places a duty on the local authority to supply any such information as requested relating to a scrap metal licence to any other local authority in England and Wales, the Environment Agency, the Natural Resources Body for Wales and to police forces.
- 3.11 Section 7 requires that a register of licences issued under the Act should be maintained by the Environment Agency in England and the Natural Resources Body for Wales in Wales. Local authorities will provide the appropriate information on all licences issued in their geographic areas in order that this register can be updated regularly. The register will be made openly accessible to the public.

- 3.12 Section 10 requires that the licensee display a copy of their licence. For site operators this must be in a prominent place in an area accessible to the public. For mobile collectors, it must be in a manner which enables the licence to be easily read by a person outside the vehicle. A criminal offence is committed by any scrap metal dealer who fails to fulfil these requirements. This offence is punishable on summary conviction with a fine not exceeding level 3 on the standard scale (£1000).
- 3.13 Section 11 places a requirement on scrap metal dealers, site managers and employees who have been delegated the responsibility to do so, to verify the identity of the person they are receiving metal from and the person's address. This verification must be done by reference to data, documents or other information obtained from a reliable or independent source, such as the Identity and Passport Service, the Driver and Vehicle Licensing Agency, a bank or utility company etc. The Secretary of State will prescribe in regulations the data or documents which are sufficient or not sufficient as the case may be, for verifying identity.
- 3.14 It will be an offence not to obtain and verify the seller's identity, punishable by a fine not exceeding level 3 on the standard scale. The offence will apply to the scrap metal dealer, the site manager and any person, who under arrangements made by either the scrap metal dealer or the site manager, has responsibility for fulfilling this requirement on behalf of the business.
- 3.15 Section 13 sets out the record-keeping requirements in respect of any scrap metal received by a scrap metal dealer in the course of their business. Information that is required to be recorded includes the type of metal being purchased; the time/date of the transaction; personal information on the seller; who is acting on behalf of the dealer and proof of the non-cash transaction. Failure to comply with the requirements of this section is an offence attracting a penalty up to level 5 on the standard scale.
- 3.16 The legislation places a shared enforcement responsibility for this new statutory duty of checking and verifying the record keeping books on both Exeter City Council and the Police.

#### **4 IMPLEMENTATION TIMETABLE**

- 4.1 The main provisions of the Act commence on 1 October 2013 including an offence of buying scrap metal for cash
- 4.2 Dealers and motor salvage operators registered immediately before 1 October will be deemed to have a licence under the Act from 1 October 2013, provided the dealer submits an application for a licence on or before 15 October 2013 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 that decision.
- 4.3 Where a dealer submits an application on or before 15 October 2013 but does not supply all the required information with the application form then the deemed licence remains in effect after 15 October 2013. Where a dealer with a deemed licence fails to submit an application on or before 15 October 2013 the deemed licence will lapse on 16 October 2013.
- 4.4 Other Scrap Metal Dealers, not previously registered, will be able to apply for a licence from 1 October 2013, but will have to wait until a licence is granted before they can legally trade.
- 4.5 Local authorities will complete suitability checks on applicants and decide whether to issue licences. Decisions on whether to grant or refuse a licence to

previously registered dealers should be made before 1 December 2013. All enforcement provisions within the Act commence on 1 December 2013.

## **5 SCHEME OF DELEGATION**

- 5.1 The Scheme of delegation provides the the Assistant Director Environment with the powers to deal with applications for site licenses and mobile collectors licenses under the legislation that is to be implemented.
- 5.2 Where the Assistant Director Environment proposes to refuse or to cancel a licence or to vary a licence under section 4 of the Act and the applicant gives notice to the authority, within the prescribed time that they require the opportunity to make representations about that proposal, the Act makes provision for a hearing of representations to be held.
- 5.3 In such instances, it is recommended that any hearing called under these provisions be dealt with by a Licensing Sub-Committee which will then provide for further appeal to the Magistrates' Court if refused.
- 5.4 At the time of writing there are 15 registered scrap metal dealers and Motor Salvage Operators registered with this Council. There are no itinerant collectors registered with the Council but it is anticipated that a number operating within the City and County and perhaps wider afield will make appliciaton in order to legally trade. These will have to be identified and licensed in future.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 New fees and charges have been calculated and it is anticipated that the level of fees identified will be sufficient to meet the costs of operating this service.

## **7. RECOMMENDATION**

- 7.1 That the licensing Committee note the content of the report.

Assistant Director Environment

ENVIRONMENT DIRECTORATE

**Local Government (Access to Information) Act 1985 (as amended)**

**Background papers used in compiling this report:**

None.