

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 2 September 2013

Portfolio:	Public Protection
Subject:	Scrap Metal Dealers Act 2013
Report of:	Director of Regulatory and Democratic Services
Strategy/Policy:	
Corporate Objective:	A safe and healthy place to live and work

Purpose: To inform the Executive of the provisions of the Scrap Metal Dealers Act 2013 and to agree the fees for dealing with licence applications.

Executive summary:

The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013 has just been made which brings into force the Scrap Metal Dealers Act 2013 and repeals the Scrap Metal Dealers Act 1964 and replaces it with a new system of licensing to be administered by local authorities.

There are two types of licence, one for a site and the other for a mobile collector. The licence authorises the licensee to carry on a business as a scrap metal dealer at the sites listed in it (in the case of a site licence) or within the local authority area (in the case of a mobile collector's licence).

The Act provides that an application for a licence must be accompanied by a fee and this report proposes the fees that should be charged for dealing with applications under this new regime together with the delegations for the adoption of an application process, issuing licences and determining applications and revocations.

The Order brings into force the majority of the provisions of the Act on 1 October 2013 by which time the fees for applications need to be agreed.

Recommendation:

1. It is recommended that the Executive note the changes made by the introduction of the Scrap Metal Dealers Act 2013;
2. that the fees set out in paragraph 15 of the report be agreed; and,
3. that authority to establish all necessary processes to give effect to the legislation is delegated to the Director of Regulatory and Democratic Services, including the power to determine applications or revoke licences.

Reason:

The fees need to be agreed and authority be delegated to the Director of Regulatory and Democratic Services to process and determine applications and undertake action to secure compliance with the legislation, as necessary.

Cost of proposals:

There are no costs associated with this proposal, save that any costs associated with enforcement action against unlicensed dealers cannot be charged against licensing fee income.

Appendices:**Reference Papers:**

The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013
Scrap Metal Dealers Act 2013

Background papers: None

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Executive Briefing Paper

Date: 2 September 2013

Subject: Scrap Metal Dealers Act 2013

Briefing by: Director of Regulatory and Democratic Services

Portfolio: Public Protection

INTRODUCTION

1. The new Scrap Metal Dealers Act comes into force on the 1st October 2013. Previously Scrap Metal Dealers and Motor Salvage Operators simply had to register with the Local Authority – it was not possible to consider an applicant's suitability to be registered. Under the new legislation any scrap metal dealers (including mobile collectors) or motor salvage operators have to be licensed with their Local Authority. Councils will now be 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 will therefore improve the operating standards of those dealers who do not operate in the same way as the majority of reputable dealers.

Background

2. 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 survey conducted by the Local Government Association (LGA) showed that metal theft cost Councils over £5.25 million in 2010/2011.
3. Since 2011 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. Following this Richard Ottaway MP took the Scrap Metal Dealers Act 2013 through parliament as a private members' bill.
4. The main differences between the old legislation and the new legislation is the consideration of an applicant's suitability to be licensed and the introduction of a cashless system as the new legislation makes it an offence to buy scrap for cash. The only ways that people can pay for scrap will be by cheque or electronic transfer of funds.
5. The new Scrap Metal Dealers Act 2013 replaces the existing Scrap Metal Dealers Act 1964 and the Vehicles (crime) Act 2001 which relates to motor salvage operators. Under the old legislation any scrap metal dealers simply had to register with the Local Council. Now Councils will be able to refuse to grant a licence where they feel the

applicant is not a suitable person to operate. One way of ensuring that the applicant is a suitable person is to ensure that applicants produce a basic disclosure. Councils can also consult with other organisations, for example, the Environment Agency and the Police.

6. Should the Local Authority propose to refuse an application the applicant should be notified. The applicant then has at least 14 days to make representations. Should the applicant not make representations, the Local Authority can then refuse the application. Should the applicant wish to make representations the Local Authority must consider them and should the applicant want to make oral representations then the Local Authority should provide them with the opportunity to appear before a 'person appointed by the authority'. It is proposed that the Director of Regulatory and Democratic Services be that person in the interim, pending anticipated changes to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000, which may make it possible for the Licensing Panel of the Licensing and Regulatory Affairs Committee to undertake this function in the future.
7. If any application is refused then the dealer has 21 days in which to make an appeal to the magistrates' court.
8. The Scrap Metal Dealers Act 2013 comes into effect on the 1 October 2013 with enforcement commencing on the 1 December 2013. There will be a transitional period for any scrap metal dealers already registered with the local authority prior to the 1 October 2013. Anyone already registered can continue to operate provided that they submit an application by 15 October 2013. The Council can then consider the application and grant or refuse the licence. Any scrap metal dealers not registered prior to 1 October 2013 cannot operate legally until a licence has been issued.
9. Any licences granted will last for 3 years. There are two different types of licences specified within the Act, which are mutually exclusive – these are:

Site Licence – All 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 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 in whose area the collector wishes to operate. The licence does not authorise the licensee to operate a site.

10. 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 per cent or more by weight is attributable to gold or silver is not considered scrap metal.*
11. Currently we have no motor salvage operators registered with Fareham Borough Council's area but we have one Scrap Metal Dealer and two collectors and it is likely that with the introduction of mobile collectors requiring a licence to collect in the Borough that this will increase.

CONCLUSION

20. In conclusion, the new Scrap Metal Dealers Act 2013 will give the Council more control over Scrap Metal Dealers. In order for the Council to process applications under the new act we are required to set a fee. To that end the Executive are recommended to agree the fees as set out in paragraph 15 of this report. It is also recommended that the Director of Regulatory and Democratic Services be delegated authority to determine licences issued under the Act and to deal with any representations in respect of a refusal to issue, renew or revoke a licence.

FUTURE CHANGES

21. As at the date of this report, no changes had been made to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 by the Department for Communities and Local Government, thus this function, in its entirety, is deemed to be an Executive function and thus no part of the process can be delegated to a non-Executive body, such as the Licensing and Regulatory Affairs Committee or its Licensing Panel.
22. However, it is anticipated that future amendments to the Regulations will be made, and that it is likely that this will become a local choice function. At that point it will be appropriate for these arrangements to be reviewed by Council.
23. As a result the processes referred to above, in particular the delegations as to determinations, should be viewed as an interim measure, pending legislative amendment.

