

LICENSING AND SAFETY COMMITTEE

23 JULY 2013

LICENSING ACT 2003

UPDATE ON LEGISLATION AFFECTING LICENSING

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Summary

The purpose of this report is to update the Licensing and Safety Committee on the current changes in legislation affecting Licensing in respect of (1) The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 and (2) The Scrap Metal Dealers Act 2013.

1. Budget and Policy Framework

- 1.1 The Council's statement of licensing policy in respect of its functions under the Licensing Act 2003 in respect of entertainment covered by this act.

2. Background

- 2.1 The purpose of this report is to update the Licensing and Safety Committee on the changes in respect of entertainment under the Licensing Act 2003 that came into force on 27 June and work required to be undertaken in respect of The Scrap Metal Dealers Act 2013 due to come into force in October.

3. The Licensing Act 2003 (Description of Entertainment) (Amendment) Order 2013

- 3.1 The purpose of this order is to set out the changes to the licensing regime under the Licensing Act 2003, which were announced in Parliament on 7 January. These include the removal of the need for entertainment licences between 8am and 11pm for performances of plays and exhibition of dance (up to audience limits of 500 people) and indoor sports up to audiences of 1000 people. Besides achieving the deregulation of these three key activities the order clarifies the position on combined fighting sports such as mixed martial arts so that it is clear in law that such activities remain licensable as boxing or wrestling

activities. The order is also clear that exhibitions of dance of a sufficiently adult nature will not be deregulated.

- 3.2 For further clarification on the changes being made by this order, please see attached the working draft of guidance related to regulated entertainment issued by the Department for Media and Sport at appendix A.

4. The Scrap Metal Dealers Act 2013

- 4.1 The Scrap Metal Dealers Act 2013 was passed on 28 February 2013 and is due to come in to force in October this year. The new Act replaces the Scrap Metal Dealers Act 1964 and parts of the Vehicles (Crime) Act 2001 that deal with Motor Salvage Operators. The Act has revised the regulatory regimes for scrap metal dealing and vehicle dismantling. Local Authorities will continue to act as the principle regulator but the new act will give the authorities more powers including the power to refuse a licence and powers to revoke licences if the dealer is considered unsuitable. In addition local authorities and Police have been given powers to enter and inspect premises.
- 4.2 The increased value of metal has caused a growing problem of metal thefts in the whole of the U.K. The Home Office has estimated that there were 80,000-100,000 reported metal theft offences in 2010/11 alone and is costing the economy up to an estimated £260 million per year. A wide range of sectors have been hit including national transport, electricity and telephone links, street furniture, memorials, commercial and residential building's including churches and schools.
- 4.3 In 2012 the government brought in some initial steps to prohibit cash payments for scrap metal, amend Police powers of entry into unregistered scrap metal sites; and 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.
- 4.4 It is worth noting that currently there are 56 scrap metal dealers and 4 motor salvage operators registered with Medway Council.
- 4.5 The aim of the Act is to revise the regulatory regime for scrap metal dealing and vehicle dismantling and to give the Police and Local Authorities more powers to refuse and revoke licences as well as greater rights of entry and inspection.
- 4.6 The Act brings in two types of licences either a site licence or a collectors' licence. A person can only hold one licence in a Local Authority's area but can hold a licence in more than one local authority.
- 4.7 An applicant for a licence must be suitable and the Local Authority, when determining suitability, can have regard to:
- Whether the applicant or any site manager has been convicted of any relevant offence
 - Whether the applicant or any site manager has been the subject of any relevant enforcement action

- Any previous refusal for issue of or renewal of a scrap metal licence
- Any previous refusal for a environmental permit or registration
- Any previous revocation of a scrap metal licence
- Whether the applicant has demonstrated that there will be adequate procedures to comply with the act.

All of the above will apply to any director, or any secretary of a company if the applicant is not an individual

4.8 After receipt of an application the Local Authority must consult with:

Any other local authority (if an application has been made or licence issued to the same applicant)

The Environment Agency

The Police

4.9 The Act has introduced the requirement that the Environment Agency keep and maintain a register of scrap metal licences issued in England and that the register must be open for public inspection.

4.10 The Act will introduce the requirement that the scrap metal dealer verify the identity of the person's full name and address of the metal supplier and keep copies of the proof of identification. In addition the dealer must keep records of the type and description of the metal(s) including weight and identifying marks, the date and time of receipt, the vehicle registration of any vehicle delivering the metal and copies of cheques used to pay for metal. All records must be kept for 3 years. The Act also prohibits the payment of cash for metal.

4.11 Police officers and local authority officers have been given powers to inspect licensed premises and can require production of any scrap metal at the premises, inspect records kept and take copies of those records. Further, the Act provides police or local authority powers to issue closure notices to unlicensed scrap dealing premises and apply to a justice of the peace for a closure order.

4.12 The current legislation only permits registration with minimal information and no fee payable. The new act will require more detailed information to be submitted on application and will allow the local authority to set a fee. The fee must be on a cost recovery basis and local authorities will have to have regard to guidance issued by the Secretary of State. It is expected that the Home Office will issue guidance and Regulations shortly.

4.13 A further report will be produced to the Committee setting out proposed procedures and fee levels once the Home Office releases this information.

5. Risk Management

- 5.1 It is important that the Licensing & Safety Committee is kept fully informed of issues in respect of licensing matters.

6. Financial and legal implications

- 6.1 There are no direct financial implications currently arising from this report
- 6.2 The Council has produced its Statement of Licensing Policy as required by the Licensing Act 2003 in respect of entertainment and will comply with the home office guidance and regulations in respect of the Scrap Metal Dealers Act 2013.

7. Recommendations

- 7.1 That the committee notes the updates in legislation as detailed above and at Appendix A.

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Background papers

None