

AGENDA ITEM NO.

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to	The Executive & Full Council
Date	Executive 09.09.13 Full Council 26.09.13
Subject	To Make Changes to the Constitution to account for the coming into force of the Scrap Metal Dealers Act 2013
Portfolio Holder(s)	Councillor J. Arwel Roberts
Lead Officer(s)	Head of Service (Planning and Public Protection) Legal Services Manager
Contact Officer	Robyn Jones (x2134)
Nature and reason for reporting	
<p>1.1 To make changes to the Constitution to account for the coming into force of the Scrap Metal Dealers Act 2013 (the Act) at the start of October 2013 and to delegate the powers and responsibilities given to the Council by the Act.</p> <p>1.2 As the report proposes changes to the Constitution, the matter is reported to the Executive for consultation and a recommendation that the Constitution be changed, and will be reported to full Council with a recommendation that the suggested changes to the Constitution be made.</p>	

A – Introduction / Background / Issues
<p>2.1 The Act establishes a regime for the regulation and licensing of the scrap metal trade and replaces the Scrap Metal Delaers Act 1964. The Council is responsible for the licensing and enforcement regime established by the Act.</p> <p>2.2 The powers and responsibilities established by the 1964 Act are delegated by the Constitution to the Head of Service (Planning and Public Protection) and are administered by the Council's Trading Standards Department.</p> <p>2.3 The Act was introduced as a Private Members' Bill and received Royal Assent in February 2013. The legislation is administered by the Home Office and is applicable to both Wales and England. The majority of the Act's provisions come into effect as</p>

from 1 October 2013.

2.4 The Act provides for the licensing of scrap metal dealers and the conduct of their businesses together with associated enforcement powers and ancillary provisions.

2.5 Whilst the Act establishes the need to apply for licences it does not provide for a mechanism for dealing with licensing applications unlike, say the Licensing Act (for alcohol licensing) and the Gambling Act.

2.6 This report suggests a means for the delegation of the powers and responsibilities given to the Council by the Act between officers and the Licensing Committee and which reflects the division of responsibilities upon the same broad lines as established by the Licensing Act and the Gambling Act.

B - Considerations

3.1 Each Council will need to determine the method for determining applications under the Act and, in particular, which applications (if any) should be considered by their licensing committee. Advice from the Local Government Association (LGA) suggests that, since the Act provides for an applicant or licensee to have the right for a hearing where a licensing application is going to be refused, revoked or varied, those hearings should be conducted before members who can then make those decisions on behalf of the Council.

3.2 To implement the LGA's suggestion, changes are proposed to the Constitution as set out in the Appendix to this report. All of the Council's powers are delegated to the Head of Service (Planning and Public Protection) and will be exercised by duly authorised officers in the Licensing Section of the Trading Standards Department. There is delegated to the Licensing Committee the power to make decisions in all those cases where an applicant or licensee does request a hearing before the Council before a decision is made on their matter.

3.3 Whilst most of the powers and responsibilities of the Act are suggested to be delegated to the Head of Service (Planning and Public Protection), there is also included a provision that the Head of Service may choose not to exercise his delegated power in respect of any matter otherwise delegated to him under the Act where he, in his absolute discretion and for whatever reason, chooses not to exercise that delegation. In such a case that matter will revert to be decided by the Licensing

Committee.

C – Implications and Impacts		
1	Finance / Section 151	
2	Legal / Monitoring Officer	The Contents of the reported are noted
3	Human Resources	Not applicable
4	Property Services (see notes – seperate document)	Not applicable
5	Information and Communications Technology (ICT)	Not applicable
6	Equality (see notes – seperate document)	These changes will not have a differential impact on any of the groups protected under the Equality Act 2010.
7	Anti-poverty and Social (see notes – seperate document)	Not applicable
8	Communication (see notes – seperate document)	No comments
9	Consultation (see notes – seperate document)	A draft of the report was subject to consultation with internal stakeholders
10	Economic	Not applicable
11	Environmental (see notes – seperate document)	Not applicable
12	Crime and Disorder	Not applicable

C – Implications and Impacts

(see notes – separate document)

CH - Summary

4.1 The Scrap Metal Dealers Act comes into force as from 1 October 2013. The Act gives powers and responsibilities to the Council to license and enforce scrap metal dealing. The Act replaces the Scrap Metal Dealers Act 1964.

4.1.1 The Council needs to adopt a scheme to delegate the powers and responsibilities of the Act as between officers and members.

4.1.2 The report suggests adopting a scheme of decision-making similar to that for alcohol licensing under the Licensing Act 2003.

4.1.3 Unless excepted, all powers and responsibilities of the Council under the Act are delegated to the Head of Service (Planning and Public Protection). Excepted are those cases where an applicant or licensee request a hearing before the Council before their matter is decided. Hearings may be requested where officers propose to refuse an application or it is proposed to revoke or vary a licence. All matters where requests for hearings are made shall be delegated to the Licensing Committee both to hold the hearing and to make a decision on behalf of the Council. The Licensing Committee shall conduct the hearings by Sub-committees of three members.

D - Recommendation

5.1 The recommendations are as follows:

To the Executive:

5.2 To accept the proposal and recommend to the full Council that the changes to the Council's Constitution as detailed in the the Appendix to this report are made.

To the Full Council:

5.3 To make the changes to the Council's Constitution as detailed in the the

Appendix to this report, and

5.4 To delegate to the Head of Function (Legal and Administration) the power to make the necessary changes to the Constitution to implement the Council's decision.

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Date: 09 August 2013

Appendix:

Extracts from the Constitution showing the proposed amendments.

Background papers

Scrap Metal Dealers Act 2013.

Local Government Association guidance on the Scrap Metal Dealers Act 2013, "Get in on the Act".

APPENDIX

Changes Proposed to the Constitution.

1. To include a new paragraph 3.4.10.4 as shown underlined below:

“3.4.10 Licensing Committee

11 Members to be politically balanced.

3.4.10.1 To deal with all matters relating to the discharge of the Authority’s licensing functions as defined by the Licensing Act 2003 and Gambling Act 2005 (which does not include appeals which are presently dealt with by the Appeals Committee).

3.4.10.2 To establish one or more Subcommittees consisting of 3 members of the Licensing Committee.

3.4.10.3 To arrange for the discharge of any of its functions by a Subcommittee. To arrange for the discharge of any of its functions by an Officer of the Council (except where there are objections or representations to an application).

3.4.10.4 To deal with the following matters pursuant to the Scrap Metal Dealers Act 2013:

3.4.10.4.1 All those cases where an applicant or a licensee has exercised the right to make oral representations to the Council (pursuant to paragraph 7 of Schedule 1 to the Act) before a matter is determined; to hear those representations by Subcommittee and to determine that matter on behalf of the Council.

3.4.10.4.2 Any other matter under the Act otherwise delegated to the Head of Service (Planning and Public Protection) by this Constitution where that officer, at his discretion and for whatever reason, chooses not to exercise his delegated powers.”

2. To make the following changes to Appendix A to section 3.5.3 of the Constitution:

To remove the reference to “Scrap Metal Dealers Act 1964” and to substitute the following:

“Scrap Metal Dealers Act 2013 - except for: determining matters where the right to make oral representations is exercised pursuant to paragraph 7 of Schedule 1 to the Act; and, any matter otherwise delegated to the Head of Service (Planning and Public Protection) where the officer, at his discretion and for whatever reason, chooses not to exercise his delegated powers.”