

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982
METAL DEALERS CONSULTATION**

1 SUMMARY

- 1.1 The Scottish Government has launched a public consultation on changes to the regulation of the scrap metal industry as one of a range of strategies to tackle the increased incidence of metal theft.
- 1.2 The consultation document outlines the scale of the problem:-
- 'Metal theft impacts seriously on our communities and infrastructure and risks public safety. Power, transport and telecoms services are interrupted. Parts of the fabric of our heritage, such as churches, public statues and war memorials are damaged and lost. Street furniture, such as aluminium road signs and lead drain covers, have to be replaced. Construction projects are delayed. This translates into delayed commuters, cost to business and harm to our communities.'*
- 1.3 The consultation is structured around a number of proposals and requests responses and comments on the proposed changes.
- 1.4 The consultation proposals incorporates questions addressing the following issues:-
- a) Removing the current system for exemptions to ensure that all dealers are licensed
 - b) Systems for recording transactions, retention periods and identity checks for customers
 - c) Changes to mandatory and discretionary licence conditions
 - d) Changes to the current provisions for itinerant dealers
 - e) Proposals to eliminate or minimise cash transactions
- 1.5 Written responses must be submitted by 3rd July 2013.
- 1.6 A draft response to the consultation is attached as Annex 1.

2 RECOMMENDATIONS

- 2.1 Members are asked to approve the attached response to the consultation paper and agree that it be submitted to the Scottish Government.

3 DETAIL

- 3.1 Scope: As well as identifying the cost of metal theft to communities, infrastructure and public safety, the consultation also considers the impact for legitimate scrap metal recycling and for society generally. Accurate estimates of the financial value of metal theft are difficult to quantify but on a UK basis the value is likely to be between £220-260 million (as cited at p2 of the consultation document).

- 3.2 Role of licensing:

‘One of the aims of any licensing regime is the preservation of public safety and order and the prevention of crime. We need, therefore, to have a licensing regime for metal dealers that can meet this aim in the current context of the substantial incentive for criminality provided by high metal prices.’ (p3 of consultation document)

Under the terms of the Civic Government (Scotland) Act 1982 (s28(1)), the Council is responsible for the operation, management and enforcement of the licensing regime for metal dealers. Improving the effectiveness of this regime for should help to counter the substantial incentive for criminality provided by high metal prices.

- 3.3 Key issues: retention of metal, itinerant dealers

- 3.3.1 Licence Conditions – the conditions attached to the licence incorporate mandatory and discretionary elements. Record keeping is an important aspect of the conditions; the proposals suggest that all dealers could be subject to these requirements but that steps to avoid duplication of record keeping requirements may be appropriate.
- 3.3.2 Exemptions – the proposals call for the removal of the exemption of applying to metal dealers with a high turn-over (threshold increased to £1m with effect from 20 February 2013). It is suggested that this exemption is no longer sustainable as it allows some dealers to avoid proper scrutiny and regulatory oversight.
- 3.3.3 Identity checks – linked to the aim of increasing scrutiny of transactions, the consultation also suggests the introduction of identity checks e.g. by production of photographic identity such as a passport or photograph driving licence. It may be that tighter controls in regard to identity checks would avoid the need to prohibition of cash transactions.
- 3.3.4 Itinerant Dealers – only a limited version of the licensing provisions apply to these traders, focussed on record keeping. It is recognised that itinerant metal dealers may operate without sufficient regulatory

oversight and this may present an outlet for stolen metal to enter the legitimate market place for metal recycling. The table at s4 below indicates that the majority of metal dealers within Argyll and Bute are itinerant dealers.

4 Argyll and Bute Council licences

- 4.1 The table below shows a breakdown of the metal dealers licensed by the council:-

COUNCIL AREA	LICENSED METAL DEALERS	LICENSED ITINERANT METAL DEALERS
Mid Argyll	3	(3)
Kintyre & Islay	3	(2)
Lorn	5	(3)
Lomond	1	(0)
Cowal	1	(1)
TOTAL	13	9 of 13

- 4.2 Although the overall number of licences is relatively low it is clear that the majority of dealers are itinerant traders and that those provisions in the consultation would be of particular relevance for the council.
- 4.3 None of the metal dealers in the council area hold an exemption warrant available to businesses when the value of the total amount of metal sold in the previous 18 month period exceeded £1m.

5 CONCLUSIONS

- 5.1 The proposals detailed in the consultation are designed to reduce crime and improve public safety in the context of metal dealing and could therefore have a positive impact for communities in Argyll and Bute.
- 5.2 The proposals relating to itinerant dealers are of particular significance for Argyll and Bute and enhanced controls would therefore be beneficial.

6 IMPLICATIONS

Policy:	Supports policies in relation to community safety, business support, crime prevention
Financial:	None
Legal:	Potential changes to licensing legislation and licence conditions
HR:	None
Equalities:	None

Risk: None

Customer Service: None

7 APPENDICES

- 7.1 A draft response to the consultation document is attached as Annex 1.
- 7.2 The full consultation document can be accessed at <http://www.scotland.gov.uk/consultations>

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ANNEX 1

METAL DEALERS CONSULTATION Consultation Questions / Draft Responses

1	Do you agree that the exemption warrant system should be removed?	Yes
2	Are the existing record keeping requirements suitable to be rolled out to all metal dealers?	Yes
3	For what period should records of a transaction be kept?	2 years
4	What methods should be used to establish the identity of the customer? Should the methods be specified in legislation?	Secure photographic ID e.g. UK / EU driving licence or passport Yes
5	Should a record be kept of the means used to establish identity and if so, how long should this be kept for?	Yes 2 years
6	Do you agree that CCTV as a condition should be left as a discretionary matter for local licensing authorities?	Yes
7	Are there other conditions that should be considered as suitable for mandatory specification?	Weigh metal using equipment complying with Weights and Measures Act 1985 and subject to testing
8	Do you agree that retention of metal requirements should be removed as a mandatory requirement for a licence?	No (this would undermine objective of crime prevention)
9	Would it be reasonable for itinerant dealers to be required to see identification from those who sell them metal?	Yes (this would enhance current regime in regard to crime prevention)
10	Are further controls required on itinerant dealers' onward disposal of metal that comes into their possession?	Use of approved weighing equipment, as at Q7 above + increase retention period of receipts to 2 years
11	Are any special licensing arrangements or mandatory conditions required in respect of metal dealers dealing with scrapping cars?	No - Issue could be addressed by more effective enforcement, including by local authority enforcement staff e.g. trading standards officers
12	Is the requirement to purchase without cash applicable to the right people? Are there other suitable approaches such as a generalised 'whole population' offence? (i.e. offence for any member of the public to buy / sell metal for cash)	Yes, although this is likely to face robust challenge. Tighter ID checks could avoid the need for this measure No, difficult to enforce 'whole population' offence
13	Should payments of a minimal amount still be allowed in cash? If so, what should the maximum cash payment be set at? What additional regulation may be required to avoid loopholes.	No Detailed record keeping for itinerant traders + increased retention period.
14	Would an accreditation system be of value?	No - likely that only reputable traders would participate and therefore unlikely to address objectives.
15	Are there other issues that have not been highlighted in this consultation that responders would like to mention?	Enforcement is a key issue; enhanced measures would assist in increasing the effectiveness of the regime.