

REPORT

To: CORPORATE SERVICES COMMITTEE		Subject: SCOTTISH GOVERNMENT CONSULTATION ON CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (METAL DEALERS EXEMPTION WARRANTS ORDER 2012)
From: HEAD OF LEGAL SERVICES		
Date: 11 January 2012	Ref: JM/GBM	

1. PURPOSE OF REPORT

1.1. The purpose of this report is to bring to the attention of the Committee the Scottish Government's proposals to amend the scope of the licensing scheme for metal dealers.

2. BACKGROUND/CURRENT LEGISLATION

2.1. Section 28(1) of the Civic Government (Scotland) Act 1982 (the 1982 Act) sets out that a Metal Dealers licence is required for those carrying on a business as a metal dealer. Licensed metal dealers are subject to conditions that are attached by the licensing authority.

2.2. There are dealers that are exempt from licensing. Section 28(2) of the 1982 Act states that a licence shall not be necessary where a metal dealer is in possession of "an exemption warrant". An exemption warrant is granted where a dealer has a turnover of over £100,000. Section 29 of the 1982 Act states that an exemption warrant shall be granted on production of a certificate by the auditor of the metal dealer's business stating that, in a financial year ending in the preceding eighteen months, the total amount received by the dealer in respect of metal sold or supplied by him, exceeded £100,000 or such other sum as may be substituted for that sum by order made by the Secretary of State. The sum of £100,000 has not been amended since the passing of the 1982 Act.

3. THEFT OF METAL

3.1. There is no doubt there has been a dramatic escalation of thefts of metal in Scotland in recent years. This reflects the significant rises in the value of metal for scrap. The theft of metal affects many industries including railways, utility companies and ultimately communities through the loss of transport, power and telephony to name but three critical services. There have been large increases reported in metal theft by police forces across the UK, with levels remaining high for each of the rail, telecom and power industry sectors. Metal theft is a priority for British Transport Police who have seen a rising trend of metal theft over the last three years experiencing 2,000 incidents in 2010/2011 compared with approximately 1,500 in 2009/2010. So far in 2011/2012 over 1,500 offences have been reported, suggesting figures will be in excess of previous highs, a trend reflected by other police forces and industries. There is also evidence that major infrastructure projects have been affected by metal theft and with the sustained high prices for scrap metal, future capital projects could be vulnerable to theft and resultant delivery delays. There is also evidence of communities being adversely affected through thefts of public art works and war memorials, damage to the roofs of public buildings and even thefts of drain hole covers. There has been more minor inconvenience caused by minor thefts of items such as brass plates, door knockers and catalytic converters containing platinum.

Over the last year at least ten members of the public have been killed attempting thefts of metal with many others being injured.

3.2. Specific reported examples of thefts include:-

- Thousands of pounds of damage caused to public buildings in Leith, including theatres, a Parish Church and a primary school (Edinburgh Evening News – 1 June 2011);
- **Theft of a £35,000 Memorial to a mining disaster in North Lanarkshire (Scotsman – 20 November 2009);**
- £125,000 shopping trolleys stolen from Edinburgh and Glasgow in a year (Daily Record – 24 July 2010);
- 66 trains delayed or cancelled after thieves cut signal cables (Scotsman – 26 January 2010).

The cost to UK economy of metal thefts has been estimated recently in a report commissioned by the Association of Chief Police Officers at £220m to £260m. Higher figures have been posited but it is very hard to measure the consequential cost of many of these thefts. The figure of £220m - £260m suggest that about £100m of direct cost to conduct repair and replacements and a further £120m - £160m of indirect cost through for example commuters being delayed and businesses losing internet connections. Whilst there is no specific data for Scotland, it is clear that the cost to Scotland amounts to many millions.

4. TACKLING THEFTS OF METAL

4.1. Police and other agencies are using a variety of measures to tackle metal thefts. These include:-

- Early engagement with crime reduction officers highlighting effective industry practice, for example around the property marking and physical barriers;
- Embedding a crime prevention focus within the industry by supporting the involvement of police crime reduction design advisors in the planning stages of construction project;
- Encouraging a proactive role in reducing the opportunities for metal theft by working closely with metal owners;
- Work with the institute of materials, exploring more sustainable ways of designing out this crime. This includes making metal harder to steal or easier to detect if stolen, as well as creating metal alternatives using cutting edge technology. However it is clear that measures that regulate scrap metal dealers, and provide the police and others with greater powers to control, and take action against outlets that buy stolen metal or allow stolen metal to be sold into the legitimate scrap metal trade can form part of the solution.

Scottish Ministers believe that it is right to significantly increase the turnover level required in order for a warrant exempting a dealer from licensing to be obtained. This would have effect of drawing many more dealers into the system. Once within the system it would be open to licensing authorities to consider what conditions should be attached to a licence. The sum of £100,000 has not been amended since the passage of the 1982 Act and is now regarded as inadequate by Scottish

Ministers. In reaching this view Scottish Ministers have taken note of both the increased proportion of metal dealers who are now in receipt of an exemption warrant, and the greatly increased frequency of metal thefts and the consequences that flow from that. The Scottish Government proposes that the exemption threshold is increased to £10m, and the draft Order contains this figure. The Scottish Government believes that a figure of £10m will bring the majority of metal dealers into the licensing regime, whilst allowing the few largest, well run businesses to continue to be able to apply for an exemption. Greater regulation of the scrap metal industry should help improve standards to a consistently good level across the sector which means that many well run dealers may benefit from enhanced public perception and confidence in the sector as a whole. Clearly, bringing more metal dealers into the licensing system will incur costs for business. The Scottish Ministers believe that the cost will be manageable and are justified by the reductions in the costs that arise from metal theft that we expect to flow from the expanded licensing regime. Many businesses, currently unlicensed, already meet the highest standards and will therefore not face any significant changes to their practices as a result of licensing. A partial Business and Regulatory Impact Assessment (BRIA) will be conducted before the final Order is made.

5. EXEMPTION WARRANTS

5.1. At present there are seven exemption warrants in force within North Lanarkshire Council licensing area. If the Scottish Government's proposal to increase the limit from £100,000 to £10m was enacted this would require all the existing metal dealers in North Lanarkshire Council area to be licensed.

6. QUESTIONNAIRE

6.1. The Scottish Government have requested views on questions and to respond before the closing date of 29 February 2012. The Scottish Government require that the Respondents intimate as to whether or not the response be made public. The questions together with responses are given in letter form at Appendix A to this report.

7. FINANCIAL CONSIDERATIONS

7.1. There are some financial implications arising from this report. Many previous companies who thus far have not registered as metal dealers will require to make appropriate applications and pay the requisite application fee. The Council, as licensing authority, will require to determine an appropriate level or levels of fee so that the Council can be reimbursed in respect of the additional work involved in administering the new scheme.

8. CORPORATE CONSIDERATIONS

8.1. There are no Corporate considerations arising from this report.

9. RECOMMENDATION

9.1. The Committee are asked to agree to the proposals by the Scottish Government to increase the turnover level required in order for a warrant exempting metal dealers from licensing to be obtained and to agree firstly to the answers given in Appendix A and secondly to allow those to be made public.


Head of Legal Services

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Appendix A

Corporate Services

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Dear Sirs

**Consultation on Civic Government (Scotland) Act 1982
Metal Dealers Licences
Exemption Warrant Order (2012)**

With reference to the above and to your questionnaire our response is as follows:-

Q1 Do you agree that turnover based exemption for licensing should be increased from its current level of £100,000?

A Yes.

Q2 The Scottish Government has advised £10 million as a suitable figure as an example. Do you agree that the figure is appropriate?

A Yes.

Q3 Do you have any other comments?

A If the proposal to increase the turnover figure from £100,000 to £10 million is approved then none of the present businesses within North Lanarkshire Council would be exempt. The vast majority of these exemption warrants have been in existence for several years and as such with regard to implementation would consideration be given to the present holders of exemption warrants being accrued "grandfather rights". Perhaps a further consideration would be that a graduated scale of fees be applied dependent on the maximum turnover of the business. It would also mean that these premises would also be subject to objection/representations.

Yours faithfully

Head of Legal Services

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