

Report To: Environmental and Consumer Protection Committee
17 December 2001

Report On: Amendments to Schemes of Administration-Delegation of Powers to Officers

Report By: Director of Environmental and Consumer Protection

Report No: 757-2001

1. **Purpose of Report**

1.1 To seek approval of the committee to make amendments to the delegation of powers for certain activities undertaken by officers from the Environmental and Consumer Protection Department.

2. **Recommendations**

2.1 In order to improve the efficiency of the services provided by the Environmental and Consumer Protection Department. It is recommended that the Committee approve the proposed amendments to the delegation of powers to the Director of Environmental and Consumer Protection as detailed in Appendix 1 of this report.

3. **Financial Implications**

3.1 None.

4. **Local Agenda 21 Implications**

4.1 The acceptance of the contents of this report will enhance the aims of Dundee 21.

4.2 The key themes that will be directly addressed by the acceptance of this report are:

- Resources are used efficiently and waste is minimised.
- Pollution is limited to levels at which natural systems can cope.
- Health is protected by creating safe, clean, pleasant environments.

5. **Equal Opportunities Implications**

5.1 None

6. **Report**

6.1 The Environmental and Consumer Protection Department provides important frontline local government services. The department carries out a diverse range of statutory duties involving the enforcement of numerous Acts of Parliament and associated regulations, standards and codes of practice. The effective and consistent enforcement of these laws by the council ensures that the citizen's health is protected and that their living and working environment is enhanced which in turn will have a positive effect on the economy of the City.

6.2 The delegation of powers were last reviewed by this department in 1996 prior to the reorganisation of local government. Since that time there have been a number of changes and additions to the departments statutory responsibilities. It was therefore considered necessary to undertake a further review of the delegation of powers.

6.3 In order to improve the efficiency of the department's service provision for certain statutory functions, it is recommended that the committee approve the proposed amendments to the aforementioned as detailed in Appendix 1.

7. **Conclusions**

7.1 The proposed amendments to the delegation of powers will help ensure that the Environmental and Consumer Protection Department provides a more effective and efficient discharge of its statutory duties as well as providing a more proactive enforcement service within the City.

8. **Consultation**

Chief Executive
Director of Finance
Director of Support Services

Signed: Date:
Director of Environmental and Consumer Protection

9. **Appendix 1**

Amendments to: Standing Orders of the Council and Schemes of Administration – Delegation of Powers to Officers

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The Director of Environmental and Consumer Protection **or appropriate nominated officer** has delegated authority for the following activities.

4. Civic Government (Scotland) Act, 1982

Add

- d) Authority to issue Notices under Section 90 of the Act.
- e) Authority to instruct necessary works for the repair of the lighting in the common property under Section 90 of the Act in the interest of safety. Persons so instructed to prepare, carry out, supervise or inspect these works have been authorised to enter the buildings and the lands pertaining thereto for these purposes.
- f) Authority to recover costs of any works carried out under Section 90 of the above Act from the various owners of the properties concerned on the basis that apportionment is based on equal shares.
- g) Authority to issue Notices under section 94(2) of the above Act requiring owner or occupier of land or premises containing a disused petrol tank, to have the tank made safe.

5. Health and Safety etc Act 1974 and any Regulations thereunder

Replace with

- a) Authority to issue Improvement and Prohibition Notices.
- b) Authority to temporarily appoint inspectors to carry out technical appraisals, examinations and/or inspections.
- c) Authority to give temporary authority to persons with specialist knowledge to accompany authorised officers on site.
- d) Authority to transfer premises to the Health and Safety Executive and vice versa.

6. Environmental Protection Act 1990

Replace with

- a) Authority to issue Notices in terms of Section 80 of the Act.

- b) Authority to instruct necessary works under Section 81 of the Act to abate the statutory nuisance or prevent the recurrence of the statutory nuisance. Persons so instructed to prepare, carry out, supervise or inspect these works have been authorised to enter the buildings and lands pertaining thereto for these purposes.
- c) Authority to recover costs of any works carried out under Section 81 of the above Act from the person by whose act or default the nuisance was caused.

7. Food Safety Act 1990 and Associated Regulations

Replace with

- a) Authority to issue notices in terms of the legislation.
- b) Authority to temporarily appoint inspectors to carry out technical appraisals, examinations and/or inspections.
- c) Authority to give temporary authority to persons with specialist knowledge to accompany authorised officers on site.

8. Noise and Statutory Nuisance Act 1993 - Delete

9. Prevention of Damage by Pests Act 1949 then becomes No.8

10. Legislation Enforced by Environmental Health Officers (renumber 9)

Environmental Health Officers **or other appropriate officers** appointed by Dundee City Council are authorised ...

Add to Schedule

Burial (Scotland) Act 1855
Noise Statutory Nuisance Act 1993
Performing Animals (Regulation) Act 1925
Rabies Act 1974
Sewage (Scotland) Act 1982
The City of Dundee District Council Bylaws for the Cleansing of Common Property.

Delete from Schedule

Food and Drugs (Milk) Act 1934
Milk Act 1934
Milk and Dairies (Scotland) Act 1914

11. Specific Authorisation for Environmental Health Officers and Food Safety Officers (renumber 10)

Replace with

- a) Environmental Health Officers are authorised to be inspectors for the purposes of the Health and Safety at Work etc Act 1974 and to exercise the powers of an inspector specified in:-
 - i) Section 20, 21, 22 and 25.
 - ii) Any health and safety regulations; and
 - iii) The provisions of the Acts mentioned in Schedule 1 of the 1974 Act which specified in the third column of that Schedule and of the regulations, orders or other instruments of a legislative character made or having effect under any provision so specified.

- b) Environmental Health Officers are authorised to be inspectors for the purposes of the Food Safety Act 1990, Part 1 Section 5(6) and to exercise powers of an inspector specified in:
 - i) Part II Sections 9, 10 and 12, Part III Sections 29, 30 and 32, Part IV Sections 49 and 50.
 - ii) Any food safety regulations and food standard regulations;
 - iii) The provision of the Act mentioned in Part IV Section 40 relative to the issue and use of Codes of Practice.

- c) Food Safety Officers holding the Higher Certificate in Food Safety Inspection are authorised to be inspectors for the purposes of the Food Safety Act 1990, Part 1 Section 5(6) and to exercise powers of an inspector specified in:
 - i) Part II Sections 9 and 10, Part III Section 29, 30 and 32, Part IV Sections 49 and 50
 - ii) Any food safety regulations and food standard regulations
 - iii) The provision of the Act mentioned in Part IV Section 40 in relative to the issue and use of Codes of Practice.

- d) Environmental Health Officers are authorised to issue Notices under Section 60 of the Control of Pollution Act 1974 to control noise levels emanating from construction sites.
- e) Environmental Health Officers are authorised to improve applications in terms of Section 61 of the Control of Pollution Act 1974 for prior consent for work undertaken on a construction site.

12. Legislation Enforced by Trading Standards Officers (renumber 11)

Add to Schedule

Animal Health Act 1981
Customs and Excise Management Act 1979
Pesticides Act 1998

13. Specific Authorisation for Trading Standards Officers (renumber 12)

- a) Trading Standards Officers are authorised to issue suspension notices under Section 14 of the Consumer Protection Act 1987.
- b) Trading Standards Officers are authorised to be inspectors for the purposes of the Health and Safety at Work etc Act 1974 and to exercise the powers of an inspector specified in:-
 - i) Section 20, 21, 22 and 25
 - ii) Any health and safety regulations, and
 - iii) The provisions of the Acts mentioned in Schedule 1 to the 1974 Act which specified in the third column of that Schedule and of the regulations, orders or other instruments of a legislative character made or having effect under any provision so specified.
- c) Trading Standards Officers are appointed as Inspectors of Weights and Measures under Section 73 of the Weights and Measures Act 1985 to discharge all of the functions conferred or imposed on inspectors by or under this Act.

No.13 re Cleansing Officers should be replaced with:

Officers nominated by the Director of Environmental and Consumer Protection are authorised to carry out the statutory duties of the City Council in the terms of the Control of Pollution Act, 1974, the Environmental Protection Act, 1990 Part II and as the Litter Authority in terms of the Environmental Protection Act, 1990, Part IV.