

Report To: Policy & Resources Committee

Date: 30 March 2010

Report By: Head of Safer Communities

Report No:
ECP/SCS/MM/10/37

Contact Officer: Martin McNab

Contact No: 01475 714246

Subject: Delegated Powers: Authorisation of Officers

1.0 PURPOSE

- 1.1 To update the Delegated Powers of the Head of Safer Communities with respect to the authorisation of officers and to recommend the transfer of those powers to the new post of Head of Safer & Inclusive Communities.

2.0 SUMMARY

- 2.1 Safer Communities is responsible for the enforcement of a multitude of Acts and statutory instruments covering a wide range of topics. Regular reports are made to Safe, Sustainable Communities Committee updating the delegated powers of the Head of Safer Communities to authorise officers.
- 2.2 The publication of the Tobacco and Primary Medical Services (Scotland) Act 2010 in March 2010 requires an update to those powers.
- 2.3 In order to avoid any dubiety both these new powers and the existing delegated powers of the Head of Safer Communities should be transferred to the new role of Head of Safer & Inclusive Communities with effect from 1 April 2010.

3.0 RECOMMENDATIONS

- 3.1 That the Head of Safer Communities be given delegated powers to authorise officers under the Acts contained in Appendix 1.
- 3.2 That those delegated powers, together with all existing powers delegated to the Head of Safer Communities, as contained in Appendix 2, be transferred to the new post of Head of Safer & Inclusive Communities with effect from 1 April 2010.

4.0 Background

- 4.1 Report no CS/ECS/009/06/MMcN on Delegated Powers: The Authorisation of Officers in January 2007 brought the Delegated Powers for functions enforced by Safer Communities, and thus the legality of officers' authorisations up to date.
- 4.2 Since that report a number of update reports have been made as new legislation has come on stream. This latest report is required as the legislation governing tobacco sales, including underage sales, has been updated and altered by the Tobacco and Primary Medical Services (Scotland) Act 2010.
- 4.3 Amongst other matters the Tobacco and Primary Medical Services (Scotland) Act 2010 makes provision for the issue of fixed penalty notices and updates the law regarding tobacco on display in retail outlets.
- 4.4 The powers contained in the Act will be a significant tool in the Service's strategy to control underage sales. It is necessary to update delegated powers at an early date as we do not have a schedule for commencement of the Act and wish to avoid any delays in future, hence this report to Policy & Resources Committee.
- 4.5 This is also an opportunity to ensure that existing powers delegated to the Head of Safer Communities are transferred to the Head of Safer & Inclusive Communities thus avoiding any likelihood of legal challenge to any officers' authorisations in future.

5.0 Implications

5.1 Legal

None

5.2 Finance

None

5.3 Personnel

None

5.4 Equalities

None

6.0 CONSULTATION

- 9.1 The Head of Legal & Administration was consulted on the delegated powers scheme at the outset in 2007.

***Appendix 1 - List of Primary Legislation Under Which
The Head of Safer Communities requires Delegated
Powers to Authorise Officers.***

Act

Tobacco and Primary Medical Services (Scotland) Act 2010

Authorisation Delegated to the Head of Safer Communities

Inverclyde Council delegates powers to authorise officers under the undermentioned legislation and any relevant regulations made thereunder to the Head of Safer Communities. The list is correct as of 09/03/2010.

<i>Act</i>	<i>Powers delegated on</i>
Agriculture (Miscellaneous Provisions) Act 1968	11/01/2007
Agriculture Act 1970	11/01/2007
Animal Boarding Establishments Act 1963	11/01/2007
Animal Health Act 1981	11/01/2007
Animal Health and Welfare (Scotland) Act 2006	11/01/2007
Animal Health and Welfare Act 1984	11/01/2007
Antisocial Behaviour etc. (Scotland) Act 2004	11/01/2007
Breeding of Dogs Act 1973	11/01/2007
Breeding of Dogs Act 1991	11/01/2007
Building Scotland Act 2003	19/10/2006
Business Names Act 1985	11/01/2007
Cancer Act 1939	11/01/2007
Caravan Sites and Control of Development Act 1960	11/01/2007
Children and Young Persons (Protection from Tobacco) Act 1991	11/01/2007
Children and Young Persons (Scotland) Act 1937	11/01/2007
Civic Government (Scotland) Act 1982	11/01/2007
Clean Air Act 1993	11/01/2007
Companies Act 1985	11/01/2007
Consumer Credit Act 1974 (as amended)	11/01/2007
Consumer Credit Act 2006	11/01/2007
Consumer Protection Act 1987	11/01/2007
Consumers, Estate Agents and Redress Act 2007	05/05/2009
Control of Pollution Act 1974	11/01/2007
Copyright, Designs and Patents Act 1988	11/01/2007
Copyright, Designs and Patents Act 1988	11/01/2007
Dangerous Dogs Act 1991	11/01/2007
Dangerous Wild Animals Act 1976	11/01/2007

Act***Powers delegated on***

Development of Tourism Act 1969	11/01/2007
Dog Fouling (Scotland) Act 2003	11/01/2007
Dogs Act 1871	11/01/2007
Education Reform Act 1988	11/01/2007
Enterprise Act 2002	11/01/2007
Environmental Protection Act 1990	11/01/2007
Estate Agents Act 1979	11/01/2007
European Communities Act 1972	11/01/2007
Explosives Acts 1875 & 1923	11/01/2007
Factories Act 1961	11/01/2007
Fair Trading Act 1973	11/01/2007
Farm and Garden Chemicals Act 1967	11/01/2007
Fireworks Act 2003	11/01/2007
Food and Environment Protection Act 1985	11/01/2007
Food Safety Act 1990	11/01/2007
Forgery and Counterfeiting Act 1981	11/01/2007
Guard Dogs Act 1975	11/01/2007
Hallmarking Act 1973	11/01/2007
Health and Safety at Work etc Act 1974	11/01/2007
Housing (Scotland) Act 1987	11/01/2007
Housing (Scotland) Act 2006	11/01/2007
Intoxicating Substances (Supply) Act 1985	11/01/2007
Knives Act 1997	11/01/2007
Licensing (Scotland) Act 2005	01/05/2008
Medicines Act 1968	11/01/2007
Motor Cycle Noise Act 1987	11/01/2007
Motor Vehicles (Safety Equipment for Children) Act 1991	11/01/2007
National Lottery etc. Act 1993	11/01/2007
Nurses (Scotland) Act 1953	11/01/2007
Olympic Symbol etc. (Protection) Act 1995	11/01/2007
Performing Animals (Reg.) Act 1925	11/01/2007
Pet Animals Act 1951	11/01/2007
Petroleum (Consolidation) Act 1928	11/01/2007

Act***Powers delegated on***

Petroleum (Transfer of Licences) Act 1936	11/01/2007
Poisons Act 1972	11/01/2007
Prevention of Damage by Pests Act 1949	11/01/2007
Prices Acts 1974 and 1975	11/01/2007
Property Misdescriptions Act 1991	11/01/2007
Public Health etc. (Scotland) Act 2008	02/09/2008
Rag Flock & Other Filling Materials Act 1951	11/01/2007
Refuse Disposal (Amenity) Act 1978	11/01/2007
Riding Establishments Act 1964 & 1970	11/01/2007
Sewerage (Scotland) Act 1968	11/01/2007
Smoking, Health & Social Care (Scotland) Act 2005	11/01/2007
Telecommunications Act 1984	11/01/2007
Timeshare Act 1992	11/01/2007
Tobacco Advertising and Promotion Act 2002	11/01/2007
Trade Descriptions Act 1968	11/01/2007
Trade Marks Act 1994	11/01/2007
Trading Representations (Disabled Persons) Act 1958 and 1972	11/01/2007
Unsolicited Goods and Services Acts 1971 and 1975	11/01/2007
Video Recordings Act 1984 & 1993	11/01/2007
Water (Scotland) Act 1980	11/01/2007
Water Services etc. (Scotland) Act 2005	11/01/2007
Weights and Measures Act 1985	11/01/2007
Weights and Measures Etc. Act 1976	11/01/2007
Zoo Licensing Act 1981	11/01/2007